

3:43 pm, Wed, February 03, 2021

OFFICE OF THE CITY CLERK

From: [Barbara Carrigan](#)
To: [City Clerk Filing](#)
Subject: Attention : Waterfront LID Appeal, CWF-XXXX (insert CWF)
Date: Wednesday, February 03, 2021 3:39:04 PM

CAUTION: External Email

I am re-submitting the same letter that I sent to you on 1/7/2020. I still believe that these comments and criticisms against the assessment are as timely as ever.

January 7, 2020

Monica Martinez Simmons
City Clerk, City of Seattle
P.O. Box 94607
Seattle, WA 98124-6907
or
(LIDHearingExaminer @seattle.gov)

IN Re: Proposed Final assessment Roll for Local Improvement District No. 6751 (the
“Waterfront LID”) / City of Seattle Resolution 31915

As the owner of two (2) parcels of land located at 1415 2nd Avenue, Seattle (King County Parcel ID Numbers 6065010340 and 6065011120), I am writing to protest the proposed final assessment that expects a portion of the cost and expense of the Waterfront LID improvements to be borne by and assessed against said properties.

It is grievously inequitable for the City Council to have proposed this route to paying for a new waterfront park-- with tree-lined promenades and a pedestrian walkway up to the Pike Place Market—insisting that it should be financed by property owners in the adjacent neighborhood. It is obvious that this new park will greatly benefit the commercial businesses that share the site. However, to make an arbitrary assessment of private homeowners makes no sense. The argument is that this new park will raise the value of our homes. This is simply untrue.

First of all, you can't estimate the value that might be increased as there are negative factors in the real estate market due to fluctuation, uncertainty, and Council decisions regarding up-zoning. The city has been far too casual to allow far more density to meet its massive housing demand.

We have been fortunate enough to own two (2) properties in the Newmark Tower, one for 17 years, the other for 11 years. These units are not for rent but are currently housing family members who are at the mercy of Seattle's unaffordable housing crisis. These condos are almost 30 years old and the quality is rated average and their condition standard by the King County Assessor's office. These are neither new properties nor upscale ones; they are owned by hard-working individuals, some of whom have lived there since its inception, and who, due to your new assessments may never enjoy your park as they may have to work more hours to pay for this proposed assessment.

Now we personally are faced with the prospect of the building of a 14-story Boutique hotel planned for the corner of First Avenue and Pike Street. Our 9th floor unit's windows will now

be looking across a very small alley directly into the side of a building, ruining what has been a magnificent view. In addition, the proposed hotel will have a roof top deck that will include outdoor space, plus a bar or lounge.

Our 9th Floor unit already looks down on and listens to all the noise from the outdoor bar of the Hard Rock Café to the north. We realize we can't control the building of these entities, but to suggest that our property values will be increased by the building of the waterfront park is simply ridiculous. Our properties will be seriously DEVALUED by the construction of your up-zoning mindset. There is no way the two units will be increased in value to the tune of \$36,342.63, while we are assessed a total of \$14,239.84.

Likewise, the other unit on the 17th floor will be looking directly into a 44 -story tower, if the Show Box fails to be preserved.

It is absurd for you to call for a private assessment for what will be a very public park that will be open to all citizens of the world, to be paid for by the few unfortunate souls that happen to live in the neighborhood. To reiterate, our property values will seriously decline due to the proposed construction of these future buildings. We earnestly question the integrity of the city's management of current development.

We can't stop the construction, but surely it is unjust and simply unfair to assess us for a park that is open to all and to presume that said park will raise our property values.

On a further note, a recent article by Marshall Foster on the City of Seattle, in the Washington AAA magazine Journey, January/February 2020, discussed what we might expect from the waterfront transformation.

He states, and we quote: "We wanted to be one of the places that you have to see while you're in Seattle, **whether you're visiting from Kent or you're visiting from across the world.** We've designed it to be a destination park...like Millennium Park in Chicago, the High Line in New York City, or Golden Gate Park in San Francisco."

These PUBLIC parks were all financed by private funding, the cities, and by **ALL TAXPAYERS**, not simply by the unfortunate souls who happened to live in the neighborhood.

We respectfully submit this objection and protest to the Seattle City Clerk and truly hope that you will reconsider solely burdening our neighborhood homeowners with this proposed assessment. The cost should be borne by all Tax Payers in the city or, better yet, by those in the State.

Sincerely,

Andrew and Barbara Carrigan

Owners of PIN 6065010340 and PIN 6065011120 (Newmark Tower located at 1415 2nd Avenue, Seattle, WA 98101)

8:19 am, Tue, February 02, 2021

OFFICE OF THE CITY CLERK

From: [Anthony Gibbons](#)
To: [City Clerk Filing](#)
Subject: Waterfront LID Appeal, CWF-0067 (919720-0810)
Date: Monday, February 01, 2021 9:24:37 PM

CAUTION: External Email

I wish to file an appeal of the Hearing Examiner's ("HE") final recommendations with specific regard to my property. The final recommendation did not address either in detail, or at all, many of the issues raised in my letter. The HE noted:

"The objection lists issues that are addressed below in the Legal Analysis section. The issues raised by the objection are general in nature and concern the City's appraisal. The objection does not provide any analysis specific to the subject property with regard to special benefits or valuation. The Objector failed to state a case or meet the burden of proof required to demonstrate that the subject property will not receive a special benefit. The Objector also did not meet the burden of proof required to demonstrate that the City appraisal process was flawed."

The legal analysis issues are discussed below. The remaining issues were not all general in nature however. For example one specific issues addressed for our unit in the Watermark, was the view blockage that would result from projects to be built in front of it, that would be in place by the time the Waterfront project is built; this was not addressed in the appraisal or even considered in the ABS report, and was not referenced by the HE. Also the inequity of the assessment with regard to development parcels immediately adjacent was also not apparently considered or addressed by the HE; actual examples were provided with reference to a property in the adjacent block, that will have a lower assessment, is next to the waterfront, and yet blocks the Watermark's views; the irony of this issue was noted in my letter, and not addressed by the HE. That issue raised the point that the methodology used by ABS had a serious flaw, which again was not addressed in the decision. The level of deference given to the city appraiser has put the burden of proof required at an impossible level for a typical property owner, creating an impossible appeal situation.

I have further noted subsequently that the LID analysis failed to consider the long term lease that the Watermark Tower has on the Watermark Garage. The latter was incorrectly assessed as a development site (rather than valued at a lower figure due to a significant long-term encumbrance), despite the Watermark Tower's lease preventing this development from occurring. The Watermark Tower pays 30% of all assessments on the garage, and so now is paying for an LID lift on that property, that they cannot enjoy, and moreover represents double taxation, as the value of the ground lease is embedded in sales of condos in the tower, which already have a full assessment. These are all errors upon errors in the LID analysis.

In the denial of the appeal, the HE decision further references certain more general "legal" issues associated with my appeal. These include:

ii. The City appraisal does not adequately identify or describe the before condition.

Here the critique of the appraisal appears to be a difference of professional opinion rather than a demonstration by Objectors that the City failed to meet a required legal standard for the LID appraisal. The City appraiser Mr. Macaulay explained that ABS addressed the rebuild of Alaskan Way (and removal of the viaduct) and other changes in the Final Special

Benefit Study. For example, in the Final Special Benefit Study the before condition did not assign any special benefit due to the view amenity provided by the removal of the viaduct; any benefit from the removal of the viaduct was included in the before values. While this was dismissed by Mr. Gibbons as inadequate, no legal standard supports finding that the special assessment was improperly performed because the before condition description did not meet the standard argued by Mr. Gibbons.

This is a perplexing comment by the HE, as the ABS appraisal has no appraisal analysis (which is required for the appropriate application of special benefit) to get from the current condition of the Waterfront to the condition as it would be with new streets etc (but no LID), which is the proper Before Condition. Evidence of this was provided to the HE, by indicating that firstly values were based on current values, and not values in consideration of future city street work, and secondly that conceptual drawings of these improvements were not even provided to Mr. Macaulay when he did his preliminary analysis, this essentially unchanged in the presentation of the final analysis. Mere lip service to the issue from Mr. Macaulay was accepted by the HE as a higher standard of proof, as compared to the fact that the analysis is simply absent from his report. If the city appraiser can simply opine that something was considered without showing how or where, then what proof can possibly be used to overcome the assertion? Again I feel that the HE placed the bar simply too high on the presumption of correctness.

iii. The City appraiser did not measure the special benefit accruing to each property but instead applied a special benefit formulaic percentage to properties.

Testimony from Mr. Macaulay and the Final Special Benefit Study demonstrated that ABS did not apply a percentage to arrive at the "with LID" or "after LID" values. Instead, ABS calculated the value lift for each property in dollar terms. A percentage did result from this process, and this was shown in the spreadsheets in the Final Special Benefit Study to demonstrate the calculated increase in value as a percentage, not as a pre-applied formulaic percentage. Mr. Gibbons's (and other Objector representatives') belief that ABS applied a special benefit percentage formula seems to have been based on an understanding of the ABS process prior to receiving additional information from ABS on its processes that were revealed during the deposition and hearing process.

This is the most perplexing of all the HE decisions given the presentation of the SB report, and the examination of numerous entries. Condos with ranges of values spanning 100s of thousands of dollars, all have 3.00% increases, and yet the HE concluded that the benefit was not applied but calculated for each. The evidence of an application of 3.00% and other rounded percentages to calculate assessments to the nearest dollar is obviously an application, not a measurement, and it is frustrating to have to "prove" that when it is simply there for the viewing. When the HE indicated that Mr. Macaulay "demonstrated" that this was not done, it is not clear what was demonstrated, nor why it would contradict the more obvious conclusion to be drawn from the report. Occam's razor principal should be followed here: when two explanations account for all of the facts, the simpler one is more likely to be correct. It is far more likely the benefit was applied rather than measured, despite Mr. Macaulay's protestations to the contrary.

Anthony Gibbons, MAI

(206) 909-1046

agibbons@realestatesolve.com

RE•SOLVE

Gibbons & Riely PLLC

261 Madison Ave S, Suite 102

Bainbridge Island, WA 98110-2580

From: [carrie hollack](#)
To: [City Clerk Filing](#)
Cc: [Lewis, Andrew](#); [Brown, Kamilah](#); [Dawson, Parker](#); [Thorpe, Jacob](#); [Mosqueda, Teresa](#); [Gonzalez, Lorena](#); [Do, Jessica](#); [Simmons, Monica M](#)
Subject: Attention: Waterfront LID Appeal, CWF-0089
Date: Monday, February 15, 2021 2:04:04 PM

CAUTION: External Email

To Whom It May Concern,

I am appealing the Hearing Examiner's recommendation on CWF-0089, parcel 238200 2330 (Hearing Examiner Final Report, Waterfront LID No. 6751).

As I stated in January and February of 2020 via emails, letters, and in-person testimony, there are many reasons why this LID assessment is inaccurate -- you are welcome to review the details within my case but I'd like to specifically point out the following:

1. The Market Value without LID is incorrect on the Assessment roll -- my parcel is listed at \$725 higher than the King County appraised value (note: not a rounding error, just an incorrect value)
2. Lack of transparency in assessment valuation -- despite repeated requests, the detailed methodology and analysis behind our specific parcel was not shared with us although the Final Benefit study states "individual analysis sheets were prepared on each affected parcel in order to form the summarized conclusions, taking into consideration all factors that affect property value and utilizing the best information available"; if each parcel did use a different calculation, this information should have been given to me as the property owner; as it stands, I was left to attempt to reverse engineer the calculation using other similar parcels, appraised values from King County, etc. but was unable to determine the pattern/process due to inconsistencies in the calculation which cannot be explained
3. Using subjective "perception" to come up with an objective dollar amount -- the Final Benefit Study states "Market value conclusions for individual parcels without the LID project, as summarized in the preceding spreadsheets, reflect the market's perception of property values in the subject area as of October 1, 2019 date of valuation" -- however there is insufficient description of the market's perception in the subject area with a degree of precision that aligns to our parcel number, 238200 2330.
 - a. Our parcel is grouped into Region C and Zoning DOC2 500/300-550
 - b. Our parcel is not indicative of an average parcel within that region / zoning

Additionally:

1. The 2018 assessment value was used as a baseline, not the 2019 assessment value (which is lower than the 2018 value) and therefore the basic math is already incorrect

2. As of the writing of my original objection, the Final Special Benefit Study had not been published or provided in the City's notice, which did not allow sufficient time for property owners to locate, analyze, and respond to the Final Special Benefit Study.
3. There are no "plans and specifications" on file with the Clerk's Office for the LID Improvements, and it is unlawful to move to final assessments without such "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009).
4. There has been no State Environmental Policy Act (SEPA) review of the Waterfront LID formation ordinance, and there are incomplete SEPA reviews of the LID Improvements themselves. It is unlawful to move forward with final assessments until all SEPA reviews are complete for both the Waterfront LID *and* the Waterfront LID Improvements. *LID Manual*, pp. 3, 6, 17, 24, 26; SMC 25.05.800.Q.
5. Without more design details and the date certain for completing construction, it is pure speculation what benefit (general or special), if any, the LID Improvements will create.
6. My property, so far from the waterfront that it is nearly in South Lake Union, is not receiving any special benefits. It is unlawful to include any property that will not receive special benefits, and it is an unconstitutional taking of private property. *Heavens v. King County Rural Library District*, 66 Wash.2d 558, 564, 404 P.2d 453 (1965).
7. The estimated value lift applied by Valbridge is less than 4% which is within the margin of error for any appraisal and thus, by definition, speculation.
8. The LID Improvements are unnecessary, purely aesthetic, and adjacent to a planned 8-lane roadway and mismanaged public spaces of poor quality. There will be no special benefit.
9. The LID is not local or intended to provide special benefits. It is a regional, national, and international destination. There is no special benefit.
10. The LID Improvements do not add anything new to the Central Waterfront, which already has a promenade, viewpoints, as well as connecting streets and bridges.
11. The construction estimates are not based upon substantially complete construction documents, are out of date, and uncertain. Final assessments will bind future City Councils and budgets to complete the LID Improvements regardless of cost. It is unlawful to bind future City Councils and future budgets to spend hundreds of millions of dollars on projects still early in the design process. [Washington Attorney General Opinion 2012 No. 4](#) (May 15, 2012).
12. I incorporate by reference all objections made as part of King County Superior Court Case No. 19-2-05733-5 SEA (Consolidated with No. 19-2-08787-1 SEA).

Thank you,

Carolyn Hollack

CWF-0089

Parcel 238200 2330

1920 4th Ave / Unit 2408

FILED

2:54 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [William Justen](#)
To: [City Clerk Filing](#)
Subject: Waterfront LID Appeal to Seattle City Council
Date: Tuesday, September 22, 2020 2:35:33 PM
Attachments: [CWF-0097 Exhibit 2-Justen LID Appeal Letter 2.13.2020.docx](#)
[CWF- 0097 Exhibit 3- Objector Final Summary 7.7.docx](#)
[Attachment to CWF-0097 Exhibit 3- LID Commercial & Resid Prop more than \\$1M.xlsx](#)
[LID No. 6751 Appeal CWF-0097.pdf](#)
[Exhibit CWF-0097 No. 1 - Waterfront LID Agreement.pdf](#)

CAUTION: External Email

To : Seattle City Clerk

Attached is our notice of appeal and exhibits for Waterfront LID No. 6751
hearing examiner That case number That CWF-0097
property owners: William J Justen and Sandra L Justen
King County Parcel number 253-883-1120
address: 1521 2nd Ave., Apt. 2901, Seattle, WA 98101

Thank You,

William Justen, Principal - The Justen Company, LLC

1521 2nd Ave., Suite 601- Seattle WA 98101-4533

Cell: (206) 718-2764

Email: williamj@justencompany.com

Web site: www.justencompany.com

September 22, 2020

Notice of Appeal of Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner for the City of Seattle.

Final Waterfront LID No. 6751

Hearing Examiner Case No. CWF-0097

Parcel Owners: William and Sandra Justen

King County Parcel No. 2538831120

Address: 1521 Second Avenue, Apt. 2901, Seattle, WA 98101

William and Sandra Justen, owners of the condominium property located at 1521 2nd Avenue, Apt 2901, Seattle WA, 98101 (Parcel No. 2538831120), objected to the Final Benefit Study showing Market Value Without LID of \$2,385,600 and Market Value with LID of \$2,450,011 with the special benefit percent change of 2.7% and a Special Assessment of \$25,238 for our parcel. We now submit this appeal of the Recommendations of the Hearing Examiner for denial of our objections regarding Waterfront LID No. 6751 Case No. CWF-0097. pursuant to:

SMC 20.04.090.C

Any finding, recommendation, or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

However, we are not able to follow the instructions pursuant to:

SMC 20.04.110 - Appeal to City Council.

In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also designate by name or title and by subnumber the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee. Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.

Because the City has not provided "metered index numbers", therefore our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Instead page numbers of attached exhibits are referenced.

We request and demand an appeal hearing allowing us one hour with the City Council.

We appeal from the following portions of the Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner and in this appeal, we include our original Objection report filed with the city dated January 31, 2020 and presented at a Hearing Examiner hearing on February 13, 2020 and:

1. Page 2/123, Section I.A.

2. Hearing Conducted

"Approximately 430 property owners (of the 6,238 properties subject to LID assessments) submitted timely objections."

Our Appeal/Objection:

This statement by the Hearing Examiner is an erroneous comparison and misleading showing the Hearing Examiner's bias to support the LID for the following reasons, corrections, and accurate findings:

- The Hearing Examiner's statement that 430 property owners objected out of 6,238 properties is not an apples to apples comparison. He should state 6,238 are parcels not properties in order to fairly compare the 498 parcels (from City Files) owned by the 430 property owners. Although these 498 parcels represent only 8% of all 6,238 parcels that objected to the LID, the 430 parcel owners that filed objections represent \$40.36 million of special assessment which is 26.7% of the total \$175.5 million assessments. Therefore, these objections to the LID are much more significant than implied by the Hearing Examiner.
- Parcel owners, especially the 5,141 condominium parcels which is 81.9% of all parcels in the LID found it was difficult, time consuming and costly to learn the LID Objection/Appeal process, study the 237 page Summary of Final Special Benefit/Proportionate Assessment Study and the 214 page Addenda Volume and then to develop or hire the expertise to determine whether their parcel values and special benefits were correct as determined by the City's appraiser.
- With the average special assessment for these 5,141 condominium parcels being \$4,156, there was clearly little incentive to go through the exercise of filing objections and appeals to the LID
- Reviewing the City's complete parcel list in the Waterfront Seattle Final Special Benefit Study, it shows that 2,432 parcels were assigned special assessments less than \$1000 and 3,758 parcels, which is more than 60% of all the parcels, were assigned special assessments less than \$6,000. The cost hiring experts for filing objections and appeals clearly exceeds the amounts of those special assessments.
- Studying the list of the 430 owners of 498 parcels that filed objections shows that these parcel owners were being assessed an amount making it worth the time and effort to file Objections. The average assessment for the 430 Objectors is \$93,860 or \$81,050 per parcel. These Objectors consist of:
 - 393 condominium owners, total assessment, \$7,395,000 and average assessment per condominium unit of \$18,817
 - 28 Hotel parcels, average assessment of \$494,018
 - 18 Moderate sized office buildings, average assessment of \$345,413
 - 23 apartment parcels, average assessment \$378,432
 - 8 retail buildings, average assessment \$206,147
 - 6 City of Seattle Aquarium parcels, total assessment \$187,683
 - 6 Pike Place Market parcels, total assessment \$197,870
 - 1 parcel owned by United Way, total assessment \$139,097
 - 8 parcels owned by YWCA, total assessment \$61,124
 - 2 parcels owned by Children's Hospital, total assessment, \$65,826

- 2 private historic clubs, total assessment \$159,863
- Parcel Owners that would not be expected to file objections consist of:
 - 2432 condominium parcels with LID assessments of less than \$1000 making the time and expense to file objections not worth it
 - Over 100 privately owned large commercial office building owners that signed the Waterfront LID Agreement (Copy attached as CWF-0097 Appeal Exhibit 1, that was drafted and negotiated by attorney Jack McCullough) with the City of Seattle agreed not to protest the LID in exchange for some terms. These institutional property owners represented slightly more than 40% of the total \$160 million LID funding (plus LID financing costs), which prevented the LID protests from reaching the required 60% of the LID funding amount to stop the LID. By the way even without the office building owners filing LID protests did reach approximately 50% of the \$160M. The large commercial office buildings were willing to prevent the protest from succeeding because their office leases allow the building owners to pass the LID assessments onto their tenants and the office tenants have no legal rights to file objections to the LID assessments.
- ❖ Regarding the Hearing Examiner's statement that 430 property owners filed objections, it is clear that those 430 owners of 498 parcels that did object to the LID assessments represent a substantial number given the facts just listed above. It is also clear that the owners of more than 50% of the parcels had no financial incentive to object to the LID. Given the complexity, time and cost to file objections and appeals to the LID.

2. Reviewing the other Case Findings, there is a very troubling approach taken by the Hearing Examiner in his comments about testimony from appraisers, property tax experts and property owner's when he repeatedly stated that these persons
 - i. "did not calculate or quantify the special benefits that would accrue to the concern properties"
 - ii. Or that they had "not conducted an independent special benefit analysis for the properties or calculated what benefit, if any, would accrue to the properties as a result of the LID Improvements."
 - iii. Or that they "did not present any analysis concerning or show any expertise in, analysis of special benefits in the context of a special assessment, valuation"
 - iv. The Hearing Examiner erred by stating that there were calculations in the Special Benefit Study to determine the special benefits allocated to each parcel. Robert Macaulay, the appraiser representing ABS Valuations, repeated in his deposition and his cross-examination that he exercised his professional judgment as his analysis to determine special benefits allocated to each parcel. He also stated numerous times that the special benefits were proportional and determined on a parcel by parcel basis.

- v. From the Hearing Examiner's Findings, he states: Page 8/123 10. A discussion of ABS Valuation's methodology and results are detailed in the Final Special Benefit Study.
 - a. Appeal response: The term "methodology" is not used a single time in the ABS Valuation Final Special Benefit Study
 - b. Appeal response: the term "analysis" was used 87 times In the ABS Valuation Final Special benefit study, but NO analysis of how Special Benefits were assigned to each parcel
 - c. Appeal response: the term "calculations" is only used one time in the ABS Valuation final special benefit study as follows on page 19 (125/237)
 - i. "The "Light Penetrating Surface" panels which constitute the westernmost 15± feet along most of the future promenade and were built by the Elliott Bay Seawall project are considered part of the "Before" condition and so are not factored into the LID special benefit calculations for the Promenade."
- vi. From the Hearing Examiner's findings. he states: Page 12/123 27. The City's expert appraiser testified that there is no industry standard margin of error for a mass appraisal and that the special benefits in the Final Special Benefit Study are measurable, despite the fact that the percentage increases appear small.
 - a. However, Mr. McAuley testified that the percent number is just the happenstance of the before and after differences rather than the variable that determined the before and after differences. For a parcel by parcel analysis claimed to be the process for determining Special Benefits, it seems extremely hard to believe that every condominium unit in each condominium buildings resulted with exactly the same percentage assigned for each building. Each of the 48 condominium buildings had a Special Benefit % change for all condominium units in that building that was consistent throughout each building. This cannot be possible using the City's appraiser's stated methodology

3. Page 32-33/123

III. Specific Case Findings

(The Findings formatted in a single paragraph by the Hearing Examiner are separated below and lettered (a-h) for an issue by issue rebuttal/appeal)

We filed a 14 page written Objection Report dated February 3,2020 attached as CWF-0097 Exhibit 2) with seven exhibits of 84 pages, dated February 3, 2020 and filed with the Office of the City Clerk for the Hearings. We also filed an 11 page Closing Argument document on July 7,2020 We will make

reference to material in that Report, its exhibits and our Closing Argument document which is part of our public record in rebutting Our Specific Case Findings by the Hearing Examiner as follows:

- a. CWF-0097 (2538831120) – The objection raises the following common objection issues addressed below in the Legal Analysis section B: 3, 8, and 10.

B-3 SEPA issue:

No Further Comment

B-8 The LID improvements will have negative impacts on the value that were not considered by the City's valuation:

We provided in our Objection Report an explanation and images in our Report taken from the City's Addenda Report page 154 showing the proposed changes to Pine St between 2nd Ave and 1st Ave and the image of the current condition from page 153. We explained how the proposed changes that our LID assessment would be paying for would impede our only access to our 300 stall garage that has the mid-block south bound alley between 2nd Avenue and 1st Avenue as our only garage access. We stated how this proposed change impeding our vehicle access by adding improvements narrowing the existing vehicle lanes and encouraging pedestrians in the vehicle lanes is obviously a negative impact on our property values.

B-10 regarding the King County Superior Court appeal

No Further comment

- b. In addition to these issues, the Objector alleges that the subject property will receive no special benefit and that the value of the property by the City appraiser is inaccurate. The objection identifies aspects of the subject property that the Objector believes are unique and limit the special benefit it will receive.

- i. We provided in our Objection Report section C. Pages 5, 6, 7 and 8, quoting from the ABS Valuation Special Benefits Study, Addenda Volume, pages A-1 through A-8 the description of the Major Changes of the waterfront improvements Before (No LID Funding). It would be irresponsible if the City Councilmembers did not read the description of those Major Changes which clearly provide "general benefits" as these changes will create an attractive Waterfront for the general public as a "general benefit" without the need for any LID or additional City General Fund funded enhancements. Please see CWF-0097 Image 1 attached

ii.



GREAT WATERFRONT WITHOUT LID ENHANCEMENTS

- iii. In our Objection Report section D. Pages 8, 9, 10, 11, and 12, we quoted the description of each of the six projects proposed using LID funding to enhance the Major Improvements described in the city documents and we provided comments and objections to the LID funding by our property of each of the six projects as we described why each of those projects do not provide a special benefit to our property.
- iv. **The Promenade:** similar to San Francisco's Embarcadero, which Marshall Foster stated is not a park in his response to my cross-examination. However, **without** the LID funding the Promenade will have 377 New St. trees, a new stormwater infrastructure in areas of the planting strip, new groundcover meeting Seattle's standard level of care, new sidewalks on both sides of the six lane roadway along Alaskan Way and Elliott way with Seattle's downtown standard 2'x2' scored concrete, two-way bicycle lane along the west side of Alaskan Way, plantings immediately west of the two wave bike facility. The proposed cost to enhance beyond these improvements. According to the city is \$73.65 million with a proximally half of that from LID funding and half of that from the city's general fund.
 - 1. Our Objection Report included Exhibit D-2 image for the Promenade with LID enhancements taken from ABS Valuation page A-33 and D-1 image for the Promenade without LID enhancements taken from ABS Valuation page A-31. We pointed out that both with LID and without LID images show the 6-8 Lane Waterfront Blvd. with Major Changes (Improvements) that would be sufficient for a public Promenade.

2. We also included our Exhibit D-3 taken from ABS Valuation page B-16 and D-4 taken from ABS Valuation page B-8 raising our concerns for public safety as the images show the LID would add another row of trees running north-south that would block visibility of the promenade walkway from all of the buildings on the east side of Alaskan Way and therefore restricting a common public safety goal in rights-of-way by having "eyes on the street". We also included our Exhibit D-5 showing the San Francisco Embarcadero along its waterfront after his viaduct was removed, which also has a 6-8 lane roadway and pedestrian sidewalks, retail peers, waterfront views, but with fewer street trees to allow "eyes on the street" from all of the buildings bordering the Embarcadero.
 3. Neither the City nor the Hearing Examiner address this concern for public safety in the right-of-way.
- v. **The Overlook Walk:** in our Objection Report we said this proposed project is totally unnecessary, redundant and wasteful with the city's estimated total cost of \$117 million, it offers no new special benefit to our building because of the three very nearby existing pedestrian connections between the waterfront in the Pike Place market neighborhood. We graphically show this with our Exhibit D-6 (the rendering with the West end of Pike St., Hill climb connection between the Market and the waterfront. We included our Exhibit D-7 showing the existing three pedestrian connections between the Market and the waterfront. We included our Exhibit D-8 showing the existing connection on Pike Street to the waterfront from our property is more convenient and direct than using the Overlook Walk. Our Exhibit D-9 show the circuitous route from our building to the waterfront, If using the Overlook Walk, and our Exhibit D-10 graphically showed how the east entrance to the Overlook Walk is beyond a 500 foot radius from our building.
 1. Neither the city nor the Hearing Examiner's findings addressed our analysis.
 - vi. **Pioneer Square street improvements:** in our objection. We stated that these proposed improvements are estimated by the city to cost \$23.4 million and are located 10-14 blocks south of my building and are too remote to provide any Special Benefit to my property
 - vii. **Union Street pedestrian connection (also known as Lower Union),** is in the right-of-way on the south side of Union Street between Alaskan Way and Western Avenue. Access from my building to the proposed LID funded Lower Union pedestrian connection estimated by the City to cost \$16.32 million is a three block walk down First Avenue from my building and has no value to my building because we have the existing much more convenient Pike Street Stairs and Pike St., Hill climb one block from our building that provides the same waterfront access
 - viii. **Pike/Pine streetscape improvements:** the city's estimated cost of \$23.4 million would absolutely reduce the value of our property for changes on Pine Street and Pike Street between Second Avenue and First Avenue. It would significantly restrict the existing vehicular access to and from our 300 stall parking garage which is only accessed to and from the alley between Pine Street and Pike Street. In our Objection Report our exhibits D-11, D-12, D-13 and D-14 copied from the ABS Valuation page F-3, F-4, F-6 and F-7, show the improvements are narrowing the traffic lanes and encouraging pedestrians in the traffic lanes. These proposed improvements in the right-of-way would clearly be Disamenities and reduce our property values. Please see our previous Exhibits.
 - ix. **Pier 58 (formally known as Waterfront Park),** the city's estimate for rebuilding this park is \$76.4 million and this should not be funded using any LID assessments as it clearly reflects deferred maintenance of the city Park and a lack of appropriate improvements over its many years of use. This is clearly not a neighborhood park and the proposed improvements should not be funded by the downtown neighborhood LID as it has no special benefits to our property.

- c. The objection also raises general concerns with regard to the City special assessment and valuation analysis.
 - i. The Hearing Examiner ruled that personal valuations taken from Redfin and Zillow estimates are not adequate to demonstrate an error in the special assessment for this property. Yet the Hearing Examiner has acknowledged that the City's appraiser used the King County assessor's values as a guide for exercising their "professional judgment" in determining values, since the City's appraiser acknowledged in their mass appraisal approach that they did not appraise any individual condominium units but instead only did a walk by each condominium building.
- d. In addition, the objection incorporates issues identified by Anthony Gibbons, which are addressed below in the Legal Analysis section.
 - i. No further comment
- e. It also lists issues Objector believed showed the City analysis was in error concerning the before conditions.
 - i. The Hearing Examiner misunderstood our statement and his conclusion is an error. We were not claiming the City erred concerning the before conditions, rather we described the major improvements in the "before" (without LID) as providing very desirable general benefits to the general public.
- f. Objector raised many issues but did not demonstrate that Objector had any expertise in special assessments or appraisals.
 - i. This Finding that the Objector did not demonstrate any expertise in special assessments or appraisals may be true, but expertise in special assessments or appraisals is unnecessary in determining property values and any possible value lift from off-site amenities using LID funding, which is the basis of the Objector's challenge to the LID special benefits and assessments. Again, this shows the bias by the Hearing Examiner who attempted to limit or ignore our analysis of property values. Our objections primarily consist of analysis and conclusions regarding property values and the lack of special benefits. William's credentials were clearly explained in our Objection Report and Closing Argument document.
 - ii. It is clear from the Hearing Examiner's statement that he chooses not to recognize the expertise in determining property values by real estate developers but feels that only an appraiser is qualified to determine property values.
 - 1. An appraiser is hired by a client, usually by or for financial institution, and paid a fee to estimate property values. The appraiser only has its reputation at stake but does not take a financial risk. On non-income-producing properties such as residential condominiums, the appraiser uses comparable sales to determine value.
 - 2. A developer such as the Objector, William Justen, determines property values based on what the developer projects as potential cost and income by preparing a financial pro forma. The developer may also look at comparable sales, which are available on a Costar subscription. In making an offer to buy or sell a property. The developer is taking personal financial risk.
 - 3. In William Justen's experience as a developer. He has bought 42 commercial properties and sold 51 commercial properties and 168 residential condominiums all in downtown Seattle. In none of the purchases and sales, did William Justen hire an appraiser to determine the property values, however, appraisers were frequently hired by financial institutions to confirm the potential property values as part of the due diligence in making loans to acquire and/or develop properties. In fact, on occasion, appraisers contact William Justen asking how he determine the value of an acquisition.
 - 4. In our Objection Report and again in our Closing Argument we stated the Objector's Real Estate Expert Credentials for William Justen, especially as they apply to the downtown area of the Local Improvement District:

- a. William has lived in the Pike Place Market neighborhood since 1977
 - b. During those 43 years, William was the developer and resident of the:
 - i. Pike and Virginia condominiums at 87 Virginia St.
 - ii. Market Place Tower (13 story office at 2025 1st Ave. and seven condominiums above at 2033 1st Ave.
 - iii. 38 story condominium tower at 1521 2nd Ave.
 - iv. William was the Managing Director Real Estate for 15 years for the Samis Land Company portfolio of 31 properties in downtown Seattle where he managed the redevelopment, acquisition and sales of those properties.
 - c. William is also the former Director of the City of Seattle Department of Construction and Land Use, a founding board member and faculty of the Ronstadt real estate center at the UW
 - d. William is also a Washington state real-estate licensed, Designated Broker of his own brokerage firm.
- g. The objection lacks adequate evidence demonstrating that the subject property will not receive a special benefit, or that the valuation by the City is inaccurate.
- i. This Objector's Report detailed with narrative and graphic illustrations, providing more than adequate evidence that the subject property will not receive a special benefit. These are summarized in the response b. above to **Specific Case Findings**.
 - ii. There is simply no basis for the Hearing Examiner to assert that there was inadequate evidence demonstrating my claims. The Hearing Examiner either dismisses our evidence for the lack of any special benefit, because the volume of the objections and complexity of the issues overwhelmed the Hearing Examiner or because he presupposed that the City's appraiser could do no wrong.
- h. The objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit or that the city appraisal valuation process was flawed.
- i. This Objector's Report detailed with narrative and graphic illustrations, providing more than adequate evidence that the subject property will not receive a special benefit. These are summarized in the response b. above to **Specific Case Findings**.
 - ii. There is simply no basis for the Hearing Examiner to assert that there was inadequate evidence demonstrating my claims. The Hearing Examiner either dismisses our evidence for the lack of any special benefit, because the volume of the objections and complexity of the issues overwhelmed the Hearing Examiner or because he presupposed that the City's appraiser could do no wrong.

Recommendation: denial

Objector's additional analysis provided in Objector's Closing Argument (attached here as CWF-0097 Exhibit 3 including the spread sheet "Properties with LID Assessments over \$1M) filed with the Hearing Examiner and dated July 7,2020 was completely ignored by the Hearing Examiner. This additional analysis was prompted by testimony and cross-examination of the City's appraiser and should have been considered in the Hearing Examiner's Findings. By ignoring this additional analysis. The hearing examiner errored in a recommendation of denial.

In Our Closing Argument Document. We focused primarily on the 1521 2nd Ave. condominium building, not just our condominium unit parcel, because William Justen was the developer of the entire building and managed the sale of the 146 condominium units. Therefore, I compared this entire building to other comparable newer high-rise buildings:

On page 3 of this Closing Argument. I focused on five real estate categories:

- I. Building Types or Uses and Off-Site Amenity Utilization
- II. Building Size
- III. Proximity to Central Waterfront LID project amenities
- IV. Proportionality between Properties
- V. Appraisal Method Weakness by the City's Appraiser

I made reference to Mr. Macaulay's, cross-examination on June 26 when asked a hypothetical: "consider an identical building in the same location, e.g. three blocks from the waterfront, how would you differentiate types of uses for example, hotel, office, condominium or apartment make a difference in the value increase they would get from proximity to the waterfront?"

Mr. Macaulay rambled on about how depends if it had retail needs building, which is not part of my hypothetical as the buildings were said to be exactly the same except for principal use, and ultimately, Mr. Macaulay could or would not answer the question on how different uses are weighed in determining value left. A copy of that portion of the transcript was included in my Closing Argument. I did find an include in my Closing Argument a small table from the Summary of Waterfront Seattle Project Formation, which shows high and low ranges based on use, but there was no discussion in the Special Benefit Studies that showed any analysis of how these ranges were used, nor did it show how building size, proximity and proportionality was used in the analysis. One can only conclude that there was no analysis other than the City's appraiser relied primarily on his "professional judgment".

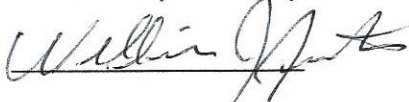
My Closing Argument continued on to compare numerous buildings in my spreadsheet of the 38 properties with LID assessments over \$1 million.

I noted that it's interesting that our condominium tower at 1521 2nd Ave. is the highest assessed building of all buildings in the LID boundary by a margin of 17% over the next highest assessed building, yet 1521 2nd Ave. is older than many of the newer towers, both residential and office, also located on Second Avenue with the same proximity to the LID projects

From my review of the spreadsheet of the 38 properties. It is clear that the City's appraiser followed no logical pattern in allocating Special Benefit % Change. We suspect this is for a few reasons:

1. The 48 condominium buildings in the LID area were assigned to individuals in the ABS Valuations office while the comparable size, age and quality of the apartment towers were assigned to someone else. It was clearly a disconnect in the reviews of the two residential product types.
2. There is clearly a lack of analysis and calculations of how the Special Benefit % Changes were allocated to the different 6,238 parcels. At least none of this is available in public records and we do not believe it exists. based on the results.

Submitted to the City Council by:



William J. Justen

Date: 9/22/20



Sandra L. Justen

Date: 9/22/2010

WATERFRONT LID AGREEMENT

THIS WATERFRONT LID AGREEMENT (“Agreement”) is by and among THE CITY OF SEATTLE, a first class charter city and municipal corporation (the “City”); and each of the parties identified as “Owners” on the attached signature pages (each an “Owner”); and WATERFRONT PARK CONSERVANCY, a Washington not-for-profit corporation (the “Conservancy”); effective as of the Effective Date (as defined in Section 7.11). The City, each Owner, and Conservancy are each a “Party” and collectively the “Parties” to this Agreement. Based on the mutual covenants and obligations set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. DETERMINATIONS AND FINDINGS.

1.1 The City Council (Council) adopted Resolution 31812, proposing to form a local improvement district under Chapter 35.43 RCW (the “LID”) and is expected to consider Ordinance _____ on _____ forming the LID (the “LID Formation Ordinance”) for the purpose of undertaking certain improvements to the Seattle central waterfront (the “LID Improvements”), described in the LID Formation Ordinance.

1.2 The Owner is the owner of the real property identified on its signature page and is legally authorized to enter into this Agreement with respect to its/his/her property (the “Property”). The Owner confirms that its/his/her Property is within the LID and is expected to be subject to assessment for a portion of the costs of the LID Improvements if the LID Formation Ordinance is approved by the Council.

1.3 The Owner has the right to protest formation of the LID under RCW 35.43.180 and challenge the jurisdiction or authority of the Council to proceed with the LID Improvements and create the LID under RCW 35.43.100. The City seeks Owner’s waiver, as provided by RCW 35.43.182, of its right to challenge the jurisdiction or authority of the Council to proceed with the LID Improvements and creating the LID and to protest LID formation.

1.4 Simultaneously with the introduction and passage of the LID Formation Ordinance, the City Council is expected to consider (a) Ordinance _____, authorizing the execution and delivery by the City of this Agreement (the “Waterfront LID Agreement Authorizing Ordinance”) and (b) Ordinance _____ (the “O&M Ordinance”) providing, *inter alia*, for the maintenance of the Central Waterfront Improvements (as defined in the O&M Ordinance). The Central Waterfront Improvements include the LID Improvements.

1.5 For the purpose of ongoing oversight of matters relating to this Agreement and the O&M Ordinance and the representation of the Parties, other than the City, the Conservancy has been formed.

1.6 The Parties intend this Agreement to be fully enforceable in accordance with the terms set forth herein.

2. CERTAIN DEFINED TERMS. The following terms used in this Agreement shall have the meanings set forth below:

2.1 “Baseline Funding” means the City funds required under the O&M Ordinance as necessary for baseline operation and maintenance of the Waterfront Park and Public Spaces, as defined therein.

2.2 “Code of Conduct” means Department of Parks and Recreation Rule/Policy number P 060 7.21.00 or its successor rule or policy.

2.3 “LID” has the meaning given in Section 1.1 of this Agreement.

2.4 “LID Formation Ordinance” has the meaning given such term in Section 1 of this Agreement.

2.5 “LID Improvements” has the meaning given such term in Section 1.1 of this Agreement.

2.6 “Management Agreement” means the contract between the City and the Operating Partner providing for management of the Waterfront Park and Public Spaces by the Operating Partner and the City, primarily through DPR.

2.7 “O&M Ordinance” means the ordinance providing for a two-year pilot agreement and possible long-term Management Agreement between the City and the Operating Partner and the other terms as provided here, in the form as attached as Exhibit B, as the same may be amended in the future in accordance with the terms of this Agreement.

2.8 “Office of the Waterfront” means the City’s Office of the Waterfront and Civic Projects, or its successor.

2.9 “Operating Partner” means the nonprofit corporation, public corporation or authority chartered by the City under RCW 35.21.730-.759, or other qualified entity selected by the City for a term to manage the programming, activation, and security of the Waterfront Park and Public Spaces.

2.10 “Oversight Committee” or “Committee” means the committee formed by the City pursuant to Sections 3.5 and 3.6 of this Agreement and the O&M Ordinance.

2.11 “Park Rules” means those rules codified in SMC 18.12 relating to the operation of City parks (including the Waterfront Park and Public Spaces) and including any administrative rules adopted in relation thereto, including Multi-Departmental Administrative Rule 17-01, as each may be amended from time to time.

2.12 “Performance Standard” has the meaning given such term in the O&M Ordinance.

2.13 “DPR” means the City of Seattle Department of Parks and Recreation.

2.14 “Waterfront LID Agreement Authorizing Ordinance” means the City of Seattle resolution providing for the City’s execution of this Agreement.

2.15 “Waterfront Park and Public Spaces” has the meaning given such term in the O&M Ordinance.

3. AGREEMENTS OF THE CITY

3.1 Review of Plans in Development. Certain components of the LID Improvements have not progressed beyond 30% design. These elements include the Overlook Walk, Waterfront Park, Pike and Pine Street improvements, and Pioneer Square Street improvements. The City will continue to engage communities throughout the city in refining the design, and as part of this shall convene a representative group of owners of commercial properties located within the boundaries of the LID to advise the Office of the Waterfront on: (i) the evolving design of these elements of Waterfront Park and the Pike/Pine Corridor Project that have not yet reached 100 percent design; (ii) substantial changes, if any, in major elements that have reached 100 percent design; and (iii) Waterfront Park and Pike/Pine Corridor Project construction budget development and adjustment, specifically including contingencies and overhead costs. Such representatives shall have demonstrated experience in design, construction, construction pricing, construction management and/or engineering. The City shall provide additional opportunities for property owners in the Pike/Pine corridor to help shape the emerging design for Pike and Pine Streetscape improvements through the Pike and Pine Streetscape Project Sounding Board co-convened by the Downtown Seattle Association (DSA) and other focused workshops as needed. This process shall not result in any modifications to the scope of LID Improvements, although this process may result in recommendations for modifications that do not lower the special benefits provided under the LID.

3.2 Maximum LID Assessment. The City agrees and the LID Formation Ordinance confirms that the aggregate total dollar amount of assessments to be levied within the LID will be no greater than \$160,000,000 (plus such additional amount as shall be approved for the payment of financing costs and the City’s contribution to the Guaranty Fund of the City (pursuant to authority granted under RCW 35.54)) (the “Maximum LID Assessment”). The Maximum LID Assessment shall not be increased for any reason, including but not limited to increased costs required to complete the LID Improvements. All costs incurred by the City in connection with undertaking and completion of the LID Improvements shall be paid and/or financed from sources other than assessments within the LID and shall not result in an increase in the Maximum LID Assessment. The foregoing constitutes the City’s waiver of rights under Chapters 35.43 and 35.44 RCW to increase the Maximum LID Assessment through supplemental assessment or reassessment.

3.3 Approval of the O&M Ordinance. The City acknowledges that consistent with the Waterfront Seattle Guiding Principles and Council Resolutions 31399 and 31768, the Waterfront Park and Public Spaces, which include the LID Improvements, should be maintained for the benefit of the residents of the City as a whole, for the benefit of the Property Owners within the LID and for the economic benefit of downtown Seattle which also inures to the benefit of the City and the region. Simultaneously with the submittal of the LID Formation Ordinance

(Exhibit A to this Agreement), the O&M Ordinance (Exhibit B to this Agreement) shall be presented to Council for approval.

3.4. Park Boulevard Designation. The City shall designate the Waterfront Park and Public Spaces not currently under DPR jurisdiction as a City park boulevard, in the manner as described in the O&M Ordinance.

3.5. Park Oversight. Management, operations, maintenance and security of the Waterfront Park and Public Spaces shall be subject to review in order to evaluate the effectiveness of the Management Agreement and to confirm that the Waterfront Park and Public Spaces are being operated and maintained in a manner consistent with the Performance Standard. The Operating Partner and the appropriate City departments are subject to review in their provision of services under the Management Agreement as set forth in the O&M Ordinance.

As provided in the O&M Ordinance, the City shall establish and designate a Central Waterfront Oversight Committee with the composition and responsibilities as provided therein, including:

- Development and review of the Performance Standards and associated metrics
- Providing recommendations for new Management Agreement(s)
- Review of operation and maintenance planning and reporting
- Recommending special park rules
- Reporting to the Mayor and City Council

3.6 Implementation of the O&M Ordinance. Under the O&M Ordinance and this Agreement, the City and Council commit to the implementation and funding of the obligations as described in the O&M Ordinance.

3.7 Park Rules. The operations of Waterfront Park and Public Spaces shall at all times be undertaken in accordance with the standards set forth in the O&M Ordinance, including posting and enforcement of Park Rules and the Code of Conduct.

3.8. Authorizing Ordinance. Upon the adoption of the Waterfront LID Agreement Authorizing Ordinance, the City will promptly execute this Agreement.

4. AGREEMENTS OF THE OWNER

4.1 Acknowledgment of Special Benefit and Waiver. In consideration of the commitments of the Parties to this Agreement, each Owner executing this Agreement,

(a) confirms with respect to his/her/its Property that the LID Improvements, upon completion, will provide a special benefit to his/her/its Property, and

(b) in accordance with RCW 35.43.182, waives his/her/its right to object to the formation of the LID, including but not limited to those rights specifically granted under RCW 35.43.100 and 35.43.180.

The foregoing shall be irrevocable upon the execution of this Agreement by the Owner, subject to the express provisions or limitations set forth herein and on the Owner's signature page. Each Owner acknowledges that the City will approve this Agreement and the LID Formation Ordinance in reliance upon the Owner's commitment and execution of this Agreement.

4.2 Reservation of Rights. The foregoing waiver shall not apply to any rights that an Owner has to object to a final assessment on its/his/her Property (including the determination of the special benefits allocable to the property, to appeal to the superior court the decision of the City affirming the final assessment roll), provided however that any such objection shall not be based on the City's creation or implementation of the LID itself. The Owner acknowledges that the final assessment on his/her/its Property may be higher or lower than the preliminary assessment roll prepared on behalf of the City in connection with the formation of the LID, so long as the sum of all LID assessments on the final assessment roll may not exceed the Maximum LID Assessment.

5. AGREEMENT OF THE CONSERVANCY. For all purposes under this Agreement, including but not limited to the right to receive notices, the right to enforce the obligations of the other Party, and the right to grant waivers and amend this Agreement, the Conservancy shall be the exclusive representative and agent of the Owners. No individual owner who is party to this Agreement may bring any individual action or claim to enforce such obligation, grant such waiver or amend this Agreement. The City shall be entitled to communicate solely with the Conservancy and rely upon the agreements with the Conservancy as agent for the Owners. The City recognizes the Conservancy as the agent of the Owners under this Agreement for all purposes, with full power and authority to act on the collective behalf of all Owners for all purposes relating to this Agreement. In particular, the City agrees that the Conservancy shall have the power to enforce this Agreement. Each Owner agrees that the Conservancy is the Party designated to enforce the terms of this Agreement on behalf of the Owners. The Conservancy has delivered a copy of its "Articles of Incorporation" and "Bylaws" dated _____, to the City. The Conservancy agrees and confirms that during the term of this Agreement, it will not dissolve or merge into another organization nor will it amend the provisions of its Bylaws at Sections _____ describing its [governance structure and voting rights] without the prior written consent of the City.

6. TERM. The commitments of the City shall remain in effect for 20 years following the date of final confirmation of the assessment roll for the LID, other than as provided in the O&M Ordinance with regard to the Oversight Committee.

7. GENERAL PROVISIONS.

7.1 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

7.2 Interpretation and Severability. If any provisions of this Agreement are determined to be unenforceable or invalid by a court of law, then all remaining provisions of the Agreement shall remain in force and effect. If a court finds unenforceability or invalidity of any portion of this Agreement, the Parties shall diligently and in good faith seek to modify the Agreement consistent with any court decision.

7.3 Time of Essence. Time is of the essence of this Agreement in every provision hereof.

7.4 Integration. This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein. This Agreement may not be amended except by an instrument in writing executed by the City and Conservancy.

7.5 Default and Remedies. Except as set forth below, no Party shall be in default under this Agreement unless it has failed to perform under this Agreement for a period of ninety (90) days after receipt of written notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the ninety (90) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure. The Conservancy has the sole right to enforce performance by the City of its obligations under this Agreement or the O&M Ordinance in an action seeking specific performance by the City.

7.6 Notice. All notices and demands of any kind which a Party requires or desires to give to any other Party shall be in writing and either (i) delivered personally, (ii) sent by reputable overnight courier delivery service, such as Federal Express, or (iii) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the City:

Office of the Waterfront and Civic Projects
PO Box 34996
Seattle, WA 98124

Attn: Director, Office of the Waterfront and Civic Projects

Department of Parks and Recreation
100 Dexter Ave N
Seattle, WA 98109

Attn: Superintendent, Department of Parks and Recreation

with copy to:

Seattle City Council Central Staff
PO Box 34025
Seattle, WA 98124-4025
Attn: Director, City Council Central Staff

If to the Conservancy:

Notice by hand delivery shall be effective upon receipt. If sent by overnight courier service, notice shall be deemed delivered one (1) business day after sent. If deposited in the mail, notice shall be deemed delivered three (3) business days after deposited. Any Party at any time by notice to the other Party may designate a different address or person to which such notice or communication shall be given.

7.7 Recording. In accordance with RCW 35.43.182, this Agreement shall be recorded in the real property records of King County.

7.8 Counterparts. This Agreement may be executed in one or more counterparts, each one of which shall be deemed an original.

7.9. Mutual Representations and Warranties. Each Party represents and warrants to the other that (i) the execution, delivery and performance of this Agreement has been duly approved by all required government or corporate action, (ii) that the person or persons signing on behalf of such Party have full authority to do so, (iii) that this Agreement and the obligations set forth herein are legal, binding obligations of the Parties, enforceable in accordance with their terms, and (iv) that the execution and performance of this Agreement will not conflict with any statute, law, ordinance, regulation or other agreement to which either Party may be bound.

7.10 No Third Party Beneficiaries. This Agreement is not intended to, and shall not be construed to, give any third party any interest or rights (including, without limitation, any third party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

7.11. Effective Date. This Agreement shall be effective upon all signers hereto (a) upon the effective date of the Waterfront LID Agreement Authorizing Ordinance by the City Council, (b) the effective date of the LID Formation Ordinance by the City Council, (c) the effective date of the O&M Ordinance by the City Council (adopted in the specific form attached hereto as Exhibit B, without amendment or modification), and (d) unless waived or amended by the City, the execution hereto by Owners of Property representing not less than fifty-one percent (51%) of the Maximum LID Assessment.

If all of the conditions in this section 7.11 are not satisfied by March 1, 2019, then this Agreement shall automatically terminate.

DATED as of this ____ day of _____, 20__.

[Execution Pages Follow]

[Waterfront LID Agreement Execution Page]

THE CITY OF SEATTLE, a first class charter city

Office of the Waterfront and Civic Projects

By:_____

Title: _____

Parks and Recreation Department

By:_____

Title: _____

APPROVED AS TO FORM:

ATTORNEYS FOR THE CITY OF SEATTLE

By:_____

Title: _____

[Waterfront LID Agreement Execution Page]

OWNER:

[INDIVIDUAL'S NAME]

I hereby confirm that [I am/we are] the Owner of the below identified parcel:

Parcel Number(s): _____

Address: _____

Notice Address: _____

Additional Notice Name and Address(es): _____

If a spousal consent is not attached hereto, I confirm that I have no spouse.

Owner's Signature

WITHDRAWAL OF PROTEST

The undersigned, hereby withdraws any previously submitted written protest for the proposed City of Seattle Waterfront Local Improvement District.

STATE OF WASHINGTON)
)ss.
COUNTY OF _____)

This record was acknowledged before me on _____, 20____ by
(Date)

(Name of Individual)

(Stamp)

(Signature of notary public)

Notary Public
(Title of office)

My Commission Expires: _____
(Date)

CONSENT OF SPOUSE

I, _____, spouse of _____, acknowledge that he/she has signed and agreed to the Waterfront LID Agreement dated _____, 20__, between the City of Seattle, and _____, to which this Consent of Spouse is attached.

I hereby consent to my spouse binding our community property and his/her separate property in this manner.

Printed Name:

STATE OF WASHINGTON)
)ss.
COUNTY OF _____)

This record was acknowledged before me on _____, 20____ by
(Date)

(Name of Individual)

(Stamp)

(Signature of notary public)

Notary Public
(Title of office)

My Commission Expires: _____
(Date)

By virtue of its execution of this Waterfront LID Agreement, any individual executing this Waterfront LID Agreement with respect to the Parcel Number identified below on behalf of the entity listed below represents and warrants that he/she holds the title noted below his/her signature and that he/she is authorized and empowered by all necessary legal means, including corporate, partnership, or company action (as applicable), and under applicable law, to execute and deliver this Waterfront LID Agreement on behalf of such entity and to bind such entity to its obligations hereunder. If the signer is not the Owner, the signer should provide evidence of authority to sign.

Parcel Number(s): _____

Address: _____

Notice Address: _____

Additional Notice Name and Address(es):

Signature

WITHDRAWAL OF PROTEST

The undersigned, hereby withdraws any previously submitted written protest for the proposed City of Seattle Waterfront Local Improvement District.

[ENTITY NAME],
[a/an STATE OF FORMATION] [TYPE OF
ENTITY]

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF _____)

This record was acknowledged before me on _____, 20____ by
(Date)

(Name of person signing on behalf of entity and capacity in which they are signing)

(Stamp)

(Signature of notary public)

Notary Public
(*Title of office*)

My Commission Expires: _____
(Date)

[Waterfront LID Agreement Execution Page]

THE WATERFRONT CONSERVANCY, a Washington non-profit
corporation

By:_____

Title: _____

William J Justen and Sandra L Justen
1521 2nd Ave. condominium 2901
Seattle, WA 98101-4522

January 31, 2020
and Hearing on February 13, 2020

King County parcel number: 2538831120

To the Office of the City Clerk.
Seattle City Hall
600 Fourth Ave., Floor 3
PO Box 94607
Seattle, WA 98124-6907

Emailed to: LIDHearingExaminer@seattle.gov

**Re: Our Objections to Final Waterfront LID No. 6751 Assessment and Appeal of Final Assessment
Amount of \$25,237.73 in its entirety for Justen, Parcel No. 2538831120**

To the Seattle City Clerk:

We are the homeowners of the condominium unit stated above. We purchased this home when it was new in March 2009. We both have considerable real estate experience.

Sandra is a licensed Real Estate Broker and William is a licensed Managing and Designated Real Estate Broker.

Sandra has lived in the Pike Place market neighborhood for 20 years and has been the Listing Broker or Selling Broker for more than 150 condominiums in 11 different condominium buildings in the LID during the past 12 years.

William has lived in the Pike Place Market neighborhood since 1977. During those 43 years, William was the developer and resident of the Pike in Virginia condominiums at 87 Virginia St., the Market Place Tower office and condominiums at 2033 First Avenue at Lenora Street and the 1521 2nd Ave. condominium tower. As the developer of these projects and dozens elsewhere in Seattle, William has hired and instructed many appraisers to prepare value appraisals of the projects. William is also the former Director of the City of Seattle, Department of Construction and Land Use, currently named the Seattle Department of Construction and Inspections. In May of 2011 the Central Waterfront Committee appointed William as an Advisor to the Committee's Finance and Partnerships Subcommittee to advise on the Waterfront improvement strategic financing strategies.

We definitely support and improved attractive waterfront, however, we are convinced that Seattle will get that waterfront without the LID enhancements.

Firstly, we are very disappointed that our request to the Hearing Examiner made on January 22, 2020 for a 90 day continuance in the scheduled hearing date of February 4, 2020 was evidently denied although the reply from the Office of the Hearing Examiner shows our request was misread by the Office of the Hearing Examiner as it erroneously called our continuance request our filed objections to the LID. Our request for a continuance was not the filing of our objections. Our request for a continuance was stated with the following reasons:

a) City Delays: The City did not make available to the general public and LID property owners the 237 page Final Special Benefit/Proportionate Assessment Study dated November 18, and the 214 page Addenda Volume dated November 12, 2019 until January 8, 2020, which was two months after those report dates. This delay in making those critical documents available to us appears to be an attempt by the Office of the Waterfront to place property owners at a considerably unfair disadvantage as it does not give property owners in the LID or our consultants nearly enough time to study these comprehensive documents which are the basis of the Proposed Final Assessment which we received in the mail on January 2, 2020.

b) City Delays: Several property owners have requested the backup documents from the City's appraiser that was used to determine the proposed value lift in our properties necessary to justify any Special Benefit Assessments. We have been told by the City that the appraiser's backup documents were not made available until after February 7, 2020 and consisted of several thousand documents.

Now the city has offered us the right to file an appeal of our Final Assessments, but with only 26 days after **just some** of the critical studies were made available. That objection/appeal filing date, February 3, 2020, the date set by the City of Seattle is grossly unfair to property owners in the LID.

We have submitted this Objection/Appeal letter to the City Hearing Examiner as our response to the Proposed Final Assessment which is being authorized by the Waterfront LID Formation Ordinance No. 125760 passed in January 2019. This 18 page ordinance is attached for reference to this Objection Letter as **(Exhibit A)**. This Seattle City ordinance 125760, relating to the Central Waterfront Improvement Program and the LID Improvements signed by Mayor Jenny Durkin 1/28/2019 Includes Section 5 and Section 6 which relate directly to our Objections to the Special Assessment assigned to our property. These two sections from the ordinance read as follows.

“Section 5. Allocation of Costs. The total estimated cost and expense of design and construction of the Central Waterfront Improvement Program is estimated to be approximately \$712 million. Notwithstanding the provisions of any other ordinance of the city, the total cost of (a) the LID improvements, including the planning, design, and construction of the improvements, and (b) the estimated costs of creation and administration of the Waterfront LID (together, the “LID Expenses”), and the estimated financing costs (i.e., the cost of issuing the LID Bonds and estimated amounts necessary to

fund a deposit to the LID Guarantee Fund), is declared to be approximately \$346.57 million, all as described in Exhibit C to this ordinance.

The portion of the LID Expenses that shall be borne by and assessed against the property within the Waterfront LID specifically benefited by the LID Improvements shall not exceed \$160 million plus the amounts necessary to pay the costs of financing (including the costs of issuing the LID Bonds and making a deposit to the LID Guarantee Fund). **Assessments shall be made against the property within the Waterfront LID in accordance with the special benefits accruing to such property.** The balance of the cost and expense of the LID Improvements shall be paid from other amounts available to the City, including philanthropic donations from individuals and organizations, consistent with the City's overall funding plan for the Central Waterfront Improvement Program."

"Section 6. Method of Assessment. In accordance with the provisions of RCW 35.44.047, the City may use **any method or combination of methods to compute assessments that may be deemed to fairly reflect the special benefits to the properties being assessed."**

"Ordinance 125760 Ex C- waterfront Seattle Program-Waterfront LID Improvements
Project Cost Estimate Summary" **See last page of Exhibit A for this document**

This table lists by name the six major projects proposed to be developed partially with LID funds, however, for the six projects it only gives an estimated **total** cost and has blanked out the amounts to be allocated for the **Waterfront LID Principal Assessment**. **In Section D below starting on page 8, we will refer to the stated City estimated total costs plus the 17% for LID Admin and contingencies stated in the table in our Objections to the six LID funded projects, but we can reasonably assume that approximately half of the total cost for each project would be paid for with LID funds.**

In this letter, we will explain our objections to the City's findings as they are clearly not consistent with the ordinance Sections 5 and 6 and we therefore object to any assessment for Seattle's Local Improvement District 6751, the "LID" on our property at 1521 2nd Ave for a lack of any evidence "deemed to fairly reflect the special benefits" to our property. Quoting Washington Practice Instructions WPI 150.07.01 *"Special benefits are those that add value to the remaining property as distinguished from those arising incidentally and enjoyed by the public generally.* WPI 150.07.01

We provide the following reasons and objections labeled Sections A.-L.:

- A. Our building is physically remote, both horizontally and vertically from the Central Waterfront as we are more than three city blocks, 1,240 feet, from our building lobby entry to the promenade on the west side of Alaskan Way. Our building entrance is also 116 vertical feet above Alaskan Way. The Waterfront is clearly not convenient for residents to take their dogs for a walk or go for a stroll. The value of our homes from a location perspective comes from proximity to convenient shopping, services, and employment offices in the downtown core. Additional value for the west facing condominiums in our building comes from the views of Elliott Bay, but clearly not from proximity to the Waterfront.

Our specific condominium home on the 29th floor is on the east side of our building with a skyline view, see photo **(Exhibit B)** which will be lost to us when the proposed 46 story tower directly east of us across Second Avenue is built. The loss of our skyline view and the loss of most of our sunlight will certainly reduce the current Market Value of our home. Also note that that proposed tower will not have an LID assessment on the tower improvement as it will not start construction until fall of 2020 and take three years to build. The City's determination of the Final Special Benefit value lift from the LID Improvements to our home of \$64,411.20 with a Special Assessment of \$25,237.73 shows a complete lack of understanding of property values and General vs Special Benefits by the City's appraiser even after the City spent millions of dollars and several years having the studies prepared. We strongly object to the City's speculation that there will be any Special Benefits to our property.

Therefore, there are no Special Benefits enjoyed specifically by our property or the other properties physically remote by the 100'-150' foot steep bluff above the Waterfront. All of the planned improvements will be enjoyed by the general public that makes the waterfront a specific destination by the general public to enjoy the Waterfront General Benefits.

- B. On quick review of the Special Benefit Studies we could find no detailed plans, specifications, or cost estimates for the enhancements to be solely funded with LID funds. There were only general descriptions. Therefore, we do not see how the funds the City is demanding from us with this LID will be used, to create our theoretical and very subjective proposed Special Benefits or that the City will have sufficient funds to complete the entire project as required by State law if there are LID funds used.

As structured, the LID is terribly flawed as the LID enhancements are proposed to be paid for by the existing properties as currently improved in the LID. However, there are hundreds of properties that will be developed and/or redeveloped in the near and distant future that will not be required to pay assessments based on those future improvements, many of which will be significant towers. Therefore, the future public capacity and the theoretical Special Benefits being proposed with those Waterfront Boulevard LID Funded improvements will be substantially supported by the values of the current property improvements and not future property improvements, which would also benefit from the theoretical special benefits and value lift. This is clearly inequitable treatment between existing properties developed to their potential and properties not yet developed to the highest and best use. This LID structure should have a latecomer's payment provision.

We have attached as **(Exhibit C)** and quote from the 7 page letter dated 1.30.2020 by appraiser Anthony Gibbons where he reviews the City commissioned Valbridge Special Benefit study.

Quoting the appraisal expert, Anthony Gibbons:

"Benefits associated with proximity should be evaluated in the form of a lift in land value. The methodology used (a broad percentage assessment applied to total property value) results in inequitable assignments between properties. All properties that will be constructed and delivered to the market by

2024 have escaped a significant assessment, even though they may be identically positioned to otherwise currently built-product with regard to the Waterfront Project when it is complete.”

Quoting furthermore from the appraiser Anthony Gibbons review letter:

“The assessments are based on a percentage assignment to total property value, in place in 2020. However, the project presented relates, purportedly, to a proximity benefit. This is a location factor, which is a land characteristic. Benefits from proximity do not normally accrue to improvement value, as the “bricks and mortar” are unchanged. This creates an inequity in the side-by-side comparison of improved and vacant land parcels, and one that is particular well illustrated in case of development properties that will imminently be developed, with a completed project in place by the time the park is complete in 2024. This methodological error is essentially a function of relying upon an across-the-board percentage adjustment, as compared to truly measuring before and after differences.”

- C. Upon our read of the “Before/After” (“No-LID/LID”) in the Addenda Volume, pages. A-1 through A-8 it is very clear to us that there will be No Special Benefit or “Value Lift” to our property from any LID funding for the following reasons:

The LID “Before” Conditions describe “Major changes” along the Waterfront, funded by public tax dollars, will be great improvements over the previous Waterfront conditions prior to the viaduct removal and Elliott Bay Seawall Project. These Major changes which clearly provide “general benefits” as these changes will create an attractive Waterfront for the general public as a “general benefit” without the need for any LID funded enhancements.

Quoting the appraiser expert, Anthony Gibbons:

The Valbridge appraisal makes no attempt to assess General Benefit and does not offset the apparent measure of special benefits with general benefits. AG

Below in quotation marks are the “Major Before changes” without LID funding described in the City documents Include:

See Exhibit D-1

- “The Alaskan Way Viaduct Replacement Project (AWVRP) will be complete, with the viaduct eliminated and the SR 99 tunnel in operation.
- The Elliott Bay Seawall Project will be complete, including a new 15-foot wide sidewalk inset with light penetrating surface (LPS) adjacent to the seawall between approximately Yesler Way and Virginia Street.
- The Pike Place MarketFront (MarketFront) Project will be complete.
- The Pier 62 Rebuild Project will be complete.
- The Seattle Multimodal Terminal at Colman Dock Project will be complete.
- A restored Washington Street Boat Landing Pergola will be complete.
- A “Habitat Beach” between approximately Yesler Way and S. Washington St and immediately adjacent to Washington Street Boat Landing Pergola and Colman Dock will be complete.”

Rebuilt/New Surface Roadway (Before)

“ The LID “Before” condition assumes a new surface roadway that would fulfill some of the functions that will no longer be provided by SR 99 after the Alaskan Way Viaduct is removed by serving both local and regional transportation needs and providing access between SR 99, downtown Seattle, and northwest Seattle. The proposed improvements would consist of:

A new Alaskan Way roadway between S King Street and Pine Street, built in the approximate footprint of the former Alaskan Way Viaduct, would include:

- o A dedicated transit lane in each direction between S. King Street and Columbia Street and on Columbia Street between Alaskan Way and First Avenue
- o Northbound ferry queuing lanes between S. King Street and Yesler Way, which include double left-turn lanes between S. Main Street and Yesler Way onto Colman Dock
- o Curb zones near the Colman Dock Transit Hub designed to accommodate general purpose vehicles, transit, taxi, and ADA drop-offs and pick-ups.

More Roadway improvements “Before” without LID funding:

- Additional on-street parking and loading zones located along the curbside on the east and west sides of Alaskan Way where space is available.
- A new arterial street, called Elliott Way, which would follow the path of the former Alaskan Way Viaduct from Alaskan Way at Pine Street up the hill into Belltown, where it would connect with Elliott Avenue and Western Avenue
 - A new intersection at Pine Street (referred to as the Pine Street extension) that would connect the new Alaskan Way and new Elliott Way with the existing portion of Alaskan Way north of Pier 62/63. This extension would reach a height of 18’ from the existing Alaskan Way.
- Streetscape enhancements to Bell St. between Elliott Avenue and First Avenue, which would include widened sidewalks and increased landscaping.
- 377 street trees planted in the median and in planting strips on the east and west sides of Alaskan Way and Elliott Way. The budget would allow for the selection of trees with a caliper of 1.5” to 2”. All trees would be of the same type to facilitate the standard level of care and maintenance provided other street trees in the downtown area.
- Code-compliant Green Stormwater Infrastructure (GSI) would be installed in areas of the planting strip along the west side of Alaskan Way between Yesler Way and Columbia St and in areas of the planting strip along the east side of Alaskan Way on every block between Columbia Street and Pike Street, as well as a GSI planter at the foot of the Pike Street

Hillclimb. The City would install groundcover to facilitate the standard level of care provided other GSI elements in the City.

- The City would install one type of hardy groundcover in all other landscaped areas along Alaskan Way and Elliott Way in order to facilitate the standard level of care provided other groundcover in the City.
- Sidewalks on both sides of the roadway along Alaskan Way and Elliott Way would be standard 2'x2' scored concrete.
- On the east side of Alaskan Way between S. King Street and Yesler Way, sidewalk areas between tree pits would be infilled with salvaged red bricks, as required by the Pioneer Square Historic Preservation Board Certificate of Approval.
- Sidewalk immediately adjacent to the west side of Alaskan Way between S. King Street and the Pike Street would range in width from 8' to 35'.
- Plantings immediately west of the two-way bike facility between S. King Street and S. Washington Street would be a mix of standard plantings.
- Sidewalk on the east side of the street between S. King Street and the Pike Street Hillclimb would range in width from 7' to 35'.
- Sidewalk on the east and west sides of Elliott Way roadway between the Pike Street Hillclimb and Bell Street would range in width from 7' to 9'.
- Crosswalks in all intersections would be standard, with 6" curbs.
- A two-way bicycle facility would run along the west side of the new Alaskan Way. The facility would begin at S. King Street and continue north on the west side of Alaskan Way to about Virginia Street, where it would cross the road to join the existing path on the east side of the roadway. At the new intersection with Elliott Way, the bicycle facility would transition to separate northbound and southbound paths that would connect with existing bicycle lanes on Elliott and Western Avenues in Belltown.
- The Marion Street pedestrian bridge over Alaskan Way, which connects to the Seattle Ferry Terminal, would be constructed.
- Reconstructed sidewalks and parking on Seneca Street between Alaskan Way and Western Avenue would be constructed.
- The reconnection of Lenora Street pedestrian bridge to the new Elliott Way would be constructed."

Drive/Parking Aisle (Before),

In the "Before" condition, the City would construct the following:

"S. Washington Street to Madison Street

- Between the east edge of the Seawall LPS and the west edge of the bike facility, from Madison Street to the Washington Street Boat Landing, a 2'x2' scored concrete pedestrian area would be installed with a width of between 25 and 35 feet. The area dedicated to pedestrian travel would be wider than the "After" condition
- Madison Street to Pike Street Between the east edge of the Seawall LPS and the west edge of the bike facility, from Madison and Pike, the City would install a "drive aisle" that would

accommodate 128 parking spaces. **(Note this parking is all lost if the wider pedestrian promenade is installed with LID funding.)**

- Between Madison and Union, the drive aisle would include a single aisle, 60-degree angled parking arrangement using asphalt. Between Union and Pike, the drive aisle would include a double aisle, 60-degree angled parking arrangement using asphalt. There would be an inbound driveway to the south of Pike Street, inbound/outbound driveways at University, Seneca, and Spring Streets, and an outbound driveway at Madison Street. All roadway and parking areas would range in width from 36' to 56'. The sidewalk between the west side of the drive aisle and the LPS panels would be paved using the standard 2'x2' scored concrete. The total width of the walking area, adjacent to the existing LPS panels, would range between 3' and 15'.
- Pike Street to Pine Street the City would reserve this space for a future Aquarium expansion. It would be paved with 2'x2' scored concrete."

"The Overlook Walk would not be built in the "Before" condition and the MarketFront would not become an additional pedestrian connection to the Waterfront and current connections – via the existing elevator and stairwell in Pike Street right away through the Pike Place Market and the Pike St. Hillclimb – would remain the primary connections to the Waterfront from Pike Place Market."

Note that this quoted statement from the City's report only mentions the existing Pike Hill Climb and misses the other three existing pedestrian connections (Lenora St. and Union St. and Harbor Steps at University St.) between the Waterfront and the Pike Place Market.

Pier 58 (formerly known as Waterfront Park)

"Before LID Pier 58 would remain as it currently is: a pier park that was built in 1974. This park has a "horseshoe" shape and contains a mixture of plantings, public gathering areas, a concrete amphitheater, fountain, and seating areas. The park is accessed through a combination of stairs and walkways and is primarily "sunken" below the level of the LPS adjacent to it. Due to access issues, and lack of sightlines, and wear and tear on the aging pier infrastructure, the park is not very conducive to active usage by the public. "

D. The Following Are Our Comments and Objections to the six projects proposed using LID funding to enhance the Major Improvements just described from the city documents:

Copied in quotation marks from The Waterfront Seattle LID Final Special Benefit/Proportionate Assessment Study, Executive Summary pages 6-8 with our comments/objections underlined:

"The LID project would construct the following six main elements:

- 1) "Promenade is a continuous public open space with amply green, landscaped spaces along the west side of the new Alaskan Way from S Washington Street to Pine Street designed for walking, sitting,

gathering, and viewing the waterfront. Highlights of the 26± block-long promenade include street art, extensive plantings (evergreen trees, shrubs and flower bulbs), pedestrian walkways with railings in various sections, and lighting designed in a layered pattern to provide visual interest and wayfinding clarity including LED light sources for low-level illumination of handrails.”

Comments/objections to the LID funding of the Promenade enhancements:

The physical improvements to the Promenade area to the pedestrian walkways along the Waterfront as quoted above in the City’s “Before” will be improved with all of the normal code required street improvements including:

- 377 Street trees,
- Stormwater Infrastructure (GSI) would be installed in areas of the planting strip along the west side of Alaskan Way between Yesler Way and Columbia St and in areas of the planting strip along the east side of Alaskan Way on every block between Columbia Street and Pike Street, as well as a GSI planter at the foot of the Pike Street Hillclimb.
- The City would install groundcover to facilitate the standard level of care provided other GSI elements in the City.
- Sidewalks on both sides of the 6 lane roadway along Alaskan Way and Elliott Way would be Seattle downtown standard 2’x2’ scored concrete.
- A two-way bicycle facility would run along the west side of the new Alaskan Way
- Plantings immediately west of the two-way bike facility between S. King Street and S. Washington Street would be a mix of standard plantings.

Conclusion: with these significant Major Improvements “Before” the LID, to the waterfront boulevard promenade, the enhancements with city estimated total cost of \$62.88 M + 17%= \$73.65M, with approximately half of that from LID funding, provides no real Special Benefits to the LID properties. See (Exhibit D) for images from the city documents comparing the waterfront boulevard “Before” the LID funding and “After”. Both illustrations show that this is a nicely landscaped 6-8 Lane waterfront boulevard and not really a park as the City wants us to believe. See Exhibit D-2 for Promenade “After” and D-3 and D-4 for public safety concerns. See D-5 for Embarcadero visibility and Exhibit F for its “no special benefits associated with the project beyond a one- to two block radius east”

- 2) “Overlook Walk, immediately west of the recently completed Pike Place MarketFront building, is a pedestrian bridge and landscaped public space that connects the Pike Place Market with the Promenade, spanning over the Elliott Way surface street. Beginning at the MarketFront, a switchback pathway referred to as the “Bluff Walk” connects to a 28-foot-high elevated lid over the new Alaskan Way surface street. Other features are 47,000 SF of public open space with excellent view amenities and an accessible pedestrian pathway, enhancing existing connections and adding

new connections between Pike Place Market and the waterfront, providing opportunities to enhance the pedestrian experience and revitalize the area.”

Comments/Objections to the LID funding of the Overlook Walk:

Overlook Walk - Is totally unnecessary, redundant and wasteful with the City’s estimated total cost of \$100.18M + 17%= \$117.33M it offers no new special or general benefits because of the three very nearby existing pedestrian connections between the Waterfront and the Pike Place Market. See Exhibit D-6 (rendering with Pike west end), D-7 (existing three connections), D-8 (less direct access), D-9 (winding route ending same place), D-10 (outside of Crompton’s special benefit radius) Exhibit F Crompton’s Article “The Impact of Parks on Property Values. Exhibit F

These three existing pedestrian connections between the Pike Place Market (official south boundary is Union St. and north boundary is Lenora St.) and the Waterfront are so close to the proposed Overlook location:

- The Overlook Walk would be only one block north of the existing elevator and open stairway in the Pike Street right-of-way through the Pike Place Market and the Pike Street Hill Climb.
- The Overlook Walk would be only one and ½ blocks south of the existing Lenora Street pedestrian bridge and elevator connecting the Pike Place Market to the Waterfront
- The Overlook Walk would only be 2 ½ blocks north of the existing Union Street Stair Hill climb connecting the Pike Place Market to the Waterfront.

- 3) “Pioneer Square Street Improvements include enhanced streetscapes on S Main Street, S Washington Street, Yesler Way, and S King Street featuring new sidewalk paving, landscaping, and traffic redirection to create more pedestrian friendly links between the waterfront and Pioneer Square. Improvements could include curb extensions, new seating opportunities and coordinated development of sidewalk cafes with food and beverage uses fronting on these streets. Because this area lies within the Pioneer Square Preservation District, improvements are in accordance with the preservation district guidelines.”

Comments/objections to the LID funding of the Pioneer Square enhancements:

The Pioneer Sq., Street improvements are estimated by the city to cost \$20.0 M + 17%= \$23.4M and are located 10-14 blocks south of my building and are too remote to provide any Special Benefit to my property.

- 4) “Union Street Pedestrian Connection (also known as Lower Union), is in the right of way on the south side of Union Street between Alaskan Way and Western Avenue. It is a universally accessible pedestrian link between the new waterfront and Western Avenue. An elevated pedestrian walkway,

elevator and stairs are enhanced by public art and nighttime lighting to illuminate the pathway, elevator, and the area underneath the pedestrian bridge.”

Comments/objections to the LID funding of Union Street pedestrian connection:

The access to the proposed LID funded Lower Union pedestrian connection \$13.94M + 17%= \$16.32M is a three block walk down First Ave from my building and has no value to my building because we have the existing much more convenient Pike Street Stairs and Pike St., Hill climb one block from our building that provides the same waterfront access. In fact, we have never had the need to use the existing Upper Union stairway to Western Avenue next to the Four Seasons Hotel.

- 5) “Pike/Pine Streetscape Improvements provide enhanced pedestrian access to and from the Pike Place Market and waterfront. Both streets, between First and Second avenues, will be reconstructed as “shared space”, without curbs. Single travel lanes (westbound on Pine and eastbound on Pike) designed for slow vehicle movement and local access will share the space with pedestrians and bicycles. Bollards and detectable warning strips help define the area to be used by vehicles, along with light poles, trees and paving treatments, and there will be more room available for sidewalk cafes. Other improvements will be made in the various blocks of Pike and Pine streets between Second and Ninth avenues (planters protecting bike lanes, etc.) including construction of a new paved public plaza, a flexible space designed to accommodate diverse programming similar to Westlake Park, on the south side of Pine Street between Third and Fourth avenues.”

Comments/Objections to the LID funding of the Pike/Pine streetscape improvements:

These proposed changes to Pike Street and Pine Street between First Avenue and Second Avenue have a City estimated total cost of \$20M + 17%= \$23.4M. This change to the streets would absolutely reduce the value of our property, as it would significantly restrict the existing vehicular access to and from our 300 stall parking garage which is at the one way South alley off of Pine St between Pike and Pine Streets, and between First and Second Avenues. Also, this would make access for deliveries to our building much more restricted. Our building alone had 15,474 packages delivered during 2019 and over 500 service vehicle calls to our building. Restricting our building’s vehicular access will create significant grid lock in our already highly congested area by the Pike Place Market. Also, this one way South alley off of Pine St. serves a 30 stall garage in the historic Doyle Building and the 54 space surface lot serving the Market. See Exhibits D-11 (Pike St “Before”, D-12 (Pike St “After”) and D-13 (Pine St “Before” and D-14 (Pine St “After”)

These proposed changes would clearly damage values of our property.

- 6) Pier 58 (formerly known as Waterfront Park), located between Piers 57 and 59, provides a unique atmosphere for social gathering/ performance spaces with excellent view amenities. Containing approximately 49,000 square feet providing a seamless connection between the park and the

Promenade, highlights include a children's play area, 4,900 SF of open water coverage protected by railings, and 3,600± square feet of raised lawns.

Comments/Objections to the LID funding of the Pier 58 deferred maintenance:

This existing Waterfront Park is part of the tourist destination of the Central waterfront with its tourist-oriented retail piers and offers a curious place for tourists to explore as it is. The City estimated total cost for LID improvements is \$65.24M + 17%= \$76.4M. However, this small park has received little maintenance from the City which is irresponsible. The described improvements reflect deferred maintenance of the City Park and a lack of appropriate improvements over its many years of use. This is clearly not a neighborhood park and the proposed improvements should not be funded by the downtown neighborhood LID as it has no Special Benefits.

- E. From our experience living in the Pike Place Market neighborhood for over four decades, including living adjacent to Westlake park for 8 years and William managing 15 historic buildings in Pioneer Square for 14 years, we have experienced the negative impacts to properties and pedestrians using or passing nearby public open spaces in the downtown core including: Victor Steinbrueck Park, Westlake Park, Freeway Park and Occidental Park. These public places frequently attract unlawful behavior and threatening events. Last week 7 pedestrians were shot one block from our home see image (Exhibit F). We are concerned that the Central Waterfront Boulevard with even much fewer eyes on the pedestrian areas than these other public areas will result in negative property values.
- F. For 10 years William was the Responsible Official for the City of Seattle Lead Agency on SEPA Decisions and Conditions for all privately sponsored developments. We find it very surprising that there has been no State Environmental Policy Act (SEPA) review of the Waterfront LID formation ordinance or in advance of this Final Assessment roll, a limited EIS addressing only certain of the LID improvements in isolation and was completed several years before the LID formation ordinance and there are incomplete SEPA reviews of the LID Improvements themselves. This is clearly an improper segmentation of environmental impacts and failure to address cumulative impacts of the complete project required in a SEPA public review process. Through this piecemeal and incomplete environmental review approach, the City has artificially limited the range of reasonable alternatives and the effectiveness of any future SEPA review of the waterfront LID and underlying project action. It is unlawful to move forward with final assessments until all SEPA reviews are complete for the Waterfront LID *and* the Waterfront LID Improvements collectively. *LID Manual*, pp. 3, 6, 17, 24, 26; WAC 197-11-055, 197-11-060, 197-11-070, 197-11-305, 197-11-704, RCW 43.21C.030 and 43.21C.031.
- G. The Ordinance 125760, (Exhibit A), states that the total project will be \$712 million of that \$346.57 million is the estimated cost to complete the LID scope of work. With the total LID assessment of \$160 million, how will the city raise the additional \$186.57 million to complete 100% of the LID scope of work, which is required by state law for LID funded projects? If the City Council does enforce this LID funding, the city budget will be significantly adversely

affected. In order to fund the shortfall to complete the LID scope of work, These funds would likely come from The City's general fund at the cost of other general fund supported city functions such as police protection and support of the homeless and social services. That would be a crime, and this risk is very real as the budget for the LID scope of work is only based on schematic drawings and as all of us in Seattle during these years of over heated construction activity and escalating costs know, there will be significant cost overruns. As the opinion 2012 No. 4 (Exhibit E) from the Washington State Atty. Gen. concludes it would be unlawful to bind future city councils and future budgets to spend likely hundreds of millions of dollars on projects still early in the design process.

- H. As a further lack of confidence in the work done by the City's appraiser, the appraiser determined the value of our home #2901 on the NE corner, Before the LID of \$2,385,600, which tells us that the appraiser is completely unaware of the decline in condominium market values this past year in the LID. For example, the unit adjacent to ours #2902 on the SE corner sold for \$1,800,000 last week on 2/4/2020 that's 15% less than the city appraiser's Before value of \$2,074,800. Redfin January 2020 report estimates our home at \$1,971,810 which is 82.6% of the city appraiser's Before value. If the city's appraiser is that far off, how can anyone believe his estimate of value lift of our home from the full LID improvements of 2.7%???
- I. We incorporate by reference all objections made as part of King County Superior Court Case No. 19-2-05733-5 SEA (Consolidated with No. 19-2-08787-1 SEA). Attached is a copy of the Third Amended Complaint (Exhibit G)
- J. We join in and incorporate by reference every objection made by every other property owner.
- K. We incorporate the review and critique by appraiser, Anthony Gibbons, dated January 27, 2020 (Exhibit C) of the Final Special Benefit/Proportionate Assessment Study dated November 18 prepared by Valbridge.
- L. In conclusion, as longtime residents and employees in our downtown core and as active domestic and international travelers where we have observed and studied public spaces, it is very clear to us that these "Major Changes" that are planned for the Central Waterfront, even without the LID enhancements, will create a wonderful "regional" attraction primarily as a tourist destination in the long summer days. This clearly will not be a neighborhood park, but rather a waterfront Boulevard, offering no special benefits and property value lift to property owners in the downtown core. Rather, our main concern is that this large Waterfront Boulevard will become unpleasant and unsafe as are other downtown pedestrian spaces during the dark days and evenings which adversely impact property values.

Thank you for giving this very serious matter the attention it deserves,

William J. Justen

Sandra L. Justen

EXHIBITS:

- A- Waterfront LID Formation Ordinance No. 125760
- B- Photo showing East skyline view from Justen condominium
- C- RE-SOLVE review letter by appraiser, Anthony Gibbons, 1.30.2020, of Valbridge Special Benefit Studies
- D- D-1 through D-14 "Before" and "After" LID city images from the Final Special Benefit Study
- E- Washington State Attorney General Opinion Letter AGO 2012 No.4
- F- War Zone
- G- Third Amended Complaint for Declaratory Relief and Damages, King County Superior Court

**Case No. CWF-0097,
Closing Argument, Waterfront LID No. 6751**

Objector names: William J. Justen and Sandra L. Justen

Property address: 1521 2nd Ave. condominium 2901
Seattle, WA 98101-4522

King County parcel number: 2538831120

Owner's Mailing Address: 1521 2nd Ave. #2901
Seattle, WA 98101-4522

Emailed to: LIDHearingExaminer@seattle.gov

Re: Our Final Objection Summary to Final Waterfront LID No. 6751 Assessment and Appeal of Final Assessment Amount of \$25,237.73 in its entirety for Justen, Parcel No. 2538831120

We are the homeowners of the condominium unit stated above. We purchased this home when it was new in March 2009. We both have considerable real estate experience.

Objector's Real Estate Expert Credentials:

Sandra Justen:

- A licensed Real Estate Broker and William is a licensed Managing and Designated Real Estate Broker.
- Has lived in the Pike Place market neighborhood for 20 years and has been the Listing Broker or Selling Broker for more than 150 condominiums in 11 different condominium buildings in the LID during the past 12 years.

William Justen:

- Has lived in the Pike Place Market neighborhood since 1977.
- During those 43 years, William was the developer and resident of the:
 - Pike in Virginia condominiums at 87 Virginia St.,
 - Market Place Tower (office 2025 First Avenue and condominiums at 2033 First Avenue at Lenora Street) and the
 - 1521 2nd Ave. condominium tower.

As the developer of these projects and dozens elsewhere in Seattle, William has hired and instructed many appraisers to prepare value appraisals “for financing of the projects”, however, William has never needed or used an appraiser to determine the value of the more than 50 commercial properties he has purchased in downtown Seattle.

- William is also the former Director of the City of Seattle, Department of Construction and Land Use, currently named the Seattle Department of Construction and Inspections.
- William was a founding board member and faculty of the Runstad Real Estate Center at the U.W.
- In May of 2011 the Central Waterfront Committee appointed William as an Advisor to the Committee’s Finance and Partnerships Subcommittee to advise on the Waterfront improvement strategic financing strategies.

We definitely support and improved attractive waterfront, however, we are convinced that Seattle will get that attractive waterfront without the additional LID enhancements.

Based on our study of the ABS Waterfront Seattle LID Final Special Benefit/Proportionate Assessment Study (City Exhibit C-17) and the ABS Final Special Benefit Study Addenda (City Exhibit C-18). We prepared and submitted at our objection hearing on February 13, 2020 our 14 page Objection Letter with 7 Exhibits totaling 84 pages. Our objections described both narratively and graphically why our condominium building at 1521 2nd Ave has too much distance, e.g. 1,240 feet of travel to the Promenade, for reasonable proximity to and from five of the six LID projects to receive any special benefits and we illustrated why the sixth LID project, the Pike/Pine Streetscape improvements, would actually create a disamenity for our building because that project would impede access to and from our building’s garage.

In our Objection Letter we also expressed a great lack of confidence in the city of Seattle’s ability to fund at least \$187 million to complete the City cost estimate of \$347M of LID scope of work after the \$160 million of LID funding. Now in our new depressed economy, it is even more questionable that Friends Of the Waterfront will successfully raise their committed \$110 million of philanthropy (which Marshall Foster says in his cross is unenforceable) and the City will be required to fund any gap in philanthropy to meet the city’s legal requirement to complete the full LID scope of work.

Since our Objection Letter and testimony, we provided on February 13, 2020, there has been an enormous amount of additional information provided by the City and its consultants. This additional information includes but is not limited to Macaulay deposition and declarations #1 and #2, declarations from at least 12 other City representatives and consultants, two days of hearing testimony from consultants working with objectors, two days of hearing testimony by the City and its consultants, three days of hearing cross-examination of city consultants by objectors.

From all of this additional information I'm adding to our original opening objection packet submitted on February 13, 2020, additional objections focused on the new information provided in the hearings and declarations since that time.

Our Closing Argument will focus on the following objection categories with several demonstrative exhibits that are excerpted from the City's evidence and exhibits.

Our Objection Categories that will focus primarily on the 1521 Second Ave condominium building, not just our condominium unit parcel, because William was the developer of the entire building and will compare this building to other comparable buildings:

- I. Building Types or Uses and Off-Site Amenity Utilization**
- II. Building Size**
- III. Proximity**
- IV. Proportionality between Properties**
- V. Appraisal Method Weakness**

I. Building Types/Uses

Throughout the City's and its consultants' documents and testimony, there is no explanation of how a building's type or use: (hotel, office, apartment or condominium) is weighed along with proximity and Before Value in determining the percentage of property value increase from the LID projects. In Mr. McAuley's cross-examination by Karen Gielen on June 26, Karen (copied below from the transcript) asked Mr. McAuley a hypothetical: consider an identical building in the same location, e.g. three blocks from the waterfront, how would different types of uses for example, hotel, office, condominium or apartment) make a difference in the value increase they would get from proximate to the waterfront?

Mr. McAuley rambled on about how it depends if it had retail in each building, which was not part of the hypothetical as the buildings were said to be exactly the same except for the principle use, and ultimately, Mr. McAuley could or would not answer the question of how different uses are weighed in determining value lift.

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19 BY MS. GIELEN:

20 **Q I'll figure out the technical things**

21 **eventually. Hello, Mr. Macaulay.**

22 A Hello.

23 **Q I would like to start with a hypothetical**

24 **question for you. If you had a building that was**

25 **three blocks, say, from the waterfront and you were --**

1 **you were looking at it -- maybe it's the same building**
 2 **or exactly the same configuration and it was either a**
 3 **hotel, an office, a condominium, or an apartment, what**
 4 **would be the difference between those four different**
 5 **types of property in terms of the value that they**
 6 **would get from being in approximate -- proximate to**
 7 **the waterfront?**

8 A Yeah, typically, we -- we looked and
 9 hypothetically for three blocks away, and it's a
 10 hotel, you know, versus an office. And we're just
 11 simply reflecting what we find in the market, and,
 12 typically, we found with the -- the strong influence
 13 that other similar projects seemed to have in the
 14 marketplace and in inviting tourism that hotels
 15 typically reflect a slightly higher increase
 16 difference in market value than, say, an office
 17 building would.

18 **Q How about condominiums and apartments?**

19 A There -- there would be, again, a hotel
 20 would -- would typically benefit slightly more.

21 **Q Okay. So what about the comparison between**
 22 **the office and the condominiums and the apartments?**

23 A Yeah, I would just -- again, it would depend
 24 on the -- the physical nature of that building, if it
 25 had retail in it, if it was an office building, for

1 instance. The same with an apartment, did it have
 2 retail -- did it have retail in it. It would just --
 3 it would just really depend on the physical elements.

4 **Q And so if they were the same age, quality of**
 5 **construction, etc., all things being equal, did you**
 6 **have a rule of thumb that would guide you in making**
 7 **those valuations?**

8 A Again, it just would have been on a
 9 parcel-by-parcel basis and our determination of the
 10 impact we felt that property would have on the market.

The only clue from ABS that the different building types/uses should be considered in determining the value lift from the special benefit estimate is in the paragraph and table copied below from page 5 of the Summary Of Waterfront Seattle Project Formation Special Benefit/Proportionate Assessment Study for Local Improvement District Exhibit C-15 and the paragraph and table are repeated on pages 84/85 of the Final Study Exhibit C-17.

In general, because the project elements focus on the waterfront, Pike/Pine corridor and Pike Place market vicinities, these areas experience the highest special benefit, as reflected in the following spreadsheets. Property abutting the waterfront improvements generally reflect the highest range in special benefit; from approx. 2.5% to less than 4% of estimated market value without the project, depending on location and use. These increases are based on total property value, comprised of both land and improvements. The Pike/Pine corridor reflects the second highest increase in market value due to the project, generally ranging from 1% or less at the eastern periphery of the corridor to over 3% of market value without the project at the western (Pike Place Market area) end. The Pioneer Square neighborhood generally experiences slightly less special benefit as it is not in close proximity to significant project amenities such as the Overlook Walk. Average property value increases are slightly less than for the Pike/Pine corridor to the north. Similarly, the Belltown, Denny Triangle and Stadium District neighborhoods reflect lesser (1±%) market value increases.

The table presented below pertains to the above valuation sections and is to be used for general discussion purposes. It summarizes the estimated special benefit ranges for each affected property type, based on the percentages of property value increase. It is noted that market value estimates without and with the LID project may fall outside of the summarized ranges for some individual parcels.

Property Class	Percentage of Property Value Increase	
	High	Low
Land value	<4.00%	<0.50%
Office/Retail	<3.50%	<0.50%
Hotel	<3.50%	<1.00%
Apartment/Subsidized housing	3.00%	0.00%
Residential condominium	3.00%	<0.50%
Waterfront	<4.00%	<0.50%
Special purpose	<0.50%	<0.50%

Valbridge Property Advisors | Puget Sound

17-0291 Summary of Waterfront Seattle Project Formation SB/Proportional Assessment Study for LID - Copyright © 2018

Argument: this table clearly shows that building types/uses should be an important part of the estimated special benefits in addition to building location, size, age, etc. the table shows that both apartments and residential condominiums could have the same high percentage of property value increase of 3.00% and a similar low of 0% for apartments to less than 0.05% for residential condominiums. It also shows for office/retail (it seems very strange to combine these two very different uses. Especially when we have many large office buildings with less than 1% area of retail and yet we have some retail buildings that are nearly 100% retail use and it seems obvious that office building occupants that occupy the office building approximately 40 hours a week will regard the LID amenities different than retail customers that may visit the retail building occasionally throughout the year.

The ABS studies did not address these differences and for competent studies, one would expect a discussion of how occupants from different types of buildings may value special benefits to off-site amenities. After all, it is the building occupants and not the structures they occupy that are expected to enjoy and appreciate these off-site amenities subject to the proximity of the amenities to the building.

Therefore, one would expect buildings with higher density use by occupants that occupied the building for more hours during the week, month or year would reflect more occupant value of the amenities and therefore more special benefits to the building.

II. Building Size

Following up on the previous paragraph billings of the same size with different densities of occupants and defend the same proximity to the LID amenities one would assume the building with a higher density would yield a higher special benefit to the building.

Following to the next step in logic would consider building size. In Mr. Macaulay's cross-examination on June 25, Mr. Reuter asked:

Cross Examination of Bob Macaulay at approximately 9:30 AM on June 25, 2020

22 BY MR. REUTER:

23 Q. Is there some math to these distinctions or is
24 this a judgment call?

25 A. When one building is significantly larger than

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1 another, it is going to create a higher -- higher value.
2 And -- and most probably when you are looking at and
3 trying to be consistent with how you're looking at
4 similar properties, it's going to create a higher
5 benefit.

6 And that change in benefit for -- for a larger
7 building might be slightly different when the percentage
8 change might be slightly different than a similarly
9 situated building. But under the State statutes, they
10 have to be roughly proportionate. And I would say that

11 small of difference certainly justifies a roughly
12 proportionate difference.

Argument/conclusion:

Mr. Macaulay seems confused about value increase percentages in actual value increases in dollars, but he does understand that significantly larger buildings will have higher benefits and therefore higher values for similar properties.

III. Proximity

The 1521 2nd Ave building is physically remote, both horizontally and vertically from the Central Waterfront as we are more than three city blocks, 1,240 feet, from our building lobby entry to the promenade on the west side of Alaskan Way. Our building entrance is also 116 vertical feet above Alaskan Way. The Waterfront is clearly not convenient for residents to take their dogs for a walk or go for a stroll. The value of our homes from a location perspective comes from proximity to convenient shopping, services, and employment offices in the downtown core. Additional value for the west facing condominiums in our building comes from the views of Elliott Bay, but clearly not from proximity to the Waterfront.

Five buildings all on the west side of Second Avenue from Union Street to Virginia Street with the same proximity to the waterfront as 1521 2nd Ave., include:

Tower 12 at 2015 2nd Ave.

Cristalla condominium at 2030 2nd Ave.

Viktoria Apartment at 1915 2nd Ave

Newmark Tower condominium at 1401 2nd Ave.

Russell Center at 1301 2nd Ave

Two buildings being on the east side of Second Avenue at Pike Street and Pine Street, diagonally across from 1521 2nd Ave. with nearly the same or better proximity to the waterfront as 1521 2nd Ave., but these two properties have the added benefit from adjacency to the LID Pike/ Pine Street improvements:

WestEdge tower at 1430 2nd Ave.

Helios apartment tower and Charter Hotel at 206 Pine St.'

IV. Proportionality between Properties

The following observations and arguments regarding proportionality between similar buildings is using a spreadsheet as a demonstrative exhibit copied from the two tab spreadsheet that is excerpted from the City's spreadsheet for all properties in Exhibit C-17. The city spreadsheet had a tab labeled All Other LID Commercial and the second tab titled Residential Condos and Assoc Comm. In this demonstrative Exhibit. I have taken properties from the two tabs for all properties with a Total Assessment of more than \$1 million. The result is 35 properties, both commercial and residential condominiums have total assessments of more than \$1 million.

From the spreadsheet, one can easily see the following key pieces of information:

All seven residential buildings have the exact same zoning DMC 240/290-440, and the Russell Center has higher zoning at DOC1 U/450/U

1521 2nd Ave., 38 stories, built in 2008, 143 units, 271,986 NSF, occupancy 200, special benefit \$9,462,219 total assessment \$3,707,505, special benefit change 2.7%

Comparable statistics 21521 2nd Ave. are as follows:

WestEdge Tower, 39 stories, built in 2018, 340 units, 347,876 NSF, occupancy 580, special benefit \$6,196,000, total assessment. \$2,427,729, special benefit change 2.06%

Compared to 1521 2nd Ave.: One story taller, 28% more NSF, 10 years newer, 2.9 times the occupant load, 65% of the special benefit, special benefit change 2.06% (76% of 1521)

Helios And Charter Hotel: 40 stories, built in 2017, 401 units, 306,374 NSF, occupancy 650, special benefit \$5,720,000, total assessment. \$2,244,356, special benefit change 1.92%

Compared to 1521 2nd Ave.: two stories taller, 12.6% more NSF, 9 years newer, 3.25 times the occupant load, 60% of the special benefit, special benefit change 1.92% (71% of 1521)

An excellent comp.

Tower 12, 34 stories, built in 2017, 314 units, 298,958 NSF, occupancy 530, special benefit \$4,042,000, total assessment \$1,583,745, special benefit change 1.9%

Compared to 1521 2nd Ave.: four-story shorter, 10% more NSF, nine years newer, 2.65 times the occupant load, 43% of the special benefit (70% of the 1521)

The following is copied from Wikipedia where the developer actually valued the project as an apartment higher than potentially building a condominium. By the way the ABS spreadsheet shows a market value without LID \$213,274,000, which is considerably less than the sales price of \$225 million in 2017.

Tower 12

From Wikipedia, the free encyclopedia

in 2017 Tower 12 is an [apartment](#) building in [Seattle, Washington](#). The 34-story, 392-foot-tall (119 m) skyscraper has 314 apartments as well as 7,000 square feet (650 m²) of ground-level retail space.^[6] It is located at the northwest corner of 2nd Avenue and Virginia Street near [Pike Place Market](#) and [Victor Steinbrueck Park](#) at the southwestern edge of the [Belltown](#) neighborhood.

The project's name, Tower 12, is a reference to the "[12th man](#)", a nickname for fans of the [Seattle Seahawks](#) football team.^[6]

History^[edit]

The 2nd & Virginia site was formerly proposed as part of a \$67 million [condominium](#) project in the early 1990s called "One Pacific Towers", which would have had two 27-story towers with 145 units in each, that was later cancelled.^[7] In 2008, developer Justen Company submitted proposals to build a 39-story, 234-unit condominium building on the same site, part of a two-tower project spanning Virginia Street,^{[8][9]} but did not move further on into the design review process.^[10]

[Bellevue](#)-based developer Continental Properties bought the quarter-block property and master-use permit in March 2014 for \$16 million, and announced plans to build a 324-unit residential building on the site using the previously-approved master-use permit.^[11] Initially planning to build condominiums,^[12] Continental instead opted to build apartments (later named "Tower 12") because of the higher value and lower risk involved.^[6]

Construction of the building began on March 27, 2015 and the building opened on May 1, 2017.^{[1][6]} The building was [topped out](#) in August 2016.^[13]

On October 27, 2017, Tower 12 was acquired by Weidner Apartment Homes for \$225M^{[14][15]}.

ABS

References

Cristalla Condominium, 23 stories, built-in 2005, 195 units, 217,358 NSF, occupancy 330, special benefit \$3,169,063, total assessment \$1,241,709, special benefit change 1.80%

Victoria apartments, 24 stories, built in 2014, 249 units, 165,000 NSF, occupancy 450, special benefit \$3,136,000, total assessment \$1,228,754 special benefit change 1.99%

Compared to 1521 2nd Ave.: 12-story shorter, 40% less NSF, six years newer, 2.25 times the occupant load, 33% of the special benefit (73% of the 1521)

Newmark tower condominium, 24 stories, built in 1993 complete remodel in 2013, 214 units, occupancy 360, special benefit \$3,050,434, total assessment \$1,195,227, special benefit change 2.75%

Compared to 1521 2nd Ave.: 14-story shorter, 10% more NSF, nine years newer, 2.65 times the occupant load, 32% of the special benefit (102% of the 1521)

Russell Investment Center: 42 Stories, built in 2006, 872,026 NSF, occupancy 4,500, special benefit \$8,074,000, total assessment \$3,163,571, special benefit change 1.5%

Compared to 1521 2nd Ave.: 4 stories taller, 3.2 times more NSF, 8.8 Times the occupant load, 85% of the special benefit (55% of the 1521)

Argument:

There is no pattern to the ABS special benefit conclusions between these properties. The properties are all basically in the same proximity to the waterfront and many of them are approximately the same size and age.

VI. Appraisal Method Weaknes

Regarding building values:

According to the declaration from the ABS personnel that was responsible for the condominiums, she relied on minimal available comparable sales, for example, in 1521 2nd Ave. She could only use the sales available for 2019 which were three sales equal to 2% of the building.

While the ABS team that studied residential apartment buildings, simply put a cap rate on the NOI and came up with a value.

There was a clear disconnect between how ABS determined the benefit from LID amenities between condominium owners and renters. It was ignored that the apartment buildings with greater density have a larger population of occupants to value the amenities and therefore should make the special benefit change percentage higher for apartments rather than lower.

Regarding the special benefit percent change.

From reviewing the comparables above, one can see there is no logical pattern. All of these buildings are in the same proximity to the waterfront and the variation between buildings in the same blocks defies logic.

Our specific condominium home on the 29th floor is on the east side of our building with a skyline view will be lost to us when the proposed 46 story tower directly east of us across Second Avenue is built. The loss of our skyline view and the loss of most of our sunlight will certainly reduce the current Market Value of our home. Also note that that proposed tower will not have an LID assessment on the tower improvement as it will not start construction until fall of 2020 and take three years to build. The City's determination of the Final Special Benefit value lift from the LID Improvements to our home of \$64,411.20 with a Special Assessment of \$25,237.73 shows a complete lack of understanding of property values and General vs Special Benefits by the City's appraiser even after the City spent millions of dollars and several years having the studies prepared. We strongly object to the City's speculation that there will be any Special Benefits to our property.

Therefore, there are no Special Benefits enjoyed specifically by our property or the other properties physically remote by the 100'-150' foot steep bluff above the Waterfront. All of the planned improvements will be enjoyed by the general public that makes the waterfront a specific destination by the general public to enjoy the Waterfront General Benefits.

As structured, the LID is terribly flawed as the LID enhancements are proposed to be paid for by the existing properties as currently improved in the LID. However, there are hundreds of properties that will be developed and/or redeveloped in the near and distant future that will not be required to pay assessments based on those future improvements, many of which will be significant towers. Therefore, the future public capacity and the theoretical Special Benefits being proposed with those Waterfront Boulevard LID Funded improvements will be substantially supported by the values of the current property improvements and not future property improvements, which would also benefit from the theoretical special benefits and value lift. This is clearly inequitable treatment between existing properties developed to their potential and properties not yet developed to the highest and best use. This LID structure should have a latecomer's payment provision.

Thank you for giving this very serious matter the attention it deserves,

William J. Justen

Sandra L. Justen

Copied from Exhibitn C-

Properties with LID Assessment over \$1M

Waterfront Seattle Final Special Benefit Study

All Other LID Commercial Properties and
Residential Condominiums and Associated Commercial

LID	King Co.						Gross	Net	Highest and			Special				
Map	Property						Building	Building	Best Use	Market Value	Highest & Best	Market Value	Special	%	Total	
No.	ID	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/SF	Area/SF	Area/SF	Without LID	without LID	Use with LID	with LID	Benefit	Change	Assessment	Buildings
C-117	7137830000	RAINIER MASTER (includes -001, -002)	U W	1301 5TH AVE, SEAT	DOC1 U/450/U	55,568	544,174	544,174	cial Use/Redevel	\$1,435,980,000	ercial Use/Redevel	\$1,445,913,000	\$9,933,000	0.69%	\$3,891,968	2 Towers
	253883 000--1480	Fifteen Twenty-One	Homepwners	1521 2nd Ave				271,986			Condominium	\$359,904,519	\$9,462,219	2.70%	\$3,707,505	2 Towers
E-104	1976700095	SHERATON HOTEL - SEATTLE F-UU	SUSA-DBA SEATTLE SHERATON	1400 6TH AVE, SEAT	DOC2 500/300-550	88,425	1,083,207	926,614	Commercial Use	\$552,798,000	Commercial Use	\$561,002,000	\$8,204,000	1.48%	\$3,214,508	2 Towers
B-240	918450 0020	RUSSELL INVESTMENTS CENTER- SEAT	FSP-RICA LLC	1301 2ND AVE	DOC1 U/450/U	31,872	872,026	872,026	Commercial Use	\$536,681,000	Commercial Use	\$544,755,000	\$8,074,000	1.50%	\$3,163,571	
E-096	197570 0080	US Bank Centre	BPP 1420 FIFTH AVE OWNER LL	1420 5TH AVE	DRC 85-170	57,770	1,545,072	922,344	Commercial Use	\$580,753,000	Commercial Use	\$587,443,000	\$6,690,000	1.15%	\$2,621,289	
E-054	1975700480	WEST EDGE TOWER	URBAN VISIONS	1430 2ND AVE,	DMC 240/290-440	18,709	567,403	347,876	Commercial Use	\$300,972,000	Apartment	\$307,168,000	\$6,196,000	2.06%	\$2,427,729	
E-063	197570 0390	CENTURY SQUARE	UBS REALTY INVESTORS	1501 4TH AVE	DRC 85-170	41,760	755,000	597,771	Commercial Use	\$376,713,000	Commercial Use	\$382,552,000	\$5,839,000	1.55%	\$2,287,849	
E-044	7683890010	THE CHARTER HOTEL & HELIOS	EQR-SECOND & PINE LLC	206 PINE ST, SEATTLE	DMC 240/290-440	19,900	559,958	306,374	Family/Comm	\$298,884,000	Apartment/Comm	\$304,612,000	\$5,728,000	1.92%	\$2,244,356	2 Towers
A-014	7666202345	SEATTLE MARRIOTT WATERFRONT	MARRIOTT BUSINESS SERVICES	2100 ALASKAN WAY,	DH2/85	64,016	254,273	254,273	Commercial Use	\$167,975,000	Commercial Use	\$173,352,000	\$5,377,000	3.20%	\$2,106,827	
E-099	660047 0010	PACIFIC PLACE CONDOMINIUM	MPH PACIFIC LLC	600 PINE ST	DOC2 500/300-550	45,247	339,784	339,784	Commercial Use	\$283,282,000	Commercial Use	\$288,104,000	\$4,822,000	1.70%	\$1,889,366	
	919587 0000-2320	Waterfront Landings Condominium	Homeowners	2000 Alaskan Way	DH2/55			251,097			Condominium	\$ 162,049,565	\$4,719,890	3.00%	\$1,849,357	
A-107																
E-059	863423 0020	300 PINE STREET	PINE STREET OWNER LP	300 PINE ST	DRC 85-170	51,360	478,624	449,141	Commercial Use	\$293,167,000	Commercial Use	\$297,820,000	\$4,653,000	1.59%	\$1,823,148	
B-220		Four Seasons Residences	Homeowners	99 Union St	DMC240/290-440			110,306			Condominium	\$158,667,174	\$4,621,374	3.00%	\$1,810,075	
B-246	197470 0120	1201 THIRD AVE (former Washington	1201 TAB OWNER LLC	1201 3RD AVE	DOC1 U/450/U	56,400	1,413,575	1,128,575	Commercial Use	\$732,527,000	Commercial Use	\$737,043,000	\$4,516,000	0.62%	\$1,769,468	
B-230	1976200076	HARBOR STEPS (SE TOWER)	EQR-HARBOR STEPS LLC	1201 1ST AVE, SEAT	DMC 240/290-440	50,727	450,789	275,644	Family/Comm	\$180,511,000	Apartment	\$185,022,000	\$4,511,000	2.50%	\$1,767,509	
B-218	6094670030	FOUR SEASONS HOTEL	SHG HOTEL SPE LLC	1321 1ST AVE, SEAT	DMC 240/290-440	11,275	193,429	193,429	Commercial Use	\$142,639,000	Commercial Use	\$146,917,000	\$4,278,000	3.00%	\$1,676,215	
B-247	197470 0175	2+U Building	2ND AVENUE REAL ESTATE INVE	1201 2ND AVE	DOC1 U/450/U	25,760	898,977	701,000	Commercial Re	\$591,082,000	y/Commercial Red	\$595,195,000	\$4,113,000	0.70%	\$1,611,564	
D-106	0659000475	WESTIN HOTEL	STARWOOD HOTEL& RESORTS	1900 5TH AVE, SEAT	DOC2 500/300-550	71,888	956,110	759,392	Commercial Use	\$482,650,000	Commercial Use	\$486,698,000	\$4,048,000	0.84%	\$1,586,095	2 Towers
B-209	1977200885	TOWER 12	WA TOWER 12 APARTMENTS LLC	2015 2ND AVE, SEAT	DMC 240/290-440	6,360	539,039	298,958	Commercial Re	\$213,274,000	Apartment	\$217,316,000	\$4,042,000	1.90%	\$1,583,745	
B-264	093900 0435	999 THIRD (WELLS FARGO CENTER)	999 THIRD AV PROP OWNER LLC	999 3RD AVE	DOC1 U/450/U	56,400	1,323,055	976,828	Commercial Use	\$612,371,000	Commercial Use	\$616,371,000	\$4,000,000	0.65%	\$1,567,288	
E-089	065900 0070	NORDSTROM DOWNTOWN	NORDSTROM INC/ATTN: TAX DEP	500 PINE ST	DRC 85-170	64,768	693,450	648,365	Commercial Use	\$243,978,000	Commercial Use	\$247,871,000	\$3,893,000	1.60%	\$1,525,363	
A-046	766620 2525	MARITIME BUILDING	STRS OHIO	911 WESTERN AVE, S	DMC-170	35,988	241,685	211,043	ercial Redevelo	\$183,586,000	ercial Redevelop	\$187,434,000	\$3,848,000	2.10%	\$1,507,731	
D-232	197670 0125	TWO UNION SQUARE	UNION SQUARE LIMITED LIABIL	601 UNION ST	DOC1 U/450/U	89,950	1,605,578	1,137,666	Commercial Use	\$749,394,000	Commercial Use	\$753,174,000	\$3,780,000	0.50%	\$1,481,087	
B-227	1977200960	THOMPSON SEATTLE HOTEL & SEQUE	ODGAARD VIRGINIA VANDLING	110 STEWART ST, SE	DMC-145	13,080	253,664	166,495	Family/Comm	\$150,853,000	Iti-Family/Commer	\$154,612,000	\$3,759,000	2.49%	\$1,472,859	
D-146	0660000708	HYATT REGENCY SEATTLE F-UU	ELLIOTT NE LLC	808 HOWELL ST, SEA	DOC2 500/300-550	63,883	1,400,666	1,062,251	Commercial Re	\$732,952,000	y/Commercial Red	\$736,522,000	\$3,570,000	0.49%	\$1,398,805	
B-228	1976200075	Harbor Steps NE Tower	EQR-HARBOR STEPS LLC	1301 1ST AVE, SEAT	DMC 240/290-440	14,280	313,955	202,736	Family/Comm	\$127,557,000	Apartment	\$131,069,000	\$3,512,000	2.75%	\$1,376,079	
B-232	7666202465	HARBOR STEPS (SW TOWER)	EQR-HARBOR STEPS LLC	1212 WESTERN AVE,	DMC-170	28,800	307,497	143,127	Family/Comm	\$119,788,000	Apartment	\$123,080,000	\$3,292,000	2.75%	\$1,289,878	
Viktoria		Cristalla Condominium	Homeowners	2030 2nd Ave	DMC240/290-440			217,358			Condominium	\$179,153,088	\$3,169,063	1.80%	\$1,241,709	
B-251	094200 0030	2ND & SENECA BUILDING	SECOND & SENECA TOWER LLC	1191 2ND AVE	DOC1 U/450/U	34,690	635,303	439,016	Commercial Use	\$289,457,000	Commercial Use	\$292,627,000	\$3,170,000	1.10%	\$1,242,076	
B-231	1977200950	Viktoria Apartments	VIKTORIA SEATTLE LLC	1915 2ND AVE, SEAT	DMC 240/290-440	12,720	237,186	165,000	Family/Comm	\$157,670,000	Apartment	\$160,806,000	\$3,136,000	1.99%	\$1,228,754	
E-043		Newmark Tower Condominium	Homeowners	1401 2nd Ave	DMC 240/290-440						Condominium	\$113,975,309	\$3,050,434	2.75%	\$1,195,227	
A-033	7666202450	CYRENE	MUI SS LLC C/O ASSET MNGMT	50 UNIVERSITY ST, S	DMC-170	15,413	200,152	124,850	Family/Comm	\$101,209,000	Iti-Family/Commer	\$104,242,000	\$3,033,000	3.00%	\$1,188,396	
E-105	065900 0165	1600 SEVENTH AVENUE (QWEST PLAZ	CSHV 1600 7TH AVENUE LLC	1600 7TH AVE	DOC2 500/300-550	42,360	803,041	609,645	Commercial Use	\$316,566,000	Commercial Use	\$319,566,000	\$3,000,000	0.95%	\$1,175,466	
C142	094200 0640	COLUMBIA CENTER (former B. of A. T	GC COLUMBIA LLC	411 COLUMBIA ST	DOC1 U/450/U	59,266	1,952,220	1,526,621	Commercial Use	\$987,662,000	Commercial Use	\$990,587,000	\$2,925,000	0.30%	\$1,146,079	
B-266	7666202540	The Post at Pier 52 Apartments	888 WESTERN AVE APTS CAP LL	888 WESTERN AVE, S	DMC-170	23,980	281,358	155,592	Family/Comm	\$116,383,000	Iti-Family/Commer	\$119,004,000	\$2,621,000	2.25%	\$1,026,965	
B-296	0939000080	COURTYARD MARRIOTT PIONEER SQU	618 SECOND AVENUE LIMITED P	612 2ND AVE, SEAT	PSM 100/100-130	12,960	163,984	163,984	Commercial Use	\$130,407,000	Commercial Use	\$132,973,000	\$2,566,000	1.97%	\$1,005,415	

FILED

4:38 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Pam Miller](#)
To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:28:09 PM
Attachments: [53985749-v1 Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 135, 136, 168, 218, 219, 220, 333, 353

Attached for filing is a Notice of Appeal for the above Appellants.

Thanks,
Pam

Pam Miller
Legal Practice Assistant

Tel: 509.241.1536
Pam.Miller@foster.com

Foster Garvey PC
618 West Riverside Ave #300
Spokane, WA 99201
foster.com

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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020

CITY OF SEATTLE
OFFICE OF THE CITY CLERK

In Re Seattle Waterfront LID, Local
Improvement District No. 6751

Case Nos. CWF-133, 134, 135, 136,
168, 218, 219, 220, 333, 353

NOTICE OF APPEAL

This Notice of Appeal is submitted on behalf of the Appellants in the case numbers listed above. Appellants do not object to the Hearing Examiner's recommendation, which is that their cases should be remanded for a revaluation. The purpose of the appeal is to protect the Appellants' rights to appeal if the Public Assets and Native Communities Committee's recommendation is that the City Council reject or significantly modify the Hearing Examiner's Recommendation of a remand, or if upon remand the City appraiser's revaluation is objectionable. This appeal is filed to ensure the Appellants' appeal rights are preserved if they wish to appeal in the future.

This appeal pertains to the Hearing Examiner's Findings and Recommendation dated September 8, 2020 (the "**Recommendation**"), and filed with the City of Seattle Office of the City Clerk.

OBJECTIONS

For each of the Appellants, the Recommendation states that "Consistent with the Findings above, the Hearing Examiner recommends that the City Council remand the following matters to the City appraiser for analysis consistent with the findings herein concerning valuation

NOTICE OF APPEAL - 1

1 of the subject properties (but for that limited purpose only), and opportunity for comment and
2 response by the respective Objector.” Recommendation, p. 122. The referenced “findings” refer
3 to Finding No. 16 on page 9-10 of the Recommendation, which states:

4 16. Eleven objecting hotel properties⁶ retained John Gordon, MAI, of Kidder
5 Mathews to perform Restricted Appraisals of their properties and provide
6 testimony regarding the Final Special Benefit Study’s value opinions for
7 those properties. Mr. Gordon’s appraisals state different, lower current
8 market value opinions than those of the City valuation. This is due in part to
9 Kidder Mathews not valuing the properties in their before LID condition,
10 taking into account changes such as the view amenity provided by the
11 complete removal of the Alaskan Way Viaduct and the surface-level rebuilds
12 of Alaskan Way and Elliot Way – thus in this respect Kidder Mathews’
13 results are not an equal comparison with the City’s valuation which took into
14 account before LID conditions. However, Mr. Gordon’s testimony
15 concerning valuation was supported by an appraisal review conducted
16 according to USPAP standards, STAR reports, and specific property
17 valuation information. Mr. Gordon is a specialist expert in appraising hotels
18 and his expert opinion, in addition to the specific information he relied on for
19 that opinion, is superior to the opinion and supporting data of the City in its
20 valuation.

21 ⁶ Hotel Monaco (CWF-133), Hotel Vintage (CWF-134), Edgewater Hotel (CWF-136),
22 Thompson Hotel/Sequel Apartments (CWF-168), Alexis Hotel (CWF-318), Seattle Hilton
23 (CWF-353), Hyatt Regency Hotel (CWF-413), Sound Hotel/Arrive Apartments (CWF-415),
24 Renaissance Hotel (CWF-418), Hyatt at Olive 8 (CWF-429), and Grand Hyatt Hotel (CWF-
25 436).

26 Finding No. 16 refers to the expert opinion of John Gordon, who presented testimony and
evidence on behalf of the appealing parties, as listed below.

The Recommendation states the following regarding Appellants’ cases:

CWF-0133 (CWF-0134, CWF-0135, CWF-0136, CWF-0168, CWF-0218, CWF-
0219, CWF-0220, CWF-0333, CWF-0353) (multiple parcel numbers) – Case
number CWF-0133 is part of a group of Objectors represented by Foster Pepper
PLLC that also includes CWF-0134, CWF-0135, CWF-0136, CWF-0168, CWF-
0218, CWF-0219, CWF-0220, CWF-0333, and CWF-0353.

The objections also challenge the City’s valuation of the properties. For the hotel
Objectors CWF-0133, CWF-0134, CWF-0136, CWF-0168, and CWF-0353,
findings concerning this issue can be found in Finding 16 above, and section C.10

1 below in the Legal Analysis section. The objections for CWF-0135, CWF-0218,
2 CWF-0219, and CWF-0220 do not provide adequate evidence to challenge the
valuation of the City.

3 The Objectors failed to meet the burden of proof required to demonstrate that the
4 properties will not receive a special benefit. However, CWF-0133, CWF-0134,
5 CWF-0136, CWF-0168, and CWF-0353 should be remanded to the City for
6 reconsideration of the property-specific information provided in the hearing for
valuation purposes with an opportunity for response by Objectors.
Recommendation CWF-0133: remand

7
8 Finding C-10 on page 117-118 of the Recommendation also made a finding as to the
9 value of Mr. Gordon's opinions over those of the City appraiser:

- 10 10. As indicated above, John Gordon, expert witness for a group of hotels,
11 provided testimony and evidence for hotel valuations that were of higher
12 value than the City appraisal due to the specialist nature of Mr. Gordon's
background and the specificity of the valuation data upon which he relied.

13 The City argues that a reason for difference in valuations presented by the
14 City and Kidder Mathews is that the subject property hotel owners had not
15 provided ABS with the specific information it did to Kidder Mathews, and
16 that an opportunity for that had been provided. If any opportunity had been
17 provided to submit specific hotel property information, that opportunity was
18 passive – there was no indication in the record that a specific notice or
19 solicitation to property owners had been provided by the City.¹² The City
20 does not identify any legal requirement for the hotel owners to have provided
21 their data at an earlier time. In addition, the information in the STAR reports
22 relied upon by the Objectors was available to the City if it had sought such
specific information. Further, the hoteliers have exercised their right to
23 object to the valuation as part of the special assessment hearing, and it is
within their rights to present property-specific data during the hearing – it is a
24 major purpose of the hearing. None of the hotel properties presented credible
25 evidence to rebut the City's finding that the properties will receive a special
26 benefit. However, the valuations of these properties should be remanded for
recalculation by the City appraiser based on the information provided by
these Objectors.

24 ¹² It is notable that the City's own expert Mark Lukens stated: "In my experience, it is highly
25 unlikely that the hotels in the LID boundary would have provided financial and/or performance
26 data if requested by the City and/or ABS Valuation, as hotels consider such information to be
confidential and proprietary, and believe that the release of such information could put them at
a competitive disadvantage." Declaration of Mark Lukens dated April 30, 2020 at 3.

The evidence and documents to be used in this appeal are:

- a. The Restricted Appraisals included with Appellants' objections filed Feb. 3, 2020.
- b. Appellants' Closing Brief filed July 7, 2020.
- c. Declaration of John Gordon filed July 7, 2020.
- d. Gordon Testimony:
 - i. Transcript Feb. 18, 2020, pages 170, 171, 210-212, 217-218, 225, 245.
 - ii. Transcript Feb. 19, 2020, pages 53-75
- e. CWF-133, Ex. 7, 16, 17, 18, 19, 20.
- f. Ex. C-17, p. 197.
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- h. Mark Lukens testimony: Transcript June 26, 2020, p. 169/line 12
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As the Hearing Examiner found on page 10 of the Recommendation, the opinions of John Gordon are "superior" to the City appraisal. Gordon's values and the resulting assessment amounts should be finally adopted as shown in CWF-133, Ex. 16.

RELIEF REQUESTED

Appellants request the right to appeal the recommendation made by the Public Assets and Native Communities Committee if that recommendation is for the City Council to reject or significantly modify the Hearing Examiner's Recommendation, or if upon remand the City appraiser's revaluation is objectionable.

1 DATED this 22 day of September, 2020.

2
3 FOSTER GARVEY PC

4 
5 _____
6 Todd Reuter, WSBA #20859
7 618 W. Riverside Ave, Suite 300
8 Spokane, Washington 99201
9 Telephone: (509) 777-1600
10 E-mail: todd.reuter@foster.com

11
12 Attorneys for CWF-133, 134, 135, 136, 168, 218,
13 219, 220, 333, 353
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NOTICE OF APPEAL - 5

FG:53932733.1

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

FILED

5:05 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Pam Miller](#)
To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:47:29 PM
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**Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 136, 168, 353**

Attached for filing is an **AMENDED** Notice of Appeal for the above Appellants.

Thanks,
Pam

Pam Miller
Legal Practice Assistant

Tel: 509.241.1536
Pam.Miller@foster.com

Foster Garvey PC
618 West Riverside Ave #300
Spokane, WA 99201
foster.com

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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020

CITY OF SEATTLE
OFFICE OF THE CITY CLERK

In Re Seattle Waterfront LID, Local
Improvement District No. 6751

Case Nos. CWF-133, 134, 136, 168,
353

AMENDED
NOTICE OF APPEAL

This Amended Notice of Appeal is submitted on behalf of the Appellants in the case numbers listed above. Appellants do not object to the Hearing Examiner's recommendation, which is that their cases should be remanded for a revaluation. The purpose of the appeal is to protect the Appellants' rights to appeal if the Public Assets and Native Communities Committee's recommendation is that the City Council reject or significantly modify the Hearing Examiner's Recommendation of a remand, or if upon remand the City appraiser's revaluation is objectionable. This appeal is filed to ensure the Appellants' appeal rights are preserved if they wish to appeal in the future.

This appeal pertains to the Hearing Examiner's Findings and Recommendation dated September 8, 2020 (the "**Recommendation**"), and filed with the City of Seattle Office of the City Clerk.

OBJECTIONS

For each of the Appellants, the Recommendation states that "Consistent with the Findings above, the Hearing Examiner recommends that the City Council remand the following matters to the City appraiser for analysis consistent with the findings herein concerning valuation

AMENDED NOTICE OF APPEAL - 1

FG:53932733.2

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

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20

21 **RELIEF REQUESTED**

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23 Native Communities Committee if that recommendation is for the City Council to reject or
24 significantly modify the Hearing Examiner's Recommendation, or if upon remand the City
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26

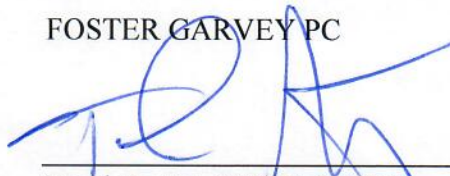
AMENDED NOTICE OF APPEAL - 4

FG:53932733.2

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

1 DATED this 22nd day of September, 2020.

2
3 FOSTER GARVEY PC

4 

5 Todd Reuter, WSBA #20859
6 618 W. Riverside Ave, Suite 300
7 Spokane, Washington 99201
8 Telephone: (509) 777-1600
9 E-mail: todd.reuter@foster.com

10 Attorneys for CWF-133, 134, 136, 168, 353

FILED

4:38 pm, Tue, September 22, 2020

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To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:28:09 PM
Attachments: [53985749-v1 Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 135, 136, 168, 218, 219, 220, 333, 353

Attached for filing is a Notice of Appeal for the above Appellants.

Thanks,
Pam

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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020

CITY OF SEATTLE
OFFICE OF THE CITY CLERK

In Re Seattle Waterfront LID, Local
Improvement District No. 6751

Case Nos. CWF-133, 134, 135, 136,
168, 218, 219, 220, 333, 353

NOTICE OF APPEAL

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NOTICE OF APPEAL - 1

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Recommendation CWF-0133: remand

7
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9 value of Mr. Gordon's opinions over those of the City appraiser:

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As the Hearing Examiner found on page 10 of the Recommendation, the opinions of John Gordon are "superior" to the City appraisal. Gordon's values and the resulting assessment amounts should be finally adopted as shown in CWF-133, Ex. 16.

RELIEF REQUESTED

Appellants request the right to appeal the recommendation made by the Public Assets and Native Communities Committee if that recommendation is for the City Council to reject or significantly modify the Hearing Examiner's Recommendation, or if upon remand the City appraiser's revaluation is objectionable.

1 DATED this 22 day of September, 2020.

2
3 FOSTER GARVEY PC

4 
5 _____
6 Todd Reuter, WSBA #20859
7 618 W. Riverside Ave, Suite 300
8 Spokane, Washington 99201
9 Telephone: (509) 777-1600
10 E-mail: todd.reuter@foster.com

11
12 Attorneys for CWF-133, 134, 135, 136, 168, 218,
13 219, 220, 333, 353
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NOTICE OF APPEAL - 5

FG:53932733.1

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

FILED

5:05 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Pam Miller](#)
To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:47:29 PM
Attachments: [53985749-v3 Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

CAUTION: External Email

**Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 136, 168, 353**

Attached for filing is an **AMENDED** Notice of Appeal for the above Appellants.

Thanks,
Pam

Pam Miller
Legal Practice Assistant

Tel: 509.241.1536
Pam.Miller@foster.com

Foster Garvey PC
618 West Riverside Ave #300
Spokane, WA 99201
foster.com

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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020

CITY OF SEATTLE
OFFICE OF THE CITY CLERK

In Re Seattle Waterfront LID, Local
Improvement District No. 6751

Case Nos. CWF-133, 134, 136, 168,
353

AMENDED
NOTICE OF APPEAL

This Amended Notice of Appeal is submitted on behalf of the Appellants in the case numbers listed above. Appellants do not object to the Hearing Examiner's recommendation, which is that their cases should be remanded for a revaluation. The purpose of the appeal is to protect the Appellants' rights to appeal if the Public Assets and Native Communities Committee's recommendation is that the City Council reject or significantly modify the Hearing Examiner's Recommendation of a remand, or if upon remand the City appraiser's revaluation is objectionable. This appeal is filed to ensure the Appellants' appeal rights are preserved if they wish to appeal in the future.

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AMENDED NOTICE OF APPEAL - 1

FG:53932733.2

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

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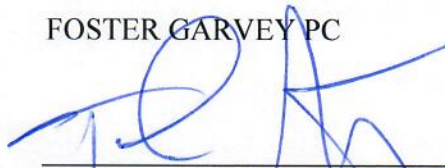
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1 DATED this 22nd day of September, 2020.

2 FOSTER GARVEY PC

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8 Telephone: (509) 777-1600
9 E-mail: todd.reuter@foster.com

10 Attorneys for CWF-133, 134, 136, 168, 353

FILED

4:38 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Pam Miller](#)
To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:28:09 PM
Attachments: [53985749-v1 Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

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Assessment Hearing
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Appellants: Case Nos. CWF-133, 134, 135, 136, 168, 218, 219, 220, 333, 353

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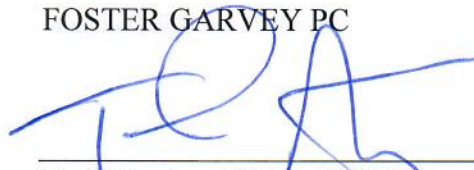
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NOTICE OF APPEAL - 4

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NOTICE OF APPEAL - 5

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FILED

5:05 pm, Tue, September 22, 2020

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Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:47:29 PM
Attachments: [53985749-v3 Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

CAUTION: External Email

**Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 136, 168, 353**

Attached for filing is an **AMENDED** Notice of Appeal for the above Appellants.

Thanks,
Pam

Pam Miller
Legal Practice Assistant

Tel: 509.241.1536
Pam.Miller@foster.com

Foster Garvey PC
618 West Riverside Ave #300
Spokane, WA 99201
foster.com

SEATTLE ▪ PORTLAND ▪ NEW YORK ▪ WASHINGTON, D.C. ▪ SPOKANE ▪ BEIJING

This email is for the sole use of the intended recipient(s). It contains information that may be confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender immediately by reply email and destroy all copies of this message. Any disclosure, copying, distribution, or use of this information by anyone other than the intended recipient is prohibited.

1 Seattle Central Waterfront Improvement Program
2 Local Improvement District
3 Assessment Hearing
4 Hearing Examiner Recommendation dated September 8, 2020
5

6 CITY OF SEATTLE
7 OFFICE OF THE CITY CLERK

8 In Re Seattle Waterfront LID, Local
9 Improvement District No. 6751

Case Nos. CWF-133, 134, 136, 168,
353

10 AMENDED
11 NOTICE OF APPEAL

12 This Amended Notice of Appeal is submitted on behalf of the Appellants in the case
13 numbers listed above. Appellants do not object to the Hearing Examiner's recommendation,
14 which is that their cases should be remanded for a revaluation. The purpose of the appeal is to
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23 **OBJECTIONS**

24 For each of the Appellants, the Recommendation states that "Consistent with the
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26 matters to the City appraiser for analysis consistent with the findings herein concerning valuation

AMENDED NOTICE OF APPEAL - 1

FG:53932733.2

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

1 of the subject properties (but for that limited purpose only), and opportunity for comment and
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Recommendation CWF-0133: remand

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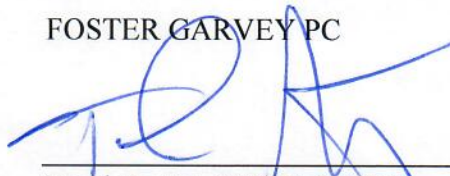
AMENDED NOTICE OF APPEAL - 4

FG:53932733.2

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

1 DATED this 22nd day of September, 2020.

2
3 FOSTER GARVEY PC

4 

5 Todd Reuter, WSBA #20859
6 618 W. Riverside Ave, Suite 300
7 Spokane, Washington 99201
8 Telephone: (509) 777-1600
9 E-mail: todd.reuter@foster.com

10 Attorneys for CWF-133, 134, 136, 168, 353

FILED

9:47 am, Fri, September 18, 2020

OFFICE OF THE CITY CLERK

From: [Robert Wexler](#)
To: [City Clerk Filing](#)
Subject: Waterfront LID Appeal Message:
Date: Friday, September 18, 2020 9:34:31 AM

CAUTION: External Email

Attached is my notice of Appeal and Exhibits for
Notice of Appeal
Waterfront LID No. 6751
Hearing Examiner Case No. CWF-0149
Property Owners: Robert Michael Wexler MD
Parcel Number: 253883-1080
Address: 1521 Second Avenue, Apt. 2802 Seattle, WA 98101

Please confirm that your office has received this and if there is anything else you need or anyone else I need to serve in order to perfect this appeal.

Your response to my petition was the following: I also appropriately argued the appraisal of my property was incorrect: Attached below is the corrected value. As I stated there were no comps: for my property until late last year and early this year. I have been over appraised for two years. There should be some fairness here.

CWF-0149 (2538831080) – The objection is only a conclusory statement in opposition to the Waterfront LID. The Objector failed to state an issue within the jurisdiction of the Hearing Examiner to address in the context of a special assessment hearing. The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit.

Recommendation: denial

CSF-1P1

2020 VALUE FOR TAXES DUE IN 2021

	APPROXIMATE VALUE	NEW VALUE	VALUE ADJUSTMENT
LAND	96,000	107,100	107,100
BUILDING	2,031,100	1,582,900	1,582,900
TOTAL	2,128,000	1,700,000	1,700,000

ACCOUNT NUMBER: 253883-1080-08
LEVY CODE: 0011
PLAT NAME: SLABSO
PROPERTY: FIFTEEN TWENTY-ONE SECOND AVENUE

OFFICIAL PROPERTY VALUE NOTICE
THIS IS NOT A TAX BILL.

MAILED DATE: 07/30/20
SEE BACK FOR APPEAL DEADLINE
MAILING ADDRESS:
WEXLER ROBERT M
1521 SECOND AVENUE
SEATTLE WA 98101 98101

Downloaded for app 613
Tax added is a service
Go To: [WexlerWexler@seattle.gov](#)

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OFFICE OF THE CITY CLERK
U.S. POSTAGE PAID
PERMIT NO. 273

Sincerely Yours,

Dr. Robert Wexler

Received

OCT - 9 2020

City of Seattle
Office of the City Clerk

October 6th, 2020

Seattle City Clerk
City of Seattle
P.O. Box 94607
Seattle, Wa 98124-6907

Regarding: Objection and Petition to final Waterfront LID No. 6751

Robert Wexler
1521 2nd ave. # 2802
Seattle, Wa. 98101
rmwexler@gmail.com

To whom it concerns,

I would like you to hear my appeal regarding the tax evaluation on my property. I feel that the city assessor is correct in the valuation at this time as I described in my original appeal. The LID has my home excessively over valued! My property is currently correctly valued at 1,700, 000 which is nearly 400,000\$ less than determined for LID purposes as I argued in my original appeal. The relief I am seeking here is the correct valuation for my property. The value reported for LID purposes is grossly overstated. As I argued but could not show for lack of sales that were relevant to my home!

Appellant: Robert Michael Wexler MD

Below was the response to my appeal:

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Recommendation: denial

Sincerely,

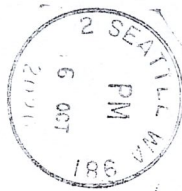
Robert Wexler MD

A handwritten signature in black ink, appearing to read "Robert Wexler MD", with a stylized flourish at the end.

Received
OCT - 9 2020
City of Seattle
Office of the City Clerk

Robert Wexler
Apt. 2802
1521 2nd Ave.
Seattle, WA 98101

City of Seattle Office of Ct Clerk
Attn: Waterfront MO Appeal
P.O. Box 94728
Seattle WA 98124-4728

[illegible][illegible]

FILED

4:38 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Pam Miller](#)
To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:28:09 PM
Attachments: [53985749-v1 Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

CAUTION: External Email

Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 135, 136, 168, 218, 219, 220, 333, 353

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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020

CITY OF SEATTLE
OFFICE OF THE CITY CLERK

In Re Seattle Waterfront LID, Local
Improvement District No. 6751

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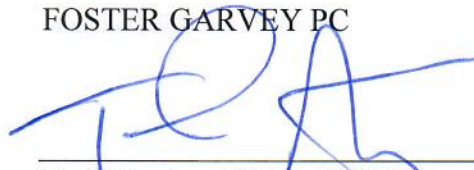
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NOTICE OF APPEAL - 4

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2 FOSTER GARVEY PC

3 

4
5 Todd Reuter, WSBA #20859
6 618 W. Riverside Ave, Suite 300
7 Spokane, Washington 99201
8 Telephone: (509) 777-1600
9 E-mail: todd.reuter@foster.com

10
11 Attorneys for CWF-133, 134, 135, 136, 168, 218,
12 219, 220, 333, 353
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NOTICE OF APPEAL - 5

FG:53932733.1

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

FILED

5:05 pm, Tue, September 22, 2020

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To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
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14 account before LID conditions. However, Mr. Gordon’s testimony
15 concerning valuation was supported by an appraisal review conducted
16 according to USPAP standards, STAR reports, and specific property
17 valuation information. Mr. Gordon is a specialist expert in appraising hotels
18 and his expert opinion, in addition to the specific information he relied on for
19 that opinion, is superior to the opinion and supporting data of the City in its
20 valuation.

21 ⁶ Hotel Monaco (CWF-133), Hotel Vintage (CWF-134), Edgewater Hotel (CWF-136),
22 Thompson Hotel/Sequel Apartments (CWF-168), Alexis Hotel (CWF-318), Seattle Hilton
23 (CWF-353), Hyatt Regency Hotel (CWF-413), Sound Hotel/Arrive Apartments (CWF-415),
24 Renaissance Hotel (CWF-418), Hyatt at Olive 8 (CWF-429), and Grand Hyatt Hotel (CWF-
25 436).

26 Finding No. 16 refers to the expert opinion of John Gordon, who presented testimony and
evidence on behalf of the appealing parties, as listed below.

The Recommendation states the following regarding Appellants’ cases:

CWF-0133 (CWF-0134, CWF-0135, CWF-0136, CWF-0168, CWF-0218, CWF-
0219, CWF-0220, CWF-0333, CWF-0353) (multiple parcel numbers) – Case
number CWF-0133 is part of a group of Objectors represented by Foster Pepper
PLLC that also includes CWF-0134, CWF-0135, CWF-0136, CWF-0168, CWF-
0218, CWF-0219, CWF-0220, CWF-0333, and CWF-0353.

The objections also challenge the City’s valuation of the properties. For the hotel
Objectors CWF-0133, CWF-0134, CWF-0136, CWF-0168, and CWF-0353,
findings concerning this issue can be found in Finding 16 above, and section C.10

1 below in the Legal Analysis section. The objections for CWF-0135, CWF-0218,
2 CWF-0219, and CWF-0220 do not provide adequate evidence to challenge the
valuation of the City.

3 The Objectors failed to meet the burden of proof required to demonstrate that the
4 properties will not receive a special benefit. However, CWF-0133, CWF-0134,
5 CWF-0136, CWF-0168, and CWF-0353 should be remanded to the City for
6 reconsideration of the property-specific information provided in the hearing for
valuation purposes with an opportunity for response by Objectors.
Recommendation CWF-0133: remand

7
8 Finding C-10 on page 117-118 of the Recommendation also made a finding as to the
9 value of Mr. Gordon's opinions over those of the City appraiser:

- 10 10. As indicated above, John Gordon, expert witness for a group of hotels,
11 provided testimony and evidence for hotel valuations that were of higher
12 value than the City appraisal due to the specialist nature of Mr. Gordon's
background and the specificity of the valuation data upon which he relied.

13 The City argues that a reason for difference in valuations presented by the
14 City and Kidder Mathews is that the subject property hotel owners had not
provided ABS with the specific information it did to Kidder Mathews, and
15 that an opportunity for that had been provided. If any opportunity had been
provided to submit specific hotel property information, that opportunity was
16 passive – there was no indication in the record that a specific notice or
solicitation to property owners had been provided by the City.¹² The City
17 does not identify any legal requirement for the hotel owners to have provided
their data at an earlier time. In addition, the information in the STAR reports
18 relied upon by the Objectors was available to the City if it had sought such
specific information. Further, the hoteliers have exercised their right to
19 object to the valuation as part of the special assessment hearing, and it is
within their rights to present property-specific data during the hearing – it is a
20 major purpose of the hearing. None of the hotel properties presented credible
evidence to rebut the City's finding that the properties will receive a special
21 benefit. However, the valuations of these properties should be remanded for
recalculation by the City appraiser based on the information provided by
22 these Objectors.

23
24 ¹² It is notable that the City's own expert Mark Lukens stated: "In my experience, it is highly
25 unlikely that the hotels in the LID boundary would have provided financial and/or performance
26 data if requested by the City and/or ABS Valuation, as hotels consider such information to be
confidential and proprietary, and believe that the release of such information could put them at
a competitive disadvantage." Declaration of Mark Lukens dated April 30, 2020 at 3.

1
2 The evidence and documents to be used in this appeal are:

- 3 a. The Restricted Appraisals included with Appellants' objections filed Feb. 3, 2020.
4 b. Appellants' Closing Brief filed July 7, 2020.
5 c. Declaration of John Gordon filed July 7, 2020.
6 d. Gordon Testimony:
7 i. Transcript Feb. 18, 2020, pages 170, 171, 210-212, 217-218, 225, 245.
8 ii. Transcript Feb. 19, 2020, pages 53-75
9 e. CWF-133, Ex. 7, 16, 17, 18, 19, 20.
10 f. Ex. C-17, p. 197.
11 g. Robert Macaulay testimony:
12 i. Transcript June 23, 2020, p. 107/line 7; p. 134/line 25.
13 ii. Transcript June 25, 2020, p. 43/line 18.
14 h. Mark Lukens testimony: Transcript June 26, 2020, p. 169/line 12
15 i. Bird Declaration dated June 26, 2020.
16 j. Lukens Declaration dated April 30, 2020.

17 As the Hearing Examiner found on page 10 of the Recommendation, the opinions of John
18 Gordon are "superior" to the City appraisal. Gordon's values and the resulting assessment
19 amounts should be finally adopted as shown in CWF-133, Ex. 16.
20

21 **RELIEF REQUESTED**

22 Appellants request the right to appeal the recommendation made by the Public Assets and
23 Native Communities Committee if that recommendation is for the City Council to reject or
24 significantly modify the Hearing Examiner's Recommendation, or if upon remand the City
25 appraiser's revaluation is objectionable.
26

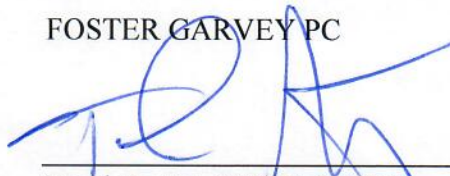
AMENDED NOTICE OF APPEAL - 4

FG:53932733.2

FOSTER GARVEY PC
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1 DATED this 22nd day of September, 2020.

2
3 FOSTER GARVEY PC

4 

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10 Attorneys for CWF-133, 134, 136, 168, 353

From: [William Patton](#)
To: [City Clerk Filing](#)
Cc: [William Patton](#); [ICE: In Case of Emergency](#)
Subject: Attention Waterfront LID Appeal - CWF - 0171
Date: Wednesday, September 23, 2020 2:08:16 PM

CAUTION: External Email

Attachment available until Oct 22, 2020

This time, we are attaching a PDF of our appeal in CWF-0171 and sending it via mail drop.

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CWF-0171 Appeal from HE Findings and Recommendation.pdf

29.2 MB

1
2 **BEFORE THE CITY COUNCIL**
3 **CITY OF SEATTLE**
4
5
6

7 **SEATTLE WATERFRONT LID**

CWF-0171

8 **APPEAL FROM THE FINDINGS**
9 **AND RECOMMENDATION**
10 **OF THE HEARING EXAMINER**
11

12 **INTRODUCTION**
13

14 The Hearing Examiner issued his Findings and Recommendation (“*F&R*”) on over 400 objections to the Waterfront LID on September 8, 2020. He
15 recommended that the Council deny our objections in case CWF-0171. *F&R*, at
16 47-48. From that recommendation and the Hearing Examiner’s underlying
17 findings, we appeal.
18

19 Objectors and appellants here, Joni H. Ostergaard and William H. Patton, are
20 owners of a downtown condominium within the LID assessment area. Our address
21 is 1920 4th Avenue, Unit 1208, Seattle, WA 98101-5112. Our King County Parcel
22 ID # is 2382001180.

23 We timely filed written objections the proposed final assessment in the
24 Waterfront LID (Seattle LID No. 6751) on January 28, 2020, including 9 attached
25 exhibits. We were then assigned the case number CWF-0171 on February 4, 2020,
26 when we signed up to provide oral testimony before the Hearing Examiner. We
27 then appeared in person before the Hearing Examiner on February 11, 2020 where
we testified for over an hour regarding our objections and introduced an additional

1 8 exhibits in support of those objections. At the end of in-person testimony (then
2 conducted remotely by Zoom connections as a result of the Covid-19 restrictions)
3 we cross-examined the City's valuation expert, Robert Macaulay, on June 25,
4 2020, and the City's Director of the Office of the Waterfront, Marshall Foster, on
5 June 26, 2020. At the end of Mr. Foster's cross, we entered an additional 9th
6 exhibit, a tape recording of a portion of the City Council Committee on Civic
7 Development, Public Assets and Native Communities' hearing on the proposed
8 Waterfront LID on May 16, 2018. At the conclusion of all testimony before the
9 Hearing Examiner, we submitted a Closing Argument on July 7, 2020.

10
11 APPEAL FROM THE HEARING EXAMINER'S
12 FINDINGS AND RECOMMENDATION
13

- 14 **1. The Waterfront Park LID is founded on a fundamentally flawed and**
15 **unlawful purpose as the primary purpose of the proposed Waterfront**
16 **Park is to benefit the public at large, though it may incidentally benefit**
17 **nearby property.**
18

19 The Hearing Examiner failed to directly address this fundamental argument
20 when he recommended denying our appeal. *F&R*, at 47-48. This is an odd
21 aversion, as we made it a central part of our initial filing on January 23, a central of
22 our oral testimony on February 11, a central part of our cross examination of
23 Marshall Foster on June 26 and a central part of our Closing Argument submission
24 on July 7, 2020. Perhaps that lapse can be explained by the large number of
25 objectors with which he was confronted.

26 Whatever the reason, the Hearing Examiner did – in a way – address similar
27 arguments made by other objectors in Section B 7 of his Findings. *F&R*, at 112.
But, in doing so, the Hearing Examiner created and then rejected an artificial

1 strawman. He claims that the objectors' argument is that **no** special benefit
2 whatsoever is provided to local properties. But that is neither the argument nor the
3 conclusion from the case law he cites. Any public park is assumed to create some
4 measure of benefit to adjacent property. That is not the issue. The central question
5 is: What is the **primary purpose** of the park?

6 It is plain from the City's own documents that the **primary purpose** of the
7 proposed Waterfront Park is for the benefit of members of the whole community,
8 and not primarily for the benefit of those properties that are adjacent to or
9 tangentially proximate to the proposed park.

10 The City resolution setting forth the funding principles of the proposed park
11 established the guiding principles of the Waterfront Park to be:

12
13 creating a **public asset** that **engages the entire city**, remains **focused**
14 **on public uses** and activities that attract people from all walks of life
15 and provides a '**waterfront for all.**'
16

17 Resolution 31768, Section 1, pp. 3-4; CWF-0171 Ex. 2, 01/28/2020 written
18 submission (emphasis added; quotation marks in original).

19 The City's ordinances forming the Waterfront LID and establishing
20 management principles with Friends of Waterfront Seattle likewise emphasized the
21 primary purpose of the Waterfront Park is to benefit the **entire** city by creating a
22 **public asset**. Attachment D to Ordinance 125761, signed by the Mayor on January
23 28, 2019, set out the "Central Waterfront Guiding Principles." (Ordinance 125761
24 is cited in the twelfth bullet of Ex. C-2.) The **first** principle is to:

25
26 1. Create a Waterfront for All.

27 The waterfront should **engage the entire city**. It is a **public asset** and
should remain focused on public use and activities that attract

1 people from all walks of life. **It should be a place for locals and**
2 **visitors alike – a place where everything comes together and**
3 **commingles effortlessly.** The process for **developing a waterfront**
4 **design should, in fact must, draw on the talents and dreams of the**
5 **entire city.** The resulting public spaces and surrounding development
6 will engage us through a range of activities throughout the day and
7 year.

8
9 (Emphasis added; underlining in original.)

10 On cross examination on June 26, 2020, Marshall Foster, Director of the
11 City’s Office of the Waterfront, succinctly summarized the primary purpose of the
12 proposed Waterfront Park:

13
14 **Q. So what is the primary purpose of the park?**

15 A. It's to provide public space to serve the city and the region.

16
17 (Cross of Marshall Foster by Will Patton, 06/26/2020, Tr. 57: 9-11.)

18 It is patently obvious, then, that the City’s proposed Waterfront Park is
19 primarily being developed for the benefit of the entire community. It is neither
20 conceived nor designed to be primarily for the benefit of adjacent or nearby
21 properties, with only incidental benefits to the public at large. Accordingly,
22 Waterfront Park is **not** a local improvement, and the LID should be annulled. *City*
23 *of Seattle v. Rogers Clothing for Men, Inc.*, 114 Wn.2d 213, 226 (1990).

24 In *Rogers Clothing*, the Washington Supreme Court upheld the validity of
25 Seattle’s assessments for a “Marketing Program” and a “Common Area
26 Maintenance Program” against businesses in the downtown Business Improvement
27 Area because these programs were primarily designed to provide special benefits

1 to those businesses, even though there could be ancillary benefits to the public at
2 large visiting that Business Improvement Area. *Id.* at 226. However, the Supreme
3 Court also noted that if the reverse were true, the creation of a local improvement
4 district would be invalid.

5
6 Laws recognize a distinction between public improvements
7 which benefit the entire community, and those local in their nature
8 which benefit particular real property or limited areas. . . . A local
9 improvement is a public improvement which, although it may
10 incidentally benefit the public at large, is made primarily for the
11 accommodation and convenience of the inhabitants of a particular
12 locality, and which is of such a nature as to confer a special benefit
13 upon the real property adjoining or near the improvement. **On the**
14 **other hand, if its primary purpose and effect are to benefit the**
15 **public, it is not a local improvement, although it may incidentally**
16 **benefit property in a particular locality.**

17
18 *Id.* (emphasis added).

19
20 This quotation from *Rogers Clothing* is set out on page 66 of the *Local and*
21 *Road Improvement Districts Manual for Washington State*, Sixth Edition (CWF-
22 0171, Ex 2, 02/11/2020), so the City's appraiser (as well as the Hearing Examiner)
23 should have been aware of that standard. Robert Macaulay, however, ignored this
24 primary principle of a local improvement district when he calculated special
25 benefits for the Waterfront Park LID, just as he did in ignoring oversized sewer
26 system issues when he calculated special benefits that were annulled in *Hasit, LLC*
27 *v. The City of Edgewood*, 179 Wn. App. 917 (2014). His job, as he saw it here, and
in other special benefit studies, was simply to calculate special benefits, regardless

1 of the context. As Mr. Macaulay testified on cross examination, he was only
2 focused on determining the special benefits to any properties in an LID, and did
3 not look at, measure, or care about general benefits that could indeed eclipse those
4 special benefits:

5 **Q. So let's begin with the general issue of specific benefits.**
6 **So your charge, as I understand it, was to do a special benefit**
7 **study for the special benefits of this six-element waterfront park;**
8 **is that right?**

9 A. That's correct.

10 **Q. And you ignored any discussion or any valuation of**
11 **general benefits surrounding that park?**

12 A. My job is to estimate special benefits -- excuse me, general
13 benefit, is to estimate special benefit, which is anything measurable in
14 the market before and after the improvements.

15 **Q. So you didn't take account in your study of any general**
16 **benefit to people in Seattle?**

17 A. No, it's not part of the scope of my study.

18 (Cross of Robert Macaulay by Vic Moses, 06/25/2020, Tr. 177:6-20.)

19 **Q. Well, do you think people go to Ocean Shores**
20 **from Tacoma for the purpose of enjoying the sewer LID?**

21 A. Well, they go to Ocean Shores to vacation. You know, it
22 obviously benefitted -- it's measurably benefitted the residents that it
23 impacted rather than -- in my relation to market value. That's what I
24 was considering in that case, as I would in any other special benefit
25 case.

26 **Q. So cite the example you used of a project that's not yet**
27 **built and maybe three or four years out in Pasco. That's a road**
28 **project; is that right?**

29 A. That's correct.

30 **Q. Okay. Again, in -- people go to Pasco to enjoy the roads**
31 **that will be developed in that project?**

1 A. Sure. And my job -- my job then is to estimate the
2 measurable benefit of property that -- that measurably increases in
3 value from the construction of that road. Not the public at large. And
4 not the general benefits and public at large.

5 (Cross of Robert Macaulay by Will Patton, 06/25/2020, Tr. 181:1-19)

6 This “head in the sand” approach that Mr. Macaulay takes to measuring
7 special benefits may arguably be appropriate for a vest pocket park, such as the
8 Urban Triangle Park on Westlake in Seattle. (CWF-0171, Ex. 3, 02/11/2020;
9 attached to this Appeal as **Exhibit A.**) The City itself notes in its description of
10 that park that it is not designed as a destination park for the whole city – as well as
11 others in the region – but rather, “This project redevelops the previous Enterprise
12 Car Rental site into park land that will serve the downtown businesses and
13 residences.” (Exhibit A at 2.) Yet even that small, urban park – with specified local
14 beneficiaries – was not funded by an LID.

15 However, when identifying comparable park projects to Seattle’s proposed
16 Waterfront Park, Macaulay chose to highlight six projects in other cities each of
17 whose primary purpose is to benefit the general public. Those six public park
18 projects are: (1) Tom McCall Waterfront Park, Portland, OR; (2) Rose Kennedy
19 Greenway, Boston, MA; (3) Hudson River Park, New York, NY; (4) The
20 Embarcadero, San Francisco, CA; (5) Millennium Park, Chicago, IL; and (6) False
21 Creek Conceptual Plan/Stanley Park, Vancouver, BC. (Ex C-17, pp. 155–162.)
22 Indeed, the project touted by the City as being a significant source of data because
23 of its many similarities to the Waterfront Park in Seattle was the San Francisco
24 Embarcadero project. (City’s Brief, 26:4-7.) But, in describing the Embarcadero
25 in the ABS final report, Macaulay notes that “The Embarcadero is a well-studied
26 **public benefit project....**” (Ex. C-17, p. 159; emphasis added.)

27 On cross, Macaulay could not show that a local improvement district method
of funding was employed in any one of these six comparable examples, including

1 the Embarcadero in San Francisco. (See Cross of Robert Macaulay by Will Patton,
2 06/26/2020, Tr. 194:17–195:12.) He could not, because each of these comparable
3 projects were major park projects designed primarily for the general benefit of the
4 public in each instance, and for which LID funding would be inappropriate. In
5 fact, LID funding for any one of those comparable park projects in other cities – as
6 well as for Waterfront Park in Seattle – would be unlawful in Washington under
7 the principles enunciated by the Washington Supreme Court in *Rogers Clothing*.

8
9 **2. Creating the Waterfront LID was the City’s quid pro quo for getting**
10 **private donations from Friends of Waterfront Seattle. Thus, the**
11 **Waterfront LID is based on a fundamentally flawed and unlawful basis,**
12 **as it is the product of a bribe.**

13
14 **A. The Hearing Examiner’s avoidance of this issue by claiming**
15 **jurisdictional prohibition is wrong.**

16
17 First it should be noted that the Hearing Examiner identified, but then
18 “ducked” this issue. “Objectors also raised issues not within the jurisdiction of the
19 Hearing Examiner to address in the context of a special assessment hearing (e.g.
20 violations of the Open Public Meetings Act, the LID is a quid pro quo for getting
21 private donations).” *F&R*, at 47-48. The Hearing Examiner, however, is mistaken
22 in claiming jurisdictional prohibition.

23 Apparently, the Hearing Examiner adopted the City’s lawyers’ view that this
24 quid pro quo issue, among other fundamental issues, must be taken up separately in
25 court. But they are both wrong.

26 The City lawyers contend that arguments regarding the validity of the
27 Waterfront LID, its formation, etc., are irrelevant in this proceeding as those
arguments must instead be brought only in a lawsuit. City’s Brief in Support of

1 Final Assessment Roll, June 26, 2020 (“City’s Brief”) at 9-11. Citing RCW
2 35.43.100 and RCW 35.44.100, the City essentially tells objectors to “get lost”
3 with those arguments.

4 The two statutes cited by the City lawyers, however, are both timing statutes.
5 They require either a lawsuit (RCW 35.43.100) or an objection (RCW 35.44.100)
6 to be filed within certain time requirements. The case the City lawyers use to
7 buttress their interpretation of those statutes likewise addresses a timing issue.
8 *Little Deli Marts, Inc. v. The City of Kent*, 108 Wn. App. 1 (2001), involved a
9 belated challenge to the City of Kent’s LID assessment for a road improvement
10 brought by Little Deli Marts after the time had passed both for bringing a lawsuit
11 and for objecting to the assessment role. In contrast, the objectors in this case,
12 CWF-0171, filed their written objections on January 28, 2020 – within the time
13 period allowed by the City for objections.

14 The principle that an objector may challenge the basic underpinnings of an
15 LID ordinance in the course of objecting to a city’s assessment pursuant to RCW
16 35.44 was upheld by the Court of Appeals in *Hasit, LLC v. The City of Edgewood*,
17 *supra*. In *Hasit*, the Court annulled the special assessments against the challenging
18 property owners, not only because of procedural errors made by Edgewood in
19 creating a sewer LID, but also because the city had calculated the assessments on a
20 “fundamentally wrong” basis. The fundamentally wrong basis for the “mass
21 appraisal” done by Robert Macaulay on behalf of Edgewood was the fact that
22 Macaulay’s apportionment attempted to charge the objecting property owners with
23 the cost of building a sewer system larger than required to serve those properties.
24 *Id.* at 938.

25 The successful challenge to the fundamental basis of Edgewood’s LID by the
26 *Hasit* objectors was pursued through objection to the assessment roll under the
27 procedures set out in RCW 35.44 as is the case with the objections in this
proceeding. The *Hasit* court did not throw out the objector challenges because

1 they had not brought a separate lawsuit under RCW 35.43. Indeed, the *Hasit* court
2 explicitly stated that after a hearing and review by the city council, a decision of
3 the city council may be appealed to superior court and “The court may ‘correct
4 change, modify, or annul the assessment insofar as it affects the property of the
5 appellant’ if it finds from the evidence that the ‘assessment is founded upon a
6 fundamentally wrong basis and/or the decision of the council ... was arbitrary or
7 capricious.” *Id.* at 934 (citing RCW 35.44.250). Further, the *Hasit* court noted
8 that “Courts may also annul an assessment if imposed through an unconstitutional
9 procedure.” *Id.* at 935 (citing *Pratt v. Water Dist. No. 79*, 58 Wn.2d 420 (1961)).

10 Moreover, Philip Trautman, a frequently cited authority on the assessment
11 process in Washington, notes that “questions relating to whether an improvement
12 constitutes a general or special benefit ... are to be raised at the subsequent hearing
13 on the assessment roll.” Philip A. Trautman, *Assessments in Washington*, 40
14 Wash. L. Rev. 100, 112 (1965); (CWF-0171, Ex. 1, 02/11/2020).

15
16 **B. The City created the Waterfront LID is an unlawful quid pro quo**
17 **for getting private funding from Friends of the Waterfront Seattle.**
18

19 The basic quid pro quo for the City’s receipt of private funding from Friends
20 of Waterfront Seattle is set out in Section 4 of Seattle Resolution 31768, passed by
21 the City Council on September 11, 2017, and signed by the Mayor on September
22 12, 2017:
23

24 **The City and Friends [of Waterfront Seattle] recognize that**
25 **philanthropy and the LID leverage each other and that funding**
26 **milestones for each other are mutually reinforcing. Friends’**
27 **fundraising efforts to date have confirmed that Friends’ ability to meet**
the overall goal for philanthropic support depends upon . . .

1 confidence that the Central Waterfront capital improvements will be
2 funded as described in Section 2 above, **including the funding**
3 **identified in the Funding Plan to be provided by the LID**
4

5 (CWF-0171, Ex 2, pp. 5-6, written submission 01/28/2020; emphasis added.)
6

7 Apparently, the City seeks to deny this express quid pro quo. Marshall
8 Foster was asked on direct by the City's attorney "And was the City's receipt of
9 the philanthropic funds from Friends of the Waterfront contingent on the City
10 creating a LID?" (06/18/2020, Tr. 41:20-22.) Mr. Foster's answer was "No, not as
11 I understand it." (06/18/2020, Tr. 41:23.)

12 Mr. Foster, however, is either lying or has somehow misunderstood what is
13 has been clearly stated in both City resolution and in testimony by the chair of
14 Friends of Waterfront Seattle. In the course of cross examination of Mr. Foster on
15 June 26, he was shown a video tape of a presentation by Maggie Walker, Chair of
16 the Board of Waterfront Seattle, before the Seattle City Council Committee on
17 Civic Development, Public Assets and Native Communities on Wednesday, May
18 16, 2018. (06/26/2020, Tr. 58:7.) That video tape shows that contributions from
19 Friends of Waterfront Seattle were indeed contingent on the formation of the LID.

20 The video tape was admitted as CWF-0171, Ex 9. (06/26/2020, Tr. 59:17.)
21 However, the transcript of the cross examination did not include the content of the
22 video tape. To make up for this written deficit, a transcription of Ms. Walker's
23 presentation is attached here as **Exhibit B**. In her testimony, Ms. Walker—who
24 was sitting right next to Marshall Foster at the Council Committee table—leaves
25 no doubt that philanthropic gifts from Friends of Waterfront Seattle were
26 contingent on the LID. Twice, she explicitly says that the funds are "**contingent**"
27 upon passage and formation of the LID.

1 In the first explicit statement of contingency, Ms. Walker testified as
2 follows:

3
4 So, we have a goal of raising \$100 million, which we committed to in
5 an MOU with the City in September, I believe it was – is that correct?
6 [Marshall Foster responds: “It is.”] **So, that was accepted, and it**
7 **was contingent on the passage of the LID for \$200 million as well.**

8
9 (Emphasis added.)

10
11 The reference to an “MOU” may seem somewhat confusing as the City has
12 produced no MOU with Friends of Waterfront Seattle, but it appears from Ms.
13 Walker’s statement – and Mr. Foster’s agreement with that statement – that the
14 reference to an “MOU” is really a reference to Seattle Resolution 31768 cited
15 above. That resolution was passed in September 2017, as Ms. Walker correctly
16 recalls, and it formally adopted the quid pro quo – trading philanthropy from
17 Friends in exchange for the City creating an LID. The fact that Resolution 31768
18 is what is actually meant by “MOU” is further evidenced by Ms. Walker’s
19 immediately preceding statement that “From the very beginning our plan was to
20 leverage the support from property owners downtown to create an opportunity for
21 folks within the region to give significant philanthropic gifts toward this iconic
22 downtown project.” This same concept—and indeed the same phrasing—was
23 formally adopted in Resolution 31768 as noted above: “The City and Friends [of
24 Waterfront Seattle] recognize that philanthropy and the LID leverage each other
25 and that funding milestones for each other are mutually reinforcing.”

26
27 In the second explicit statement of contingency, Ms. Walker testified:

1 So, we had agreed to have \$25 million in hand by September, and we
2 have exceeded our goal and will continue to fundraise. But we do not
3 have certainty around this project, and as you might imagine that adds
4 a little bit of excitement to the prospect of raising money from
5 philanthropists. **So, much of this money is contingent upon the**
6 **formation of the LID.**

7
8 (Emphasis added.)
9

10 In sum, the “philanthropy” from Friends did not come for nothing. The
11 exchange of money from Friends in trade for the City creating an LID is, in
12 essence, a bribe. In legal parlance, however, a quid pro quo payment (a bribe) to a
13 city as a whole rather than an individual councilmember is termed an “unlawful
14 delegation of legislative powers.” By accepting the quid pro quo offer in which
15 “gifts” from Friends were contingent on the City formally acting to form an LID,
16 so that downtown property owners – as opposed to all city taxpayers – are forced
17 to pay for a large part of the Waterfront Park costs, the City Council and Mayor
18 unlawfully delegated their legislative prerogatives and powers to Friends. Under
19 Washington law, “[i]t is unconstitutional for [a legislative body] to abdicate or
20 transfer its legislative function to others.” *Keeting v. Public Util. Dist. No. 1*, 49
21 Wn.2d 761, 767 (1957). In addition, the quid pro quo bargain with Friends
22 requiring the City to create a downtown LID in exchange for “philanthropic”
23 payments from Friends may also be a violation of federal law by targeting the
24 property of a particular subset of citizens “under color of law” in violation of 42
25 U.S.C. § 1983.
26
27

1 **3. The ABS assessments of Escala condos were based on derived values**
2 **and were created before or on May 9, 2018 – the wrong year. They are**
3 **therefore invalid. Minimally, an adjustment to the proposed assessment**
4 **against our condominium identified in CWF-0171 must be calculated**
5 **based on lower 2019 values.**

6
7 **A. The Hearing Examiner correctly notes the standard of review for**
8 **challenging a valuation report for which the City contracted does**
9 **not require expert testimony.**

10
11 The Hearing Examiner ends his discussion of the standard of review by
12 finding that, despite the City lawyers' argument that expert testimony is required to
13 rebut the valuation report for which the City contracted, all valuation evidence
14 should be accepted. *F&R*, at 109. Indeed, the *Hasit* case cited by the City's
15 lawyers for the proposition that expert testimony is required to rebut the City's
16 expert stands for the opposite. "[N]either precedent nor the plain meaning of the
17 passage from *Cammack* imply the requirements that (1) the challenging party
18 present the [expert] evidence, (2) the expert evidence be 'appraisal evidence,' or
19 (3) that a party claiming disproportionate assessment 'must' support the claim with
20 such evidence." *Hasit v. The City of Edgewood, supra*, 179 Wn. App at 946.

21 Accordingly, evidence presented by testimony of an objector, or analysis of
22 the City's contracted valuation report by an objector – or any other "non expert" –
23 is valid. Because the City sits as a "board of equalization" thus also means that a
24 heightened presumption of correctness carried by a "fundamentally wrong basis
25 and arbitrary and capricious standards . . . would afford unwarranted deference to a
26 report prepared under contract by a private appraisal firm." *Hasit*, 179 Wn. App. at
27 949.

1 **B. Analysis of the ABS Valuation report itself, together with its**
2 **author's testimony, shows that it is fatally flawed.**
3

4 The ABS final study, dated November 18, 2019, states that the "Valuation
5 Date" date for assessing the special benefit values of all the properties in the LID
6 area is October 1, 2019. (Ex. C-17, p.1.) Incredibly, however, the "before" and
7 "after" values as well as the "special benefit" value for our Escala condominium
8 (set forth on the second line of the spreadsheet at Ex. C-17, p. 65) are exactly the
9 same as the spreadsheet numbers that the Valbridge preliminary valuation
10 produced on May 9, 2018. (Ex C-15, p. 49, line 27.) In fact, this exact duplication
11 of the preliminary 2018 values is true for all condos in the Escala building on the
12 spreadsheets contained in the final ABS report. For ease of comparison, the Escala
13 spreadsheets from the Valbridge preliminary report, dated May 9, 2018 (Ex C-15,
14 pp. 47-51) are attached here as **Exhibit C**, and the Escala spreadsheets from the
15 ABS final report dated November 18, 2019 (Ex C-17, pp. 63-67) are attached as
16 **Exhibit D**.

17 Not only are all the value and assessment numbers the same for each of the
18 Escala condos on the May 9, 2018 preliminary analysis and on the October 1, 2019
19 final analysis, but the "tiers" of condos with identical "before" values track exactly
20 the tiers of identical property assessments in the May 9, 2018 preliminary report.
21 For example, the \$1,245,425 "before" value of our condominium and the derived
22 "special benefit" and "after" value on line 2 of Ex. C-17, p. 65 – and on line 27 of
23 Ex C-15, p. 49 – is identical to eight other condos on pages 64-65 of Ex. C-17.
24 Those nine identically assessed condos, including ours, are tax id numbers
25 2382001000, 2382001030, 2382001060, 2382001090, 2382001120, 2382001150,
26 2382001180, 2382001210, and 2382001240. Each of those nine condos in this
27 "tier" has the identical "before" and "after" values on both the Valbridge
preliminary study and on the ABS final study. For Mr. Macaulay to contend that

1 identical numbers in his Escala calculations would be “just coincidence”
2 (06/25/2020, Tr. 203:16) cannot be believed.

3 Neither Robert Macaulay nor Mary Hamel explained how they arrived at
4 these Escala condo values on or before May 9, 2018 – the date of the Valbridge
5 preliminary report. But what is clear is that values are derived, or contrived,
6 numbers and not the product of parcel-by-parcel assessment. By a process of
7 “reverse engineering” it becomes clear that the “before” value for each condo is
8 not based on an individual assessment, but rather is mathematically derived based
9 on the next lowest tier of condos. The “before” values that are assigned to each of
10 the identical “tiers” of Escala condos in the Valbridge preliminary study (and
11 reprinted in the ABS final study) have virtually the same mathematical relationship
12 to one another. For example, the \$1,245,425 “before” value of the nine-condo tier
13 in which our condo is included is a derived number from the next lower tier of
14 condo units with the same square footage. The next lower tier of 1607 square feet
15 Escala condos listed on spreadsheet Ex. C-17, p. 64, is a group of sixteen condos
16 with the identical “before” value of \$1,205,250. If one multiplies \$1,205,250 by
17 1.03333333 the product is \$1,245,425 – the exact “before” value of our nine-
18 member tier of condos. Similarly, the “before” value of our next-door neighbors’
19 condo listed on line 1 of Ex. C-17, p. 65 is \$737,800. That “before” value is
20 derived in the same way from the “before” value assigned to the next lower tier of
21 condos with the same 952 square feet footprint. That next lower tier has a “before”
22 value designated by ABS of \$714,000. Multiply \$714,00 by the same
23 1.033333333 multiplier and the product is \$737,800 – the exact “before” value of
24 our next-door neighbors’ condo in the next higher tier.

25 Taking each of these three factors together – (1) the October 1, 2019
26 “before,” “after,” and “special benefit” values for Escala condos are identical to the
27 May 9, 2018 values in the Valbridge preliminary report; (2) the tiers of identically
valued condos in the Valbridge preliminary report track exactly the same tiers of

1 identically valued condos in the ABS final report; and (3) the “before” values of
2 each tier of condos is a derived number from the next lower tier by employing the
3 same mathematical equation – the claim that each of the condo values is the result
4 of a parcel-by-parcel analysis and that identical numbers are merely coincidental
5 must be rejected out of hand.

6 So, what is to be done? It is obvious that ABS spent no effort whatsoever on
7 figuring out a “before” value for any Escala condo as of the purported “Valuation
8 Date” of October 1, 2019. ABS simply imported wholesale the exact “before,”
9 “after,” and “special benefit” numbers from the May 9, 2018 Valbridge
10 preliminary study. No attempt at all was made to update those May 2018
11 calculations or to examine any market changes that might have affected them.
12 Those 2018 values stand encased in concrete. The statement by Mr. Macaulay that
13 “We -- we were finalizing the numbers we needed to have -- when we finalize the
14 report, we need to have the most current Assessor's data available” is laughable.
15 (Cross of Robert Macaulay by Will Patton, 06/25/2020, Tr. 203:23—204:2)

16 Had Macaulay actually looked at the most current King County Assessors
17 data available to him, he would have found that the value of our condominium –
18 along with others in our building -- **declined** in 2019. A printout from the King
19 County Assessor’s office submitted as Exhibit 7 in our testimony of February 11,
20 2020 and attached here as **Exhibit E**, shows that dramatic decline. As shown on
21 the King County “Official Property Valuation Notice” postcard for 2019
22 (submitted as Exhibit 8 to our written objection of January 23, 2020), the reduced
23 valuation for 2109 was mailed to us – and available to ABS – on August 1, 2019, a
24 full two months before the October 1, 2019 “valuation date.”

25 This dramatic evidence from the King County Assessor’s office cannot just
26 blithely be cast aside as meaningless. Even though expert evidence is not required
27 to make these objections, if the King County Assessor is not an expert in “mass
appraisal,” who is? Indeed, that expertise is acknowledged in Washington Law. As

1 the *Hasit* court noted, “A board of equalization presumes the value used by the
2 county assessor to be correct, unless overcome by clear, cogent, and convincing
3 evidence. WAC 458-14-046(4).” *Hasit*, 179 Wn. App. at 949, emphasis added.

4 Indeed, the ABS Valuation itself reports the decline of downtown
5 condominium values in 2019. Pages C-17 218 and 219 are attached as **Exhibit F**
6 demonstrating ABS’s own knowledge of the decrease in values of downtown
7 condominiums in 2019. Yet, the ABS Valuation report makes no attempt to
8 explain the effect of a declining market for condos on its “before” values for
9 condos in October 2019. Those condo values remained exactly the same as it
10 determined them to be in May 2018. Accordingly, the ABS assessment of our
11 condo in 2019 should be rejected in its entirety and the entire assessment annulled.
12 That 2019 assessment is founded on a fundamentally wrong basis – a guess as to a
13 “before” market value that was generated almost a year and a half prior. Not only
14 were the numbers just taken wholesale from a preliminary report, but they were
15 imported into a report where the “Valuation Date” was established well after the
16 onset of a declining market for condos in Seattle. “An assessment is founded on a
17 fundamentally wrong basis where the method of assessment or the procedures used
18 by the city involve ‘some error..., the nature of which is so fundamental as to
19 necessitate a nullification of the entire LID, as opposed to a modification of the
20 assessment as to a particular property.’” *Hasit*, 179 Wn. App. at 934, citing
21 *Abbenhaus v. City of Yakima*, 89 Wn.2d 855, 859 (1978).

22 Moreover, the ABS October 1, 2019 values don’t meet basic standards
23 established by the Washington Supreme Court in *Bellevue Plaza, Inc. v. City of*
24 *Bellevue*, 121 Wn.2d 397 (1993). In *Bellevue Plaza* the Supreme Court rejected
25 the assessments against Bellevue Plaza both because the City appraisal did not
26 differentiate any supposed special benefit from general market conditions in the
27 City, and because there was no actual evidence from any seller or purchaser that
the price was higher because of the LID road improvements. *Id.* at 404-407. Here,

1 ABS made no analysis of the effect of a **declining** market for Seattle condos in
2 2019. Nor did ABS have any actual evidence from any seller or purchaser of a
3 condo that the price was higher as of October 1, 2019 because of the Waterfront
4 LID improvements. Obviously, ABS could not show any such sales, because it
5 just relied on and imported value estimates made nearly a year and a half before in
6 its preliminary report. Additionally, it was inappropriate for ABS to consider the
7 six elements of the proposed Waterfront Park as a whole in calculating its “before”
8 and “after” condo values when the City had not made an explicit finding that the
9 six LID improvements are to be treated as a single entity, a finding required by
10 RCW 35.43.050.

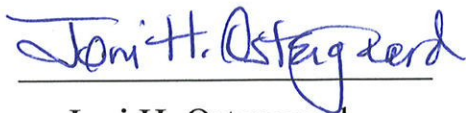
11 Even if the assessment against the CWF-0171 condo is not annulled in its
12 entirety, as it should be, then the assessment should be reduced by the amount
13 calculated in CWF-0171, Ex 9, written objections, 01/28/2020, attached here as
14 **Exhibit G**. The \$1,254,766.02 “Market Value with LID” number calculated by
15 ABC on line 1 of Ex. C-17, p. 65, is nearly identical to the King County Assessor’s
16 valuation for improvements in 2018 of \$1,254,000 shown in CWF-0171, Ex 8,
17 written objections, 01/28/2020. Accordingly, the King County Assessor number
18 can be used as a realistic measure of our condo’s value in 2018. It is not a realistic
19 number, however, for our condo’s value as of the valuation date of October 1,
20 2019. A realistic market value that recognizes the decline in condo values in 2019
21 can be obtained by using the King County Assessor’s reduced assessed valuation
22 of those same improvement in 2019, setting a 2019 value of \$1,049,800.
23 Following the mathematical calculations in CWF-0171, Ex. 9, written objections,
24 01/28/2020, the resulting modified “Special Benefit” would be \$7,768.52, and the
25 “Total Assessment” would be \$3,043.88.

1 CONCLUSION

2 The following actions, at a minimum, should be taken by the City Council
3 based on the above appeal and the testimony, exhibits, and cross examination of
4 the City's witnesses:
5

- 6 1. The Waterfront LID should be annulled because the primary purpose of the
7 proposed Waterfront Park is for public benefit as a "waterfront for all;" its
8 primary purpose is not simply to benefit adjacent or nearby property.
9 2. The Waterfront LID should be annulled because it is founded on a
10 fundamentally wrong basis — a bribe — in which "philanthropic" payments
11 from Friends of Waterfront Seattle are contingent on the City creating a
12 downtown LID.
13 3. The assessments against the condo in CWF-0171 – and all other condos –
14 should be annulled, because the "before" and "after" values were actually
15 calculated by the City's appraiser on or before the May 9, 2018 date of the
16 preliminary study, and then they were just imported wholesale, without
17 modification to reflect the subsequent declining downtown Seattle condo
18 market, into the purported final "Valuation Date" of October 1, 2019.
19 4. If the condo assessments are not annulled in their entirety, then the "special
20 benefit" and "total assessment" should at least be modified for the condo in
21 CWF-0171, as set forth in Exhibit G, to account for the market decline in
22 2019.
23

24 Respectfully submitted this 22nd day of September, 2020.

25 
26 _____
27 Joni H. Ostergaard



William H. Patton

Exhibit A

Urban Triangle Park

(Exhibit 3 to testimony on 02/11/2020)

E & W 3

! Snow Procedures

Seattle Parks and Recreation staff are busy preparing for the potential for snowfall. Click [here](https://parkways.seattle.gov/2020/01/08/seattle-parks-and-recreation-snow-procedures/) (<https://parkways.seattle.gov/2020/01/08/seattle-parks-and-recreation-snow-procedures/>) for information on our snow procedures, including information on potential impacts to facilities and programs in the event of severe weather.

Seattle Parks and Recreation (parks)

Jesús Aguirre, Superintendent



(/) > [Home \(parks\)](#) > [About Us \(parks/about-us\)](#) > [Current Projects \(parks/about-us/current-projects\)](#) ▼

Westlake & Lenora Park Development (Urban Triangle Park)

Updated: November 26, 2019

Fall/Winter 2019

Thank you to everyone who participated in the ribbon cutting celebration!

You can view several photos from the event here

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraCelebrationEventPho

Visit our new park and enjoy the new park and public art. The public art, *Escape Destinations*, displays names of fictional places found in literature, film, television, comics, and games, from the eighth century BC to 2019. Places from works made for children and others from works made for adults. Place names change every day, some instantly recognizable, others may inspire search and discovery.

The park is substantially complete. We are working on the final the review for the custom play structure that references historical structures in this neighborhood. Once it passes final review it will fabricated off-site and installed as soon as possible.

This park has recently been officially named Urban Triangle Park. Seattle Parks and Recreation awarded the construction contract to MidMountain Contractors and construction of this new South Lake Union park began in January 2019. In 2014 we allocated funding to complete the design phase to ensure a seamless and coordinated design with the adjacent properties. Through the design process we created an **updated design**

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraDesignUpdate.pdf) which allowed the park to be coordinated with the adjacent neighborhood development and become a seamless benefit to our urban environment. The

design includes an open lawn, new central play structure, seating edge, lighting, ADA access, places for vendors, landscaping, and other park elements.

Location

Urban Triangle Park (</parks/find/parks/urban-triangle-park>), 2100 Westlake Avenue (<http://www.seattle.gov/parks/find/parks?searchType=Name&filterTerm=x97314>)

Budget

Funding for planning and schematic design is provided through city public benefit funds from a nearby street vacation project in the amount of \$150,000.

Seattle Park District provides \$2,450,000 for design and construction.

Schedule

Planning: Through May 2014

Design: May 2014 through August 2018

Construction: Early 2019 - Late Summer 2019

Project Description

This project redevelops the previous Enterprise Car Rental site into park land that will serve the downtown businesses and residences. In 2008, SPR purchased the 8,722 square foot property at 2100 Westlake Avenue for a new neighborhood park in the Denny Triangle Urban Center Village. It may include lighting, seating, landscaping, ADA access, places for vendors, and other park elements. It will be designed to have a seamless transition between the park and the adjacent tower development. Collaboration, on grading; circulation; materials, between the Parks Department team and the tower design team for areas within the alley which is being vacated, will occur at the schematic design stage.

History

Spring/Summer 2014

Seattle Parks is starting the design process for a new park in the Denny Triangle Urban Village Center. In April, 2014, \$150,000 was allocated to start the design process for a new park at Westlake and Lenora. This is a land banked site being held in its current condition until funds become available for development.

An alley exists between the park property and the adjacent tower development site. Parks is working with the adjacent developer to vacate the alley and bring mutual benefit to both parties. The adjacent development is currently being designed, so it's important for the design of the park to begin. We're excited to have Site Workshop, a local landscape architecture firm, lead the park design.

In order to ensure a seamless and coordinated design where the two properties meet, the park will be envisioned to a schematic level with special attention to grades and access within the alley. This will allow all parties to move forward informed and lay the groundwork for future park development.

Acquisition

On December 31, 2008 Seattle Parks purchased the 8,722 square foot property at 2100 Westlake Avenue for a new neighborhood park in the Denny Triangle Urban Center Village. King County approved \$900,000 to \$1 million in matching funds through the Conservation Futures Tax towards this acquisition.

Community Participation

Early Site Plan Design [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraSchematic.pdf)

Westlake Lenora Design Update 12/2017 [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraDesignUpdate.pdf)

Download the celebration event poster 9/4/2019 [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraCelebrationPoster_20190904.pdf)

Public Meeting #1 5/20/2014

- 5/20/2014 Presentation [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/presentation_design_concepts_20140520.pdf)

- Survey Summary [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/survey_summary_20140603.pdf)

- 5/20/2014 Meeting Notes [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/notes_20140520.pdf)

Public Meeting #2 6/17/2014

- 6/17/2014 Presentation [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/presentation_boards_20140617.pdf)

- 6/17/2014 Meeting Notes [📎](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/notes_20140617.pdf)

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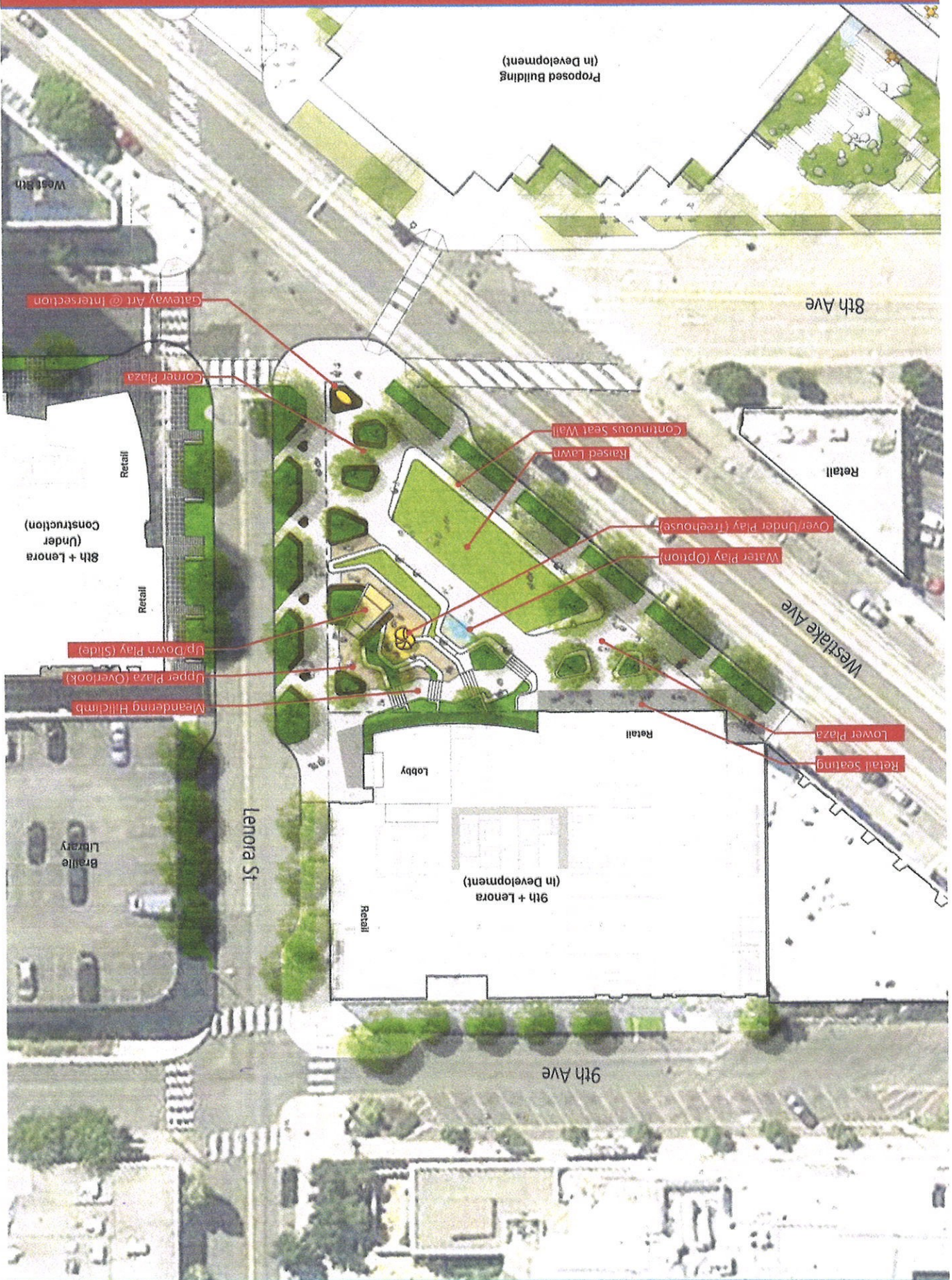
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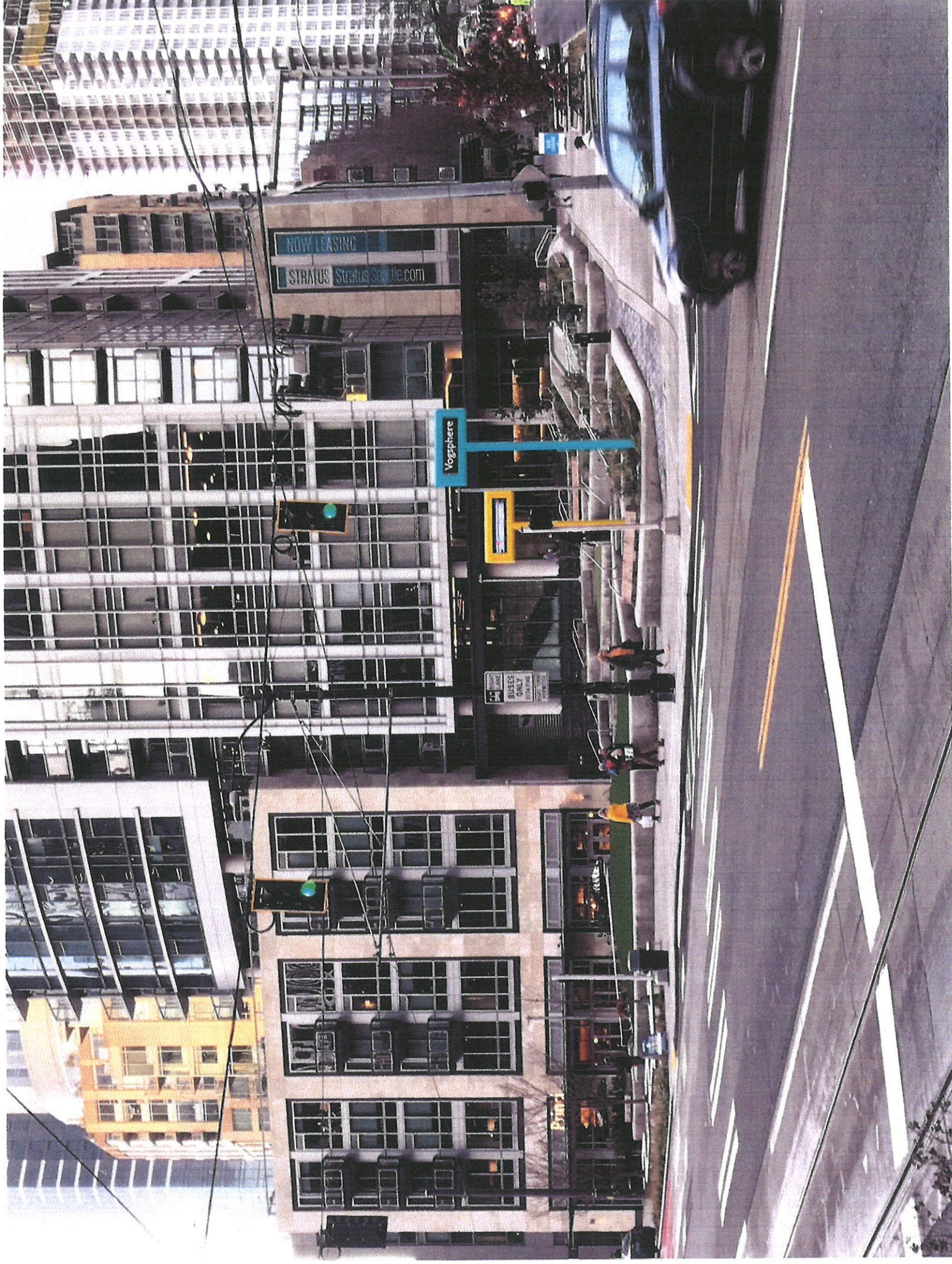
(<http://www.facebook.com/pages/Seattle-WA/Seattle-WA-123657440555661>) (<http://www.tumblr.com/brandofseattle/sandrec/>)

Services & Information (services-and-information)

(<http://www.seattle.gov/parks/centers.asp>)

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01/15/2020

Exhibit B

Presentation of Maggie Walker to Seattle City Council

Committee on Civic Development, Public Assets

and Native Communities

May 16, 2018

Testimony of Maggie Walker, Co-Chair of the Central Waterfront Committee and Chair of the Board of Friends of Waterfront Seattle (sitting next to Marshall Foster)

Seattle City Council Committee on Civic Development, Public Assets and Native Communities

Wednesday, May 16, 2018

"The Friends of Waterfront Seattle was created about six years ago as the stewardship partner to the project which was started about ten years ago under Mayor Nickels.

"We have taken it upon ourselves to make sure that this project has significant philanthropic funding. **From the very beginning our plan was to leverage the support from property owners downtown to create an opportunity for folks within the region to give significant philanthropic gifts toward this iconic downtown project.**

"So, we have a goal of raising \$100 million, which we committed to in an MOU with the City in September, I believe it was – is that correct? [Marshall Foster responds: "It is."] **So, that was accepted, and it was contingent on the passage of the LID for \$200 million as well.**

"So, we agreed that there would be a series of benchmarks; that we would have to have pledges in hand for everything to continue to move forward. So, to date, we have raised \$28.8 million towards this project, and that is from a number of donors who have great faith that this is a project that will change the face of the City and who are willing -- and they do not necessarily live in the City, they live in the region -- but they believe in the vision of this project and that this is the moment that we need to do it. We have the opportunity to make a huge difference in our City.

"So, we had agreed to have \$25 million in hand by September, and we have exceeded our goal and will continue to fundraise. But we do not have certainty around this project, and as you might imagine that adds a little bit of excitement to the prospect of raising money from philanthropists. **So, much of this money is contingent upon the formation of the LID.**

"So, it's very unusual for people to contribute to a public project but it is a model that works in a lot of other cities, and it's one that we have tried to formulate, particularly around this project."

(Emphasis added.)

Exhibit C

Escala spreadsheets from the
Valbridge Preliminary Report

May 9, 2018

(City's Ex. C-15, pages 47-51)

17-0294 Summary of Waterfront Seaside Project Formation SB/Proportional Assessment Study for LID - Copyright © 2018

Waterfront Seattle Formation Special Benefit Study

Residential Condominiums with Associated Retail Units

LD Map Number	King Co. Property Tax ID	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area / Building Area / SF	Gross Building Area / SF	Net Building Area / SF	Highest and Best Use Without LD	Market Value Without LD	Highest and Best Use With LD	Market Value With LD	Special Benefit	Special Benefit % Change	Total Preliminary Assessment
C-109-027	238200 0270	Seattle	WEAVER WENDY L	WEAVER WENDY L	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-028	238200 0280	Seattle	KING MARTIN J MARY E	KING MARTIN J MARY E	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,165,075	MULTI-FAMILY DWELLING	\$1,165,075	\$5,177	0.75%	\$0
C-109-029	238200 0290	Seattle	SMILGIN JOHN F	SMILGIN JOHN F	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-030	238200 0300	Seattle	JOHANSEN SVERRE H	JOHANSEN SVERRE H	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-031	238200 0310	Seattle	OSTERWINTER MARCUS H	OSTERWINTER MARCUS H	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,165,075	MULTI-FAMILY DWELLING	\$1,165,075	\$5,177	0.75%	\$0
C-109-032	238200 0320	Seattle	LEHINSKY YAN	LEHINSKY YAN	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-033	238200 0330	Seattle	MUSHEN GREGORY SCOTT -TTEE	MUSHEN GREGORY SCOTT -TTEE	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-034	238200 0340	Seattle	SHRENZEL DAVID EDGAR	SHRENZEL DAVID EDGAR	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,165,075	MULTI-FAMILY DWELLING	\$1,165,075	\$5,177	0.75%	\$0
C-109-035	238200 0350	Seattle	ICZKOVITZ ABIGAIL L	ICZKOVITZ ABIGAIL L	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-036	238200 0360	Seattle	COE SAMUEL B-KAREN L	COE SAMUEL B-KAREN L	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-037	238200 0370	Seattle	COLOWICK ANN-HARBOUR MICHAEL	COLOWICK ANN-HARBOUR MICHAEL	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,165,075	MULTI-FAMILY DWELLING	\$1,165,075	\$5,177	0.75%	\$0
C-109-038	238200 0380	Seattle	CAREY GEORGE-CHING LIM NG	CAREY GEORGE-CHING LIM NG	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-039	238200 0390	Seattle	HESS FAMILY TRUST	HESS FAMILY TRUST	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-040	238200 0400	Seattle	SHEKH GENE	SHEKH GENE	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,165,075	MULTI-FAMILY DWELLING	\$1,165,075	\$5,177	0.75%	\$0
C-109-041	238200 0410	Seattle	LODE RODRIGO	LODE RODRIGO	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-042	238200 0420	Seattle	HATES ASHLEY J -MICHAEL - MA	HATES ASHLEY J -MICHAEL - MA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-043	238200 0430	Seattle	SCHIER STEPHAN	SCHIER STEPHAN	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,165,075	MULTI-FAMILY DWELLING	\$1,165,075	\$5,177	0.75%	\$0
C-109-044	238200 0440	Seattle	RALEWSKI JOSEPH W III	RALEWSKI JOSEPH W III	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-045	238200 0450	Seattle	HUA SEAN WANG	HUA SEAN WANG	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-046	238200 0460	Seattle	GONZALEZ OLIVER VALLO-ANDR	GONZALEZ OLIVER VALLO-ANDR	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-047	238200 0470	Seattle	BRAGESHPUR KIRAN V	BRAGESHPUR KIRAN V	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-048	238200 0480	Seattle	LE ANDREW T	LE ANDREW T	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,165,075	MULTI-FAMILY DWELLING	\$1,165,075	\$5,177	0.75%	\$0
C-109-049	238200 0490	Seattle	MICHAEL ASHUR R-ANNETTE E	MICHAEL ASHUR R-ANNETTE E	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-050	238200 0500	Seattle	GNESIN YELENA	GNESIN YELENA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-051	238200 0510	Seattle	HALEY MELISSA B	HALEY MELISSA B	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,177	0.75%	\$0
C-109-052	238200 0520	Seattle	KOU MING BIN- FUNG SHU- ET	KOU MING BIN- FUNG SHU- ET	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-053	238200 0530	Seattle	BUCHANAN PATRICIA K	BUCHANAN PATRICIA K	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-054	238200 0540	Seattle	AI LUAYAO	AI LUAYAO	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-055	238200 0550	Seattle	PALMQUIST BRIAN G-CAREN J	PALMQUIST BRIAN G-CAREN J	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-056	238200 0560	Seattle	MICHAEL ANNETTE	MICHAEL ANNETTE	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,119	0.75%	\$0
C-109-057	238200 0570	Seattle	DUNCAN ROBERT W-GEORGIA C	DUNCAN ROBERT W-GEORGIA C	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-058	238200 0580	Seattle	KOERN CHRISTINA	KOERN CHRISTINA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-059	238200 0590	Seattle	PANG XIAOMING	PANG XIAOMING	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-060	238200 0600	Seattle	OE MELINA E-WEAVER KELLY B	OE MELINA E-WEAVER KELLY B	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-061	238200 0610	Seattle	STERN ROLAN	STERN ROLAN	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,119	0.75%	\$0
C-109-062	238200 0620	Seattle	VANESCH ROSALYN	VANESCH ROSALYN	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,119	0.75%	\$0
C-109-063	238200 0630	Seattle	HSH WANG-HSH-HSH-HSH	HSH WANG-HSH-HSH-HSH	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-064	238200 0640	Seattle	BYRUM FRANK D	BYRUM FRANK D	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-065	238200 0650	Seattle	CHOI EDMOND G	CHOI EDMOND G	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-066	238200 0660	Seattle	DOYUNGAN-ALBERT KATHEEN-AL	DOYUNGAN-ALBERT KATHEEN-AL	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-067	238200 0670	Seattle	HABIB ADIL	HABIB ADIL	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,119	0.75%	\$0
C-109-068	238200 0680	Seattle	VAN OFFER MARK-RANVIK ANDRE	VAN OFFER MARK-RANVIK ANDRE	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-069	238200 0690	Seattle	LEE SIU CHING SALINA	LEE SIU CHING SALINA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-070	238200 0700	Seattle	STUDINSKI NANCY J-ALDO G	STUDINSKI NANCY J-ALDO G	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-071	238200 0710	Seattle	SHDHANAN KANNAN-SHOBHANA	SHDHANAN KANNAN-SHOBHANA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-072	238200 0720	Seattle	SILVA PARTHIV	SILVA PARTHIV	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-073	238200 0730	Seattle	SHAI TO SUZANNE W	SHAI TO SUZANNE W	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,119	0.75%	\$0
C-109-074	238200 0740	Seattle	PREST PATRICIA	PREST PATRICIA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-075	238200 0750	Seattle	GOLMARTY MAURO	GOLMARTY MAURO	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-076	238200 0760	Seattle	ROBERTSON RIA-SHICHARD	ROBERTSON RIA-SHICHARD	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-077	238200 0770	Seattle	BRUELS GLEN R & DEBRA	BRUELS GLEN R & DEBRA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$699,200	MULTI-FAMILY DWELLING	\$699,200	\$5,119	0.75%	\$0
C-109-078	238200 0780	Seattle	CHES VICTOR P-CONRAD L	CHES VICTOR P-CONRAD L	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-079	238200 0790	Seattle	OLSON JOSEPH E-VALDA	OLSON JOSEPH E-VALDA	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-080	238200 0800	Seattle	HOYT HERMAN H-CHRISTIANUS	HOYT HERMAN H-CHRISTIANUS	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-081	238200 0810	Seattle	LEU CHEN-MING	LEU CHEN-MING	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-082	238200 0820	Seattle	DAVIS STEVEN G-CLAUDIA BIZIAN	DAVIS STEVEN G-CLAUDIA BIZIAN	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,205,250	MULTI-FAMILY DWELLING	\$1,205,250	\$5,119	0.75%	\$0
C-109-083	238200 0830	Seattle	BRANKE GARY M-ANN M JUN	BRANKE GARY M-ANN M JUN	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-084	238200 0840	Seattle	ING TUI H	ING TUI H	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$669,698	MULTI-FAMILY DWELLING	\$669,698	\$4,948	0.75%	\$0
C-109-085	238200 0850	Seattle	ZARATE JOSE PAULO-STEPHANIE	ZARATE JOSE PAULO-STEPHANIE	1920 4TH AVE	DOCC 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING</						

Waterfront Seattle Formation Special Benefit Study

Residential Condominiums with Associated Retail Units

LID Map Number	King Co. Property Tax ID Link	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/ Building Area/ SF	Gross Building Area/ SF	Net Building Area/ SF	Highest and Best Use Without Lid	Market Value Without Lid	Highest and Best Use With Lid	Market Value With Lid	Special Benefit	Special Benefit % Change	Total Preliminary Assessment
C-109-092	238200 0920	RealPropose	ESCALA CONDOMINIUM	KENZIE JUSTIN W	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$712,000	MULTI-FAMILY DWELLING	\$712,353	\$5,353	0.75%	\$0
C-109-093	238200 0930	RealPropose	ESCALA CONDOMINIUM	DAMMEN PETER	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$712,000	MULTI-FAMILY DWELLING	\$712,353	\$5,353	0.75%	\$0
C-109-094	238200 0940	RealPropose	ESCALA CONDOMINIUM	ROGERS JOYCE	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$2,252,250	MULTI-FAMILY DWELLING	\$1,214,289	\$9,039	0.75%	\$0
C-109-095	238200 0950	RealPropose	ESCALA CONDOMINIUM	FINEZA CRISTINA+JOSE	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-096	238200 0960	RealPropose	ESCALA CONDOMINIUM	TAN DEKKA	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-097	238200 0970	RealPropose	ESCALA CONDOMINIUM	KWOWAKA FARHAN S	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$1,252,250	MULTI-FAMILY DWELLING	\$1,214,289	\$9,039	0.75%	\$0
C-109-098	238200 0980	RealPropose	ESCALA CONDOMINIUM	HOLUB MARK	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-099	238200 0990	RealPropose	ESCALA CONDOMINIUM	VEGAN ASSOCIATES LLC	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-100	238200 1010	RealPropose	ESCALA CONDOMINIUM	BIGELOW BRADLEY	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-101	238200 1020	RealPropose	ESCALA CONDOMINIUM	AU-YEUNG DAVID	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-102	238200 1030	RealPropose	ESCALA CONDOMINIUM	SEDLER CHRISTOPHER W+DIANA	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-103	238200 1040	RealPropose	ESCALA CONDOMINIUM	KUTZNER MICHAEL	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-104	238200 1050	RealPropose	ESCALA CONDOMINIUM	GRENIER DAVID R	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-105	238200 1060	RealPropose	ESCALA CONDOMINIUM	REVES BROOKE+RYAN	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-106	238200 1070	RealPropose	ESCALA CONDOMINIUM	BLANCO/DAME	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-107	238200 1080	RealPropose	ESCALA CONDOMINIUM	CHOU MONTE	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-108	238200 1090	RealPropose	ESCALA CONDOMINIUM	WANDERLUSTENTERPRISES COM L	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-109	238200 1100	RealPropose	ESCALA CONDOMINIUM	SCHOPP JAMES J+CYNTHIA W	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-110	238200 1110	RealPropose	ESCALA CONDOMINIUM	XIE DORA Y+JOHN Z Y	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-111	238200 1120	RealPropose	ESCALA CONDOMINIUM	GALANTE RAYMOND+JEANETTE	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-112	238200 1130	RealPropose	ESCALA CONDOMINIUM	PROVENZANO CHRISTIAN M+GREG	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-113	238200 1140	RealPropose	ESCALA CONDOMINIUM	RISCHER GARY+YUCCA	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-114	238200 1150	RealPropose	ESCALA CONDOMINIUM	YUE BROWN K+YUCCA	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-115	238200 1160	RealPropose	ESCALA CONDOMINIUM	PIERANTOZZI ANDREA L+CRAIG	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-116	238200 1170	RealPropose	ESCALA CONDOMINIUM	WASHBURN LANCE	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-117	238200 1180	RealPropose	ESCALA CONDOMINIUM	OSTERGAARD JONI H+WILLIAM H	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-118	238200 1190	RealPropose	ESCALA CONDOMINIUM	LIANG ZICONG+HUANG YATUAN	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-119	238200 1200	RealPropose	ESCALA CONDOMINIUM	ZHOU XU	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-120	238200 1210	RealPropose	ESCALA CONDOMINIUM	WISDOM MELROY ANDERSON	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-121	238200 1220	RealPropose	ESCALA CONDOMINIUM	COMAIR CHRISTOPHER	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-122	238200 1230	RealPropose	ESCALA CONDOMINIUM	MCKEOWN KEVIN P	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-123	238200 1240	RealPropose	ESCALA CONDOMINIUM	HIRSCHBERG RICHARD DANIEL	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-124	238200 1250	RealPropose	ESCALA CONDOMINIUM	SCHWARTZ JAKE H	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$1,232,385	MULTI-FAMILY DWELLING	\$1,232,385	\$0	0.75%	\$0
C-109-125	238200 1260	RealPropose	ESCALA CONDOMINIUM	WONG KATHERINE SHIU YUE	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-126	238200 1270	RealPropose	ESCALA CONDOMINIUM	HOLA TIMOTHY+KIM ANNA HOLM	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,232,385	MULTI-FAMILY DWELLING	\$1,232,385	\$0	0.75%	\$0
C-109-127	238200 1280	RealPropose	ESCALA CONDOMINIUM	BRADDOCK LORINE SCOTT	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-128	238200 1290	RealPropose	ESCALA CONDOMINIUM	CORRELL DANE P	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,232,385	MULTI-FAMILY DWELLING	\$1,232,385	\$0	0.75%	\$0
C-109-129	238200 1300	RealPropose	ESCALA CONDOMINIUM	JOYNER MARCH-NICOLE	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-130	238200 1310	RealPropose	ESCALA CONDOMINIUM	BUTLER EFFRET M	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-131	238200 1320	RealPropose	ESCALA CONDOMINIUM	ARANGO KAREN	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-132	238200 1330	RealPropose	ESCALA CONDOMINIUM	TANGEN KRISTOFFER W+SUZANNE	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-133	238200 1340	RealPropose	ESCALA CONDOMINIUM	GREENE KIRK P	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-134	238200 1350	RealPropose	ESCALA CONDOMINIUM	NEUWHAM JASON S	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-135	238200 1360	RealPropose	ESCALA CONDOMINIUM	TATINEN SATYAM	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-136	238200 1370	RealPropose	ESCALA CONDOMINIUM	LEE KYUNG	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-137	238200 1380	RealPropose	ESCALA CONDOMINIUM	NAGLE RON+SCHMITT BETSY	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-138	238200 1390	RealPropose	ESCALA CONDOMINIUM	RY MICHAEL W+SUSAN M TRUS	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-139	238200 1400	RealPropose	ESCALA CONDOMINIUM	LUTHER BLAINE+ANDREAS	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-140	238200 1410	RealPropose	ESCALA CONDOMINIUM	BERRIA KATHLEEN+FRANK J	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-141	238200 1420	RealPropose	ESCALA CONDOMINIUM	BERG TING-NIEN	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-142	238200 1430	RealPropose	ESCALA CONDOMINIUM	SHIN JANGSIK+HUNGDOOK	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-143	238200 1440	RealPropose	ESCALA CONDOMINIUM	CHETTE DAVID H+CYNTHIA K	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-144	238200 1450	RealPropose	ESCALA CONDOMINIUM	WELLINGER STEVEN A	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-145	238200 1460	RealPropose	ESCALA CONDOMINIUM	DU DIA	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-146	238200 1470	RealPropose	ESCALA CONDOMINIUM	BEOTON BEVERLY	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-147	238200 1480	RealPropose	ESCALA CONDOMINIUM	FORMAN PAUL	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-148	238200 1490	RealPropose	ESCALA CONDOMINIUM	WANG JIAN QING+HUI JIANG	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-149	238200 1500	RealPropose	ESCALA CONDOMINIUM	WANG MAOYING	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$1,254,766	\$0	0.75%	\$0
C-109-150	238200 1510	RealPropose	ESCALA CONDOMINIUM	GORETZ THOMAS A	1920 4TH AVE	DOC2 500/300-550	391.324	952	952	MULTI-FAMILY DWELLING	\$737,800	MULTI-FAMILY DWELLING	\$743,334	\$5,534	0.75%	\$0
C-109-151	238200 1520	RealPropose	ESCALA CONDOMINIUM	COOPER CHARLES PETER+STEPHAN	1920 4TH AVE	DOC2 500/300-550	391.324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,254,766	MULTI-FAMILY DWELLING	\$			

Waterfront Seattle Formation Special Benefit Study
Residential Condominiums with Associated Retail Units

LD Map Number	King Co. Property Tax ID Link	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/ Acre/ SF	Gross Building Area/ SF	Net Building Area/ SF	Highest and Best Use Without LD	Market Value Without LD	Highest and Best Use With LD	Market Value With LD	Special Benefit	Special Benefits % Change	Total Preliminary Assessment
C-109-157	238200 1570	Seattle	ESCALA CONDOMINIUM	CHEN JIANDE/DE FANG DENG	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,600	MULTI-FAMILY DWELLING	\$1,395,242	\$9,642	0.75%	\$0
C-109-158	238200 1580	Seattle	ESCALA CONDOMINIUM	BA YU XINYIM/ YICK FUNG	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$761,600	MULTI-FAMILY DWELLING	\$767,312	\$5,712	0.75%	\$0
C-109-159	238200 1590	Seattle	ESCALA CONDOMINIUM	SALAZAR-RUBIO JOSE+GALAZAR	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$890,200	MULTI-FAMILY DWELLING	\$815,289	\$6,009	0.75%	\$0
C-109-160	238200 1600	Seattle	ESCALA CONDOMINIUM	PHILLIPS STEVEN P+SUSAN D	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-161	238200 1610	Seattle	ESCALA CONDOMINIUM	MOORTHY YONG REVOCABLE TRUS	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$773,500	MULTI-FAMILY DWELLING	\$779,301	\$5,801	0.75%	\$0
C-109-162	238200 1620	Seattle	ESCALA CONDOMINIUM	LEE JIAN-MIN JAE KIM	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$773,500	MULTI-FAMILY DWELLING	\$779,301	\$5,801	0.75%	\$0
C-109-163	238200 1630	Seattle	ESCALA CONDOMINIUM	APPELT SHARON R+OTTEN DABRE	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-164	238200 1640	Seattle	ESCALA CONDOMINIUM	ELSTON LAONNIS	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$800,200	MULTI-FAMILY DWELLING	\$815,289	\$6,009	0.75%	\$0
C-109-165	238200 1650	Seattle	ESCALA CONDOMINIUM	MCCENTIRE RIP-LARRY K II	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$791,291	\$5,891	0.75%	\$0
C-109-166	238200 1660	Seattle	ESCALA CONDOMINIUM	ROBINSON SIMON	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-167	238200 1670	Seattle	ESCALA CONDOMINIUM	LEE KENNY+AMY	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$750,750	MULTI-FAMILY DWELLING	\$756,381	\$5,631	0.75%	\$0
C-109-168	238200 1680	Seattle	ESCALA CONDOMINIUM	HSUEH ALBERT JOHN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$750,750	MULTI-FAMILY DWELLING	\$756,381	\$5,631	0.75%	\$0
C-109-169	238200 1690	Seattle	ESCALA CONDOMINIUM	VEBER NINA M	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-170	238200 1700	Seattle	ESCALA CONDOMINIUM	MCCLAREN WILLIAM K+EMILY M	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$791,291	\$5,891	0.75%	\$0
C-109-171	238200 1710	Seattle	ESCALA CONDOMINIUM	ROH GRACE YOUNG+JEFFREY S	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-172	238200 1720	Seattle	ESCALA CONDOMINIUM	HEWLETT ANTHONY L+VICKI K	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$890,200	MULTI-FAMILY DWELLING	\$815,289	\$6,009	0.75%	\$0
C-109-173	238200 1730	Seattle	ESCALA CONDOMINIUM	SIMMONS GARY M+ANN M LUN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-174	238200 1740	Seattle	ESCALA CONDOMINIUM	LIBERATOR JIM	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$773,500	MULTI-FAMILY DWELLING	\$779,301	\$5,801	0.75%	\$0
C-109-175	238200 1750	Seattle	ESCALA CONDOMINIUM	SWEZE MICHAEL J+YONG A	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-176	238200 1760	Seattle	ESCALA CONDOMINIUM	FERZLI YOUSSEF	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$800,200	MULTI-FAMILY DWELLING	\$815,289	\$6,009	0.75%	\$0
C-109-177	238200 1770	Seattle	ESCALA CONDOMINIUM	SAVIERES F GRANT F+DOBBIT M	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$791,291	\$5,891	0.75%	\$0
C-109-178	238200 1780	Seattle	ESCALA CONDOMINIUM	ALSDORF JEFFREY	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-179	238200 1790	Seattle	ESCALA CONDOMINIUM	WU WEN CHIEH	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$750,750	MULTI-FAMILY DWELLING	\$756,381	\$5,631	0.75%	\$0
C-109-180	238200 1800	Seattle	ESCALA CONDOMINIUM	ROBERTS STEPHEN D	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-181	238200 1810	Seattle	ESCALA CONDOMINIUM	RHODE-HAMEL ROBERT JR+SNYDER	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$791,291	\$5,891	0.75%	\$0
C-109-182	238200 1820	Seattle	ESCALA CONDOMINIUM	OTNESS VICKI	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$890,200	MULTI-FAMILY DWELLING	\$815,289	\$6,009	0.75%	\$0
C-109-183	238200 1830	Seattle	ESCALA CONDOMINIUM	JENNER INTERNATIONAL CORPOR	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-184	238200 1840	Seattle	ESCALA CONDOMINIUM	WATSON A G+MARY E	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$773,500	MULTI-FAMILY DWELLING	\$779,301	\$5,801	0.75%	\$0
C-109-185	238200 1850	Seattle	ESCALA CONDOMINIUM	SHENG KUANG	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$773,500	MULTI-FAMILY DWELLING	\$779,301	\$5,801	0.75%	\$0
C-109-186	238200 1860	Seattle	ESCALA CONDOMINIUM	MANDA VARUN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-187	238200 1870	Seattle	ESCALA CONDOMINIUM	MOORE DANIEL W+PECE CARTER	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$800,200	MULTI-FAMILY DWELLING	\$815,289	\$6,009	0.75%	\$0
C-109-188	238200 1880	Seattle	ESCALA CONDOMINIUM	AGRAMS ERAN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-189	238200 1890	Seattle	ESCALA CONDOMINIUM	MARSINGER ELIOT JOSHUA	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$791,291	\$5,891	0.75%	\$0
C-109-190	238200 1900	Seattle	ESCALA CONDOMINIUM	O'CONNOR OMAGH	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-191	238200 1910	Seattle	ESCALA CONDOMINIUM	YE ANDY	1920 4TH AVE	DOC 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$750,750	MULTI-FAMILY DWELLING	\$756,381	\$5,631	0.75%	\$0
C-109-192	238200 1920	Seattle	ESCALA CONDOMINIUM	ABRAMSKY ERAN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-193	238200 1930	Seattle	ESCALA CONDOMINIUM	RISENBURGER MATTHEW+ODEBRE	1920 4TH AVE	DOC 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$791,291	\$5,891	0.75%	\$0
C-109-194	238200 1940	Seattle	ESCALA CONDOMINIUM	EDIE ALITE	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,661,750	MULTI-FAMILY DWELLING	\$1,674,213	\$12,463	0.75%	\$0
C-109-195	238200 1950	Seattle	ESCALA CONDOMINIUM	NG CARL+HENRIFF HONG	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-196	238200 1960	Seattle	ESCALA CONDOMINIUM	KINCAIDE JOHN EDWARD JR	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,598,300	MULTI-FAMILY DWELLING	\$1,609,272	\$11,972	0.75%	\$0
C-109-197	238200 1970	Seattle	ESCALA CONDOMINIUM	DAVIS STEPHEN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,376,195	\$10,245	0.75%	\$0
C-109-198	238200 1980	Seattle	ESCALA CONDOMINIUM	NHI RELOCATION INC	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,661,750	MULTI-FAMILY DWELLING	\$1,674,213	\$12,463	0.75%	\$0
C-109-199	238200 1990	Seattle	ESCALA CONDOMINIUM	SEHER BENJAMIN THOMAS	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-200	238200 2000	Seattle	ESCALA CONDOMINIUM	PETUCESCU CRISTIAN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,549,350	MULTI-FAMILY DWELLING	\$1,560,970	\$11,620	0.75%	\$0
C-109-201	238200 2010	Seattle	ESCALA CONDOMINIUM	FLOCONGER DANIEL A JR	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-202	238200 2020	Seattle	ESCALA CONDOMINIUM	MULUMUDI MAHESH S+SRILATHA	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,710,625	MULTI-FAMILY DWELLING	\$1,723,455	\$12,830	0.75%	\$0
C-109-203	238200 2030	Seattle	ESCALA CONDOMINIUM	BENDER FRED H+PHILONIMA C	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,409,125	MULTI-FAMILY DWELLING	\$1,416,671	\$7,546	0.75%	\$0
C-109-204	238200 2040	Seattle	ESCALA CONDOMINIUM	TAMARI BLAINE+PRECOSIA R	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,409,125	MULTI-FAMILY DWELLING	\$1,416,671	\$7,546	0.75%	\$0
C-109-205	238200 2050	Seattle	ESCALA CONDOMINIUM	CAPPELL PETER T+LINDA F	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,710,625	MULTI-FAMILY DWELLING	\$1,723,455	\$12,830	0.75%	\$0
C-109-206	238200 2060	Seattle	ESCALA CONDOMINIUM	UFFICK STEPHEN M	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-207	238200 2070	Seattle	ESCALA CONDOMINIUM	ADAMS MONICA LYNN	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,549,350	MULTI-FAMILY DWELLING	\$1,560,970	\$11,620	0.75%	\$0
C-109-208	238200 2080	Seattle	ESCALA CONDOMINIUM	JAB2 LLC	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-209	238200 2090	Seattle	ESCALA CONDOMINIUM	MICHAEL ASHUR+ANNETTE-MARK	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,710,625	MULTI-FAMILY DWELLING	\$1,723,455	\$12,830	0.75%	\$0
C-109-210	238200 2100	Seattle	ESCALA CONDOMINIUM	KORCHAEV OLEG+ELENA+ALINA	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,409,125	MULTI-FAMILY DWELLING	\$1,416,671	\$7,546	0.75%	\$0
C-109-211	238200 2110	Seattle	ESCALA CONDOMINIUM	ASC HOLDINGS LLC	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,710,625	MULTI-FAMILY DWELLING	\$1,723,455	\$12,830	0.75%	\$0
C-109-212	238200 2120	Seattle	ESCALA CONDOMINIUM	BROWN JACOB	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,409,125	MULTI-FAMILY DWELLING	\$1,416,671	\$7,546	0.75%	\$0
C-109-213	238200 2130	Seattle	ESCALA CONDOMINIUM	NORRIS RONALD C+LINDA S TAL	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,710,625	MULTI-FAMILY DWELLING	\$1,723,455	\$12,830	0.75%	\$0
C-109-214	238200 2140	Seattle	ESCALA CONDOMINIUM	FORTIN MICHAEL P+MARITA R	1920 4TH AVE	DOC 500/300-550	391.324	391.324	1,235	MULTI-FAMILY DWELLING	\$1,409,125	MULTI-FAMILY DWELLING	\$1,416,671	\$7,546	0.75%	\$0
C-109-215	238200 2150	Seattle	ESCALA CONDOMINIUM	WONG DOUGLAS L+STACEY C	1920 4TH											

Waterfront Seattle Formation Special Benefit Study

Residential Condominiums with Associated Retail Units

LD Map Number	King Co. Property Tax ID Link	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/ Building Area SF	Gross Building Area SF	Net Building Area SF	Highest and Best Use Without LD	Market Value Without LD	Highest and Best Use With LD	Market Value With LD	Special Benefit	Special Benefit % Change	Total Preliminary Assessment
C-109-222	238200 2220	Seattle	ESCALA CONDOMINIUM	YENTER STEVEN RAY+THIA R	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,406,125	MULTI-FAMILY DWELLING	\$1,416,671	\$10,546	0.75%	\$0
C-109-223	238200 2230	Seattle	ESCALA CONDOMINIUM	ANDREWS EDWIN	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,955	MULTI-FAMILY DWELLING	\$1,716,625	MULTI-FAMILY DWELLING	\$1,723,455	\$12,830	0.75%	\$0
C-109-224	238200 2240	Seattle	ESCALA CONDOMINIUM	SMITH JANET K	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,356,775	MULTI-FAMILY DWELLING	\$1,365,970	\$9,943	0.75%	\$0
C-109-225	238200 2250	Seattle	ESCALA CONDOMINIUM	PALE GEORGET S	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,878	MULTI-FAMILY DWELLING	\$1,549,350	MULTI-FAMILY DWELLING	\$1,560,970	\$11,620	0.75%	\$0
C-109-226	238200 2260	Seattle	ESCALA CONDOMINIUM	SOSNOWY JOHN K+PATRICIA L	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,352,775	MULTI-FAMILY DWELLING	\$1,357,818	\$9,943	0.75%	\$0
C-109-227	238200 2270	Seattle	ESCALA CONDOMINIUM	BEHAR HOWARD + LYNN	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,878	MULTI-FAMILY DWELLING	\$1,852,200	MULTI-FAMILY DWELLING	\$1,864,814	\$12,614	0.75%	\$0
C-109-228	238200 2280	Seattle	ESCALA CONDOMINIUM	YALCH RICHARD F+REBECCA P E	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,643,250	MULTI-FAMILY DWELLING	\$1,655,574	\$12,324	0.75%	\$0
C-109-229	238200 2290	Seattle	ESCALA CONDOMINIUM	TARR WALTER L	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,955	MULTI-FAMILY DWELLING	\$1,406,125	MULTI-FAMILY DWELLING	\$1,416,671	\$10,546	0.75%	\$0
C-109-230	238200 2300	Seattle	ESCALA CONDOMINIUM	JOYNER BYRON DAVID	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,716,625	MULTI-FAMILY DWELLING	\$1,723,455	\$12,830	0.75%	\$0
C-109-231	238200 2310	Seattle	ESCALA CONDOMINIUM	KAUMP DONALD L	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,878	MULTI-FAMILY DWELLING	\$1,352,775	MULTI-FAMILY DWELLING	\$1,357,818	\$9,943	0.75%	\$0
C-109-232	238200 2320	Seattle	ESCALA CONDOMINIUM	LOYKO FRANK + VICTORIA	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,338	MULTI-FAMILY DWELLING	\$1,934,725	MULTI-FAMILY DWELLING	\$1,946,035	\$11,435	0.75%	\$0
C-109-233	238200 2330	Seattle	ESCALA CONDOMINIUM	MCADAMS REBECCA +HOLLACK C	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$2,319,900	MULTI-FAMILY DWELLING	\$2,337,299	\$2,379	0.75%	\$0
C-109-234	238200 2340	Seattle	ESCALA CONDOMINIUM	PAVALUNAS ROBERT M+JUDY D	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$1,788,850	MULTI-FAMILY DWELLING	\$1,802,266	\$13,416	0.75%	\$0
C-109-235	238200 2350	Seattle	ESCALA CONDOMINIUM	HEACOX RACINE B+CNTHIA A H	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,136,750	MULTI-FAMILY DWELLING	\$1,152,776	\$16,026	0.75%	\$0
C-109-236	238200 2360	Seattle	ESCALA CONDOMINIUM	CHOZEN MICHAEL ALAN+PAVELA	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,016,650	MULTI-FAMILY DWELLING	\$2,029,760	\$13,110	0.75%	\$0
C-109-237	238200 2370	Seattle	ESCALA CONDOMINIUM	TRENDEL E ROBERTO+CORRY LEE	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-238	238200 2380	Seattle	ESCALA CONDOMINIUM	FUNG ERIC M	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$2,016,650	MULTI-FAMILY DWELLING	\$2,029,760	\$13,110	0.75%	\$0
C-109-239	238200 2390	Seattle	ESCALA CONDOMINIUM	MEYER JERRY CHINA ZINGALE	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-240	238200 2400	Seattle	ESCALA CONDOMINIUM	RANDLES MEREDITH A+MATTHEW	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,319,900	MULTI-FAMILY DWELLING	\$2,337,299	\$2,379	0.75%	\$0
C-109-241	238200 2410	Seattle	ESCALA CONDOMINIUM	MELLUO JAMES J	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,788,850	MULTI-FAMILY DWELLING	\$1,802,266	\$13,416	0.75%	\$0
C-109-242	238200 2420	Seattle	ESCALA CONDOMINIUM	MCCOY MICHAEL E	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,136,750	MULTI-FAMILY DWELLING	\$2,152,776	\$16,026	0.75%	\$0
C-109-243	238200 2430	Seattle	ESCALA CONDOMINIUM	GARCIA-PELAYO PEDRO	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-244	238200 2440	Seattle	ESCALA CONDOMINIUM	KRAH JOHN ENGLAND+RITO ALEX	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-245	238200 2450	Seattle	ESCALA CONDOMINIUM	MCKENZIE TAMARA D	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$2,319,900	MULTI-FAMILY DWELLING	\$2,337,299	\$2,379	0.75%	\$0
C-109-246	238200 2460	Seattle	ESCALA CONDOMINIUM	SPICER MARINA V	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$1,788,850	MULTI-FAMILY DWELLING	\$1,802,266	\$13,416	0.75%	\$0
C-109-247	238200 2470	Seattle	ESCALA CONDOMINIUM	RAMAN VIJAYALAKSHMI GADAD	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,136,750	MULTI-FAMILY DWELLING	\$2,152,776	\$16,026	0.75%	\$0
C-109-248	238200 2480	Seattle	ESCALA CONDOMINIUM	SAVIER GRANT+DOBBIT	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-249	238200 2490	Seattle	ESCALA CONDOMINIUM	SANDERS CORAZON+MARTIN	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,016,650	MULTI-FAMILY DWELLING	\$2,029,760	\$13,110	0.75%	\$0
C-109-250	238200 2500	Seattle	ESCALA CONDOMINIUM	CHAUDRA WALA SARAT	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-251	238200 2510	Seattle	ESCALA CONDOMINIUM	CROGHAN RAYMOND D+DEBRA R	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,136,750	MULTI-FAMILY DWELLING	\$2,152,776	\$16,026	0.75%	\$0
C-109-252	238200 2520	Seattle	ESCALA CONDOMINIUM	BENNETT JEFFREY ANTHONY+ELI	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-253	238200 2530	Seattle	ESCALA CONDOMINIUM	JUDY RONALD J	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,319,900	MULTI-FAMILY DWELLING	\$2,337,299	\$2,379	0.75%	\$0
C-109-254	238200 2540	Seattle	ESCALA CONDOMINIUM	AVAKAR LLC	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$1,788,850	MULTI-FAMILY DWELLING	\$1,802,266	\$13,416	0.75%	\$0
C-109-255	238200 2550	Seattle	ESCALA CONDOMINIUM	CUSICK DOUGLAS DEAN+KALEZU	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,136,750	MULTI-FAMILY DWELLING	\$2,152,776	\$16,026	0.75%	\$0
C-109-256	238200 2560	Seattle	ESCALA CONDOMINIUM	VON GEHR GEORGE	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-257	238200 2570	Seattle	ESCALA CONDOMINIUM	LINDSEY MARK W+CUQUITA M R	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,016,650	MULTI-FAMILY DWELLING	\$2,029,760	\$13,110	0.75%	\$0
C-109-258	238200 2580	Seattle	ESCALA CONDOMINIUM	VANDER SCHAUW GERARD+JUDITH	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-259	238200 2590	Seattle	ESCALA CONDOMINIUM	SHERVE J+CHAPMAN COURTNEY	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,136,750	MULTI-FAMILY DWELLING	\$2,152,776	\$16,026	0.75%	\$0
C-109-260	238200 2600	Seattle	ESCALA CONDOMINIUM	MURPHY DONNA K	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-261	238200 2610	Seattle	ESCALA CONDOMINIUM	MADSEN DANIEL B	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,319,900	MULTI-FAMILY DWELLING	\$2,337,299	\$2,379	0.75%	\$0
C-109-262	238200 2620	Seattle	ESCALA CONDOMINIUM	PELAUM BRUCE WALTER	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,788,850	MULTI-FAMILY DWELLING	\$1,802,266	\$13,416	0.75%	\$0
C-109-263	238200 2630	Seattle	ESCALA CONDOMINIUM	LESCHEN CATHERINE S	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,136,750	MULTI-FAMILY DWELLING	\$2,152,776	\$16,026	0.75%	\$0
C-109-264	238200 2640	Seattle	ESCALA CONDOMINIUM	HALL CYNTHIA A (TRUSTEE)	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,883	MULTI-FAMILY DWELLING	\$1,553,475	MULTI-FAMILY DWELLING	\$1,565,126	\$11,651	0.75%	\$0
C-109-265	238200 2650	Seattle	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	2,442	MULTI-FAMILY DWELLING	\$2,016,650	MULTI-FAMILY DWELLING	\$2,029,760	\$13,110	0.75%	\$0
C-109-266	238200 2660	Seattle	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	4,522	MULTI-FAMILY DWELLING	\$4,572,000	MULTI-FAMILY DWELLING	\$4,587,998	\$15,998	0.75%	\$0
C-109-267	238200 2670	Seattle	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	4,522	MULTI-FAMILY DWELLING	\$4,572,000	MULTI-FAMILY DWELLING	\$4,587,998	\$15,998	0.75%	\$0
C-109-268	238200 2680	Seattle	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	4,522	MULTI-FAMILY DWELLING	\$4,572,000	MULTI-FAMILY DWELLING	\$4,587,998	\$15,998	0.75%	\$0
C-109-269	238200 2690	Seattle	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	4,522	MULTI-FAMILY DWELLING	\$4,572,000	MULTI-FAMILY DWELLING	\$4,587,998	\$15,998	0.75%	\$0
C-109-270	238200 2700	Seattle	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	4,522	MULTI-FAMILY DWELLING	\$4,572,000	MULTI-FAMILY DWELLING	\$4,587,998	\$15,998	0.75%	\$0
C-180	489750 0000	Seattle	LOFTS THE CONDOMINIUM	LOFTS THE CONDOMINIUM	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-001	489750 0010	Seattle	LOFTS THE CONDOMINIUM	KUCERA GREGORY M+VOCOM LABR	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-002	489750 0020	Seattle	LOFTS THE CONDOMINIUM	KUCERA GREGORY M+VOCOM LABR	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-003	489750 0030	Seattle	LOFTS THE CONDOMINIUM	KUCERA GREGORY M+VOCOM LABR	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-004	489750 0040	Seattle	LOFTS THE CONDOMINIUM	LOFTS THE CONDOMINIUM	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-005	489750 0050	Seattle	LOFTS THE CONDOMINIUM	LOFTS THE CONDOMINIUM	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-006	489750 0060	Seattle	LOFTS THE CONDOMINIUM	LOFTS THE CONDOMINIUM	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-007	489750 0070	Seattle	LOFTS THE CONDOMINIUM	LOFTS THE CONDOMINIUM	210 3RD AVE S	PSM 100/120-150	7,111	7,111	8,654	MULTI-FAMILY DWELLING	\$1,246,500	MULTI-FAMILY DWELLING	\$1,249,656	\$3,156	0.25%	\$0
C-180-0																

Exhibit D

Escala spreadsheets from the

ABS Final Report

November 18, 2019

(City's Ex. C-17, pages 63-67)

Waterfront Seattle Final Special Benefit Study															
Residential Condominiums and Associated Commercial															
King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Building Area/SF	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without LID	Market Value Without LID	Highest and Best Use With LID	Market Value With LID	Special Benefit	Special Benefit % Change	Total Assessment
745703 3140	RealProp	ROYAL CREST CONDOMINIUM	EIV ELISABETH T	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3150	RealProp	ROYAL CREST CONDOMINIUM	SHERIN XIAOCHI	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3160	RealProp	ROYAL CREST CONDOMINIUM	EYERSEN TERT KRONALD G	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3170	RealProp	ROYAL CREST CONDOMINIUM	JEL LANGSETH	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3180	RealProp	ROYAL CREST CONDOMINIUM	HEI LANGSETH CHEN QING	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3190	RealProp	ROYAL CREST CONDOMINIUM	MILUKATAA HIRONIKILO	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3200	RealProp	ROYAL CREST CONDOMINIUM	BOYCE FERDINAND	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3210	RealProp	ROYAL CREST CONDOMINIUM	BEYMAN RAMIRO 3RD AVE	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3220	RealProp	ROYAL CREST CONDOMINIUM	HIATT DOUGLAS ARLOCHRISTIE	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3230	RealProp	ROYAL CREST CONDOMINIUM	M N CHAN FAMILY LLC	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3240	RealProp	ROYAL CREST CONDOMINIUM	RINEBHART ANITA C	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3250	RealProp	ROYAL CREST CONDOMINIUM	ROYAL CREST CONDOMINIUMS	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3260	RealProp	ROYAL CREST CONDOMINIUM	ROYAL CREST CONDOMINIUMS	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3270	RealProp	ROYAL CREST CONDOMINIUM	GOLDSMITT LISA JAGARY M	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3280	RealProp	ROYAL CREST CONDOMINIUM	THANG BENHUU	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3290	RealProp	ROYAL CREST CONDOMINIUM	CARLTON LYNN	2100 3RD AVE, SEATTLE 98121	DW/R 145/65	12,968	150,460	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5
745703 3300	RealProp	ROYAL CREST CONDOMINIUM													
745703 3310	RealProp	ESCALA CONDOMINIUM	CHASE MATTHEW I'ANNNE M	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Condominium/Mixed Use	\$666,400	Condominium/Mixed Use	\$671,398	\$4,998	0.75%	\$1,938
745703 3320	RealProp	ESCALA CONDOMINIUM	WENDELL JAMES HWYBERG	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$1,133,337	\$4,437	0.39%	\$1,938
745703 3330	RealProp	ESCALA CONDOMINIUM	MICHELL DERRICK JOSEPH	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$637,000	Mixed-Use/Residential	\$641,778	\$4,778	0.75%	\$1,938
745703 3340	RealProp	ESCALA CONDOMINIUM	YU GONGYIFANG WEI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$1,133,337	\$8,437	0.75%	\$3,306
745703 3350	RealProp	ESCALA CONDOMINIUM	NONGORTHY RENE L	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3360	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3370	RealProp	ESCALA CONDOMINIUM	KACOR KARANPREEMA A	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3380	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3390	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3400	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3410	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3420	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3430	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3440	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3450	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3460	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3470	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3480	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3490	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3500	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3510	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3520	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3530	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3540	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3550	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3560	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3570	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3580	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3590	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3600	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3610	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3620	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3630	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3640	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3650	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3660	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3670	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3680	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3690	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3700	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3710	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3720	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3730	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3740	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3750	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3760	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938
745703 3770	RealProp	ESCALA CONDOMINIUM	PADMANABHI ARI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	9,333	9,333	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$1,938

UD Map Number	King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without UD	Market Value Without UD	Highest and Best Use With UD	Market Value With UD	Special Benefit	Special Benefit % Charge	Total Assessment
C109-050	238200 0500	RealProp	ESCALA CONDOMINIUM	GENES YELISSA B	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$695,377	\$5,177	0.75%	\$2,028
C109-051	238200 0510	RealProp	ESCALA CONDOMINIUM	HALLER YELISSA B	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-052	238200 0520	RealProp	ESCALA CONDOMINIUM	KO XING BEN YUNG SHU-ET	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,250,250	Mixed-Use/Residential	\$1,254,766	\$4,516	0.75%	\$3,542
C109-053	238200 0530	RealProp	ESCALA CONDOMINIUM	REYES PATRICIA K	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-054	238200 0540	RealProp	ESCALA CONDOMINIUM	PAULMISTRI BRIAN G-CARENI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-055	238200 0550	RealProp	ESCALA CONDOMINIUM	MICHAEL ANNETTE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-056	238200 0560	RealProp	ESCALA CONDOMINIUM	SULLIVAN THOMAS C	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-057	238200 0570	RealProp	ESCALA CONDOMINIUM	PANG JACOBING	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-058	238200 0580	RealProp	ESCALA CONDOMINIUM	KOEN CHRISTINA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-059	238200 0590	RealProp	ESCALA CONDOMINIUM	OEI MELINA EWEAVER KELLY B	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-060	238200 0600	RealProp	ESCALA CONDOMINIUM	STEIN ROSAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-061	238200 0610	RealProp	ESCALA CONDOMINIUM	MEHTA ANURUPHA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-062	238200 0620	RealProp	ESCALA CONDOMINIUM	WATSCHE DOLYAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-063	238200 0630	RealProp	ESCALA CONDOMINIUM	OREDO SANDIPEHEA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-064	238200 0640	RealProp	ESCALA CONDOMINIUM	WILLIAM FRANK D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-065	238200 0650	RealProp	ESCALA CONDOMINIUM	WILLIAM FRANK D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-066	238200 0660	RealProp	ESCALA CONDOMINIUM	GABRIEL JOSEPH WAMARY C	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-067	238200 0670	RealProp	ESCALA CONDOMINIUM	DUTINGAN ALBERT	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-068	238200 0680	RealProp	ESCALA CONDOMINIUM	HABIB AQL	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-069	238200 0690	RealProp	ESCALA CONDOMINIUM	BYERS KEITH MICHAEL	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-070	238200 0700	RealProp	ESCALA CONDOMINIUM	PLUT FRANK JACILDA OLIVERIO	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-071	238200 0710	RealProp	ESCALA CONDOMINIUM	LEE SU CHING SALINA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-072	238200 0720	RealProp	ESCALA CONDOMINIUM	KIM ROBERT C	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-073	238200 0730	RealProp	ESCALA CONDOMINIUM	SRI DHARAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-074	238200 0740	RealProp	ESCALA CONDOMINIUM	SILVA PATRICIA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-075	238200 0750	RealProp	ESCALA CONDOMINIUM	JACOB WILLIAM KEMEL M	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-076	238200 0760	RealProp	ESCALA CONDOMINIUM	COLEMAN WILLIAM	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-077	238200 0770	RealProp	ESCALA CONDOMINIUM	NORDSTROM NIA RICHARD	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-078	238200 0780	RealProp	ESCALA CONDOMINIUM	BRIGGS GLEN A & DEBRA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-079	238200 0790	RealProp	ESCALA CONDOMINIUM	CHAU VICTOR PO ONHINDAL	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-080	238200 0800	RealProp	ESCALA CONDOMINIUM	DALES DOUGLAS STUART CHUNI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-081	238200 0810	RealProp	ESCALA CONDOMINIUM	KUNG LUNG CHANG-MARY CHUNI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-082	238200 0820	RealProp	ESCALA CONDOMINIUM	HO THY BERNARD CHRISTIANUS	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-083	238200 0830	RealProp	ESCALA CONDOMINIUM	INMAN FRANKLIN H RHET	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-084	238200 0840	RealProp	ESCALA CONDOMINIUM	TAGAB MICHAEL KALUKE R	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-085	238200 0850	RealProp	ESCALA CONDOMINIUM	LEU CHENNING	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-086	238200 0860	RealProp	ESCALA CONDOMINIUM	WILLIAM FRANK D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-087	238200 0870	RealProp	ESCALA CONDOMINIUM	STONE BLAIR	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-088	238200 0880	RealProp	ESCALA CONDOMINIUM	LEUNG TZY H	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-089	238200 0890	RealProp	ESCALA CONDOMINIUM	ZARATE JOSE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-090	238200 0900	RealProp	ESCALA CONDOMINIUM	OPPEN MARK VAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-091	238200 0910	RealProp	ESCALA CONDOMINIUM	DAMMEN PETER	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-092	238200 0920	RealProp	ESCALA CONDOMINIUM	ROGERS JOYCE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-093	238200 0930	RealProp	ESCALA CONDOMINIUM	FINDEA CRISTINA JOSE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-094	238200 0940	RealProp	ESCALA CONDOMINIUM	TAN DEREK	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-095	238200 0950	RealProp	ESCALA CONDOMINIUM	KWONGA FARIAN S	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-096	238200 0960	RealProp	ESCALA CONDOMINIUM	PHOLUB MARK	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-097	238200 0970	RealProp	ESCALA CONDOMINIUM	WILLIAM FRANK D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-098	238200 0980	RealProp	ESCALA CONDOMINIUM	WILLIAM FRANK D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-099	238200 0990	RealProp	ESCALA CONDOMINIUM	WILLIAM FRANK D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-100	238200 1000	RealProp	ESCALA CONDOMINIUM	ALVING DAVID	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-101	238200 1010	RealProp	ESCALA CONDOMINIUM	SEDLER CHRISTOPHER	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-102	238200 1020	RealProp	ESCALA CONDOMINIUM	KUTZNER MICHAEL	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-103	238200 1030	RealProp	ESCALA CONDOMINIUM	GRENNER MICHAEL	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	\$5,355	0.75%	\$2,098
C109-104	238200 1040	RealProp	ESCALA CONDOMINIUM	REYES BROOKE RYAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$680,200	Mixed-Use/Residential	\$687,619	\$7,419	0.75%	\$2,098
C109-105	238200 1050	RealProp	ESCALA CONDOMINIUM	YANG PATRICK & SHUO W	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,389	\$9,139	0.75%	\$3,542
C109-106	238200 1060	RealProp	ESCALA CONDOMINIUM	CHOU MONTE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300										

Waterfront Seattle Final Special Benefit Study

Residential Condominiums and Associated Commercial

UID Map	King Co. Property Tax ID	County	Property Name	Tax Payer Name	Address	Zoning	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without LID	Market Value Without LID	Highest and Best Use With LID	Market Value With LID	Special Benefit	Special Benefit: % Change	Total Assessment
C109-117	2382001170	Sea/Prop	ESCALA CONDOMINIUM	WASHBURN LANCE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-118	2382001180	Sea/Prop	ESCALA CONDOMINIUM	OSTERGAARD JONI H WILLIAM	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-119	2382001190	Sea/Prop	ESCALA CONDOMINIUM	LIANG ZONGCHANG JIAN YUWANG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	\$5,119	0.75%	\$2,066
C109-120	2382001200	Sea/Prop	ESCALA CONDOMINIUM	ZHOU XU	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-121	2382001210	Sea/Prop	ESCALA CONDOMINIUM	WIDSPOR MELROY ANDERSON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-122	2382001220	Sea/Prop	ESCALA CONDOMINIUM	COMARK CHRISTOPHER	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-123	2382001230	Sea/Prop	ESCALA CONDOMINIUM	WIDSPOR MELROY ANDERSON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-124	2382001240	Sea/Prop	ESCALA CONDOMINIUM	WIDSPOR MELROY ANDERSON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-125	2382001250	Sea/Prop	ESCALA CONDOMINIUM	WIDSPOR MELROY ANDERSON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-126	2382001260	Sea/Prop	ESCALA CONDOMINIUM	WIDSPOR MELROY ANDERSON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	\$5,119	0.75%	\$2,066
C109-127	2382001270	Sea/Prop	ESCALA CONDOMINIUM	WIDSPOR MELROY ANDERSON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,113,285	Mixed-Use/Residential	\$1,222,385	\$9,100	0.75%	\$3,668
C109-128	2382001280	Sea/Prop	ESCALA CONDOMINIUM	BRADDOCK LORINE SCOTT	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-129	2382001290	Sea/Prop	ESCALA CONDOMINIUM	CORRELL DAN E	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,113,285	Mixed-Use/Residential	\$1,222,385	\$9,100	0.75%	\$3,668
C109-130	2382001300	Sea/Prop	ESCALA CONDOMINIUM	WALTERS MARC-ANCOLE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	\$5,119	0.75%	\$2,066
C109-131	2382001310	Sea/Prop	ESCALA CONDOMINIUM	JOYNER BARBARA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-132	2382001320	Sea/Prop	ESCALA CONDOMINIUM	BUTLER JEFFREY M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-133	2382001330	Sea/Prop	ESCALA CONDOMINIUM	ARANGO KAREN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-134	2382001340	Sea/Prop	ESCALA CONDOMINIUM	TANGEN RASTOFFER	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-135	2382001350	Sea/Prop	ESCALA CONDOMINIUM	WILLIAMS JAMES PHAMRON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-136	2382001360	Sea/Prop	ESCALA CONDOMINIUM	TATINEN SATYAM	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$728,000	Mixed-Use/Residential	\$733,460	\$5,460	0.75%	\$2,139
C109-137	2382001370	Sea/Prop	ESCALA CONDOMINIUM	LEE RYUNG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$728,000	Mixed-Use/Residential	\$733,460	\$5,460	0.75%	\$2,139
C109-138	2382001380	Sea/Prop	ESCALA CONDOMINIUM	NAGLE RON-SCHMITT BETSY	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,285,600	Mixed-Use/Residential	\$1,295,242	\$9,642	0.75%	\$3,778
C109-139	2382001390	Sea/Prop	ESCALA CONDOMINIUM	FRY MICHAEL W-SUSAN M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$761,600	Mixed-Use/Residential	\$767,312	\$5,712	0.75%	\$2,743
C109-140	2382001400	Sea/Prop	ESCALA CONDOMINIUM	LUTHER ERFRED-ANDREAS	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-141	2382001410	Sea/Prop	ESCALA CONDOMINIUM	BERBER KATHLEENFRANK J	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-142	2382001420	Sea/Prop	ESCALA CONDOMINIUM	INGRID YING-NING	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$705,250	Mixed-Use/Residential	\$710,339	\$5,089	0.75%	\$2,073
C109-143	2382001430	Sea/Prop	ESCALA CONDOMINIUM	SHIN TANGSUK-KARYUNGSOOK	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-145	2382001450	Sea/Prop	ESCALA CONDOMINIUM	CHE-TEIT DAVID H-CHYTHIA K	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	\$5,534	0.75%	\$2,168
C109-146	2382001460	Sea/Prop	ESCALA CONDOMINIUM	WILLIAMS STEVEN A	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-148	2382001480	Sea/Prop	ESCALA CONDOMINIUM	BECTON BEVERLY	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,325,775	Mixed-Use/Residential	\$1,335,718	\$9,943	0.75%	\$3,869
C109-149	2382001490	Sea/Prop	ESCALA CONDOMINIUM	FORMAN PAUL	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$756,381	Mixed-Use/Residential	\$765,381	\$5,631	0.75%	\$2,206
C109-150	2382001500	Sea/Prop	ESCALA CONDOMINIUM	WANG JIAN QINGHUI JIANG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$750,750	Mixed-Use/Residential	\$756,381	\$5,631	0.75%	\$2,206
C109-151	2382001510	Sea/Prop	ESCALA CONDOMINIUM	WANG XIAOWANG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,325,775	Mixed-Use/Residential	\$1,335,718	\$9,943	0.75%	\$3,869
C109-152	2382001520	Sea/Prop	ESCALA CONDOMINIUM	GOLYET THOMAS A	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$785,400	Mixed-Use/Residential	\$791,291	\$5,891	0.75%	\$2,300
C109-153	2382001530	Sea/Prop	ESCALA CONDOMINIUM	VENKATACHALAM ANSHYA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,385,600	Mixed-Use/Residential	\$1,395,242	\$9,642	0.75%	\$3,738
C109-154	2382001540	Sea/Prop	ESCALA CONDOMINIUM	COOPER CHARLES	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-155	2382001550	Sea/Prop	ESCALA CONDOMINIUM	BYRUM FRANK DAVID	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$728,000	Mixed-Use/Residential	\$733,460	\$5,460	0.75%	\$2,139
C109-156	2382001560	Sea/Prop	ESCALA CONDOMINIUM	LEE BRIAN Y	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$728,000	Mixed-Use/Residential	\$733,460	\$5,460	0.75%	\$2,139
C109-157	2382001570	Sea/Prop	ESCALA CONDOMINIUM	CHEN JIAN-CHEN FANG DENG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,285,600	Mixed-Use/Residential	\$1,295,242	\$9,642	0.75%	\$3,778
C109-158	2382001580	Sea/Prop	ESCALA CONDOMINIUM	BAI YU JIAN-YU TICI FONG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$761,600	Mixed-Use/Residential	\$767,312	\$5,712	0.75%	\$2,743
C109-159	2382001590	Sea/Prop	ESCALA CONDOMINIUM	WILLIAMS STEVEN A	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-160	2382001600	Sea/Prop	ESCALA CONDOMINIUM	PHILLIPS STEVEN PHILLIP	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,375,195	\$9,245	0.75%	\$3,840
C109-161	2382001610	Sea/Prop	ESCALA CONDOMINIUM	MOORTHY YVING REOCCABLE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$773,500	Mixed-Use/Residential	\$779,301	\$5,801	0.75%	\$2,273
C109-162	2382001620	Sea/Prop	ESCALA CONDOMINIUM	LEE JANE-MIN JAM	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$773,500	Mixed-Use/Residential	\$779,301	\$5,801	0.75%	\$2,273
C109-163	2382001630	Sea/Prop	ESCALA CONDOMINIUM	AGNER MAXIMILIAN M TRESA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,375,195	\$9,245	0.75%	\$3,840
C109-164	2382001640	Sea/Prop	ESCALA CONDOMINIUM	LODWINOS	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$809,200	Mixed-Use/Residential	\$812,269	\$6,069	0.75%	\$2,378
C109-165	2382001650	Sea/Prop	ESCALA CONDOMINIUM	MCKENTREE KIP-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$785,400	Mixed-Use/Residential	\$791,291	\$5,891	0.75%	\$2,300
C109-166	2382001660	Sea/Prop	ESCALA CONDOMINIUM	HILEN ANDREW G	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,325,775	Mixed-Use/Residential	\$1,335,718	\$9,943	0.75%	\$3,869
C109-167	2382001670	Sea/Prop	ESCALA CONDOMINIUM	LEE KENNY+AMY	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$750,750	Mixed-Use/Residential	\$756,381	\$5,631	0.75%	\$2,206
C109-168	2382001680	Sea/Prop	ESCALA CONDOMINIUM	YU HUNYUNG I	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$750,750	Mixed-Use/Residential	\$756,381	\$5,631	0.75%	\$2,206
C109-169	2382001690	Sea/Prop	ESCALA CONDOMINIUM	WILLIAMS STEVEN A	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	\$9,341	0.75%	\$3,660
C109-170	2382001700	Sea/Prop	ESCALA CONDOMINIUM	MCKENRY WILLIAM K-EMILY M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$785,400	Mixed-Use/Residential	\$791,291	\$5,891	0.75%	\$2,300
C109-171	2382001710	Sea/Prop	ESCALA CONDOMINIUM	ROH GAE-GEUNGS-LEFFERS J	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$809,200	Mixed-Use/Residential	\$812,269	\$6,069	0.75%	\$2,378
C109-172	2382001720	Sea/Prop	ESCALA CONDOMINIUM	AT-VA SPACECRAFTS LLC	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,375,195	\$9,245	0.75%	\$3,840
C109-173	2382001730	Sea/Prop	ESCALA CONDOMINIUM	SHIMMONS GARY MANNA M+JUN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$773,500	Mixed-Use/Residential	\$779,301	\$5,801	0.75%	\$2,273
C109-174	2382001740	Sea/Prop	ESCALA CONDOMINIUM	LIBERATOR JAMES M+T+JUN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$773,500	Mixed-Use/Residential	\$779,301	\$5,801	0.75%	\$2,273
C109-175	2382001750	Sea/Prop	ESCALA CONDOMINIUM	SPOFFE MICHAEL+HYONG A	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,375,195	\$9,245	0.75%	\$3,84

Waterfront Seattle Final Special Benefit Study Residential Condominiums and Associated Commercial															
ILD Map Number	King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without LID	Market Value Without LID	Highest and Best Use With LID	Market Value With LID	Special Benefit % Change	Total Assessment
C-109-184	2382001840	RealProp	ESCALA CONDOMINIUM	WATSON A G MARY E	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,014
C-109-185	2382001850	RealProp	ESCALA CONDOMINIUM	SHENG KUAN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$773,500	Mixed-Use/Residential	\$773,500	0.75%	\$2,273
C-109-186	2382001860	RealProp	ESCALA CONDOMINIUM	NANDA VARUN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$5,801
C-109-187	2382001870	RealProp	ESCALA CONDOMINIUM	MOORE DANIEL W PENCE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,014
C-109-188	2382001880	RealProp	ESCALA CONDOMINIUM	ABRAMS DAN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$829,120	Mixed-Use/Residential	\$829,120	0.75%	\$2,428
C-109-189	2382001890	RealProp	ESCALA CONDOMINIUM	MANSING EIGHT DOSHUA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$791,291	Mixed-Use/Residential	\$791,291	0.75%	\$2,238
C-109-190	2382001900	RealProp	ESCALA CONDOMINIUM	O'CONNOR CONNOR	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,335,715	Mixed-Use/Residential	\$1,153,218	0.75%	\$3,886
C-109-191	2382001910	RealProp	ESCALA CONDOMINIUM	ABRAMS ERIK	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$750,750	Mixed-Use/Residential	\$750,750	0.75%	\$2,206
C-109-192	2382001920	RealProp	ESCALA CONDOMINIUM	REISWEISER ERIN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,335,715	Mixed-Use/Residential	\$1,153,218	0.75%	\$3,631
C-109-193	2382001930	RealProp	ESCALA CONDOMINIUM	EDGE ALFIE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,335,715	Mixed-Use/Residential	\$1,153,218	0.75%	\$3,886
C-109-194	2382001940	RealProp	ESCALA CONDOMINIUM	DE CARL HENRIER HONG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,335,715	Mixed-Use/Residential	\$1,153,218	0.75%	\$3,886
C-109-195	2382001950	RealProp	ESCALA CONDOMINIUM	KINCAID JOHN EDWARD JR	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.955	Mixed-Use/Residential	\$1,661,750	Mixed-Use/Residential	\$1,416,671	0.75%	\$4,483
C-109-196	2382001960	RealProp	ESCALA CONDOMINIUM	NYLUND BROWN CLINDA M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.955	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-197	2382001970	RealProp	ESCALA CONDOMINIUM	IRI RELOCATION INC	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.878	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-198	2382001980	RealProp	ESCALA CONDOMINIUM	SEIER BENJAMIN THOMAS	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.955	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-200	2382002000	RealProp	ESCALA CONDOMINIUM	FLOINGER DANIEL A JR	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-201	2382002010	RealProp	ESCALA CONDOMINIUM	MULLIGAN DANESH	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-202	2382002020	RealProp	ESCALA CONDOMINIUM	FLANIGAN PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-203	2382002030	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-204	2382002040	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-205	2382002050	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-206	2382002060	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-207	2382002070	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-208	2382002080	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-209	2382002090	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-210	2382002100	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-211	2382002110	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-212	2382002120	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-213	2382002130	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-214	2382002140	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-215	2382002150	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-216	2382002160	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-217	2382002170	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-218	2382002180	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-219	2382002190	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-220	2382002200	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-221	2382002210	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-222	2382002220	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-223	2382002230	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-224	2382002240	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-225	2382002250	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-226	2382002260	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-227	2382002270	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-228	2382002280	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-229	2382002290	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-230	2382002300	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-231	2382002310	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-232	2382002320	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-233	2382002330	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-234	2382002340	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-235	2382002350	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-236	2382002360	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-237	2382002370	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-238	2382002380	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-239	2382002390	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-240	2382002400	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-241	2382002410	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-242	2382002420	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195	0.75%	\$4,021
C-109-243	2382002430	RealProp	ESCALA CONDOMINIUM	FAHAY PETER BRIGIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25.432	385.548	1.607	Mixed-Use/Residential	\$1,365,950	Mixed-Use/Residential	\$1,176,195		

Waterfront Seattle Final Special Benefit Study

UD Map Number	King County Property Tax ID	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without LID	Market Value Without LID	Market Value With LID	Special Benefit % Change	Special Benefit %	Total Assessment
D-109-251	238200 2510	RealProp	ESCALA CONDOMINIUM	POBINS HABLAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	0.75%	\$5,512.60
D-109-252	238200 2520	RealProp	ESCALA CONDOMINIUM	POBINS HABLAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,319,200	\$2,337,299	0.75%	0.75%	\$6,817.55
D-109-253	238200 2530	RealProp	ESCALA CONDOMINIUM	BENNETT EFFREY	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$1,788,150	\$1,802,265	0.75%	0.75%	\$5,257.79
D-109-254	238200 2540	RealProp	ESCALA CONDOMINIUM	BUDDY RONALD J	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,136,750	\$2,152,776	0.75%	0.75%	\$6,279.50
D-109-255	238200 2550	RealProp	ESCALA CONDOMINIUM	CLUCK DOUGLAS	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$1,533,275	\$1,549,760	0.75%	0.75%	\$4,320.20
D-109-256	238200 2560	RealProp	ESCALA CONDOMINIUM	VON GEHR GEORGE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	0.75%	\$5,512.60
D-109-257	238200 2570	RealProp	ESCALA CONDOMINIUM	UNDER MARK W/QUINTA M	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$1,937,299	\$1,953,775	0.75%	0.75%	\$5,325.46
D-109-258	238200 2580	RealProp	ESCALA CONDOMINIUM	WANDER SCHAUW	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$1,788,150	\$1,802,265	0.75%	0.75%	\$5,257.79
D-109-259	238200 2590	RealProp	ESCALA CONDOMINIUM	SHERVE H-CHAMMAN COURTNEY	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,136,750	\$2,152,776	0.75%	0.75%	\$6,279.50
D-109-260	238200 2600	RealProp	ESCALA CONDOMINIUM	MURPHY DONNA K	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	0.75%	\$5,512.60
D-109-261	238200 2610	RealProp	ESCALA CONDOMINIUM	ROBERTS STEPHEN D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,136,750	\$2,152,776	0.75%	0.75%	\$6,279.50
D-109-262	238200 2620	RealProp	ESCALA CONDOMINIUM	ROBERTS STEPHEN D	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,136,750	\$2,152,776	0.75%	0.75%	\$6,279.50
D-109-263	238200 2630	RealProp	ESCALA CONDOMINIUM	LEONHART CATHERINE S	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$1,533,275	\$1,549,760	0.75%	0.75%	\$4,320.20
D-109-264	238200 2640	RealProp	ESCALA CONDOMINIUM	PAUL NORTHWEST	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	0.75%	\$5,512.60
D-109-265	238200 2650	RealProp	ESCALA CONDOMINIUM	PAUL NORTHWEST	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	0.75%	\$5,512.60
D-109-266	238200 2660	RealProp	ESCALA CONDOMINIUM	LUDY GRABOWSKI G TITTE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$4,522,000	\$4,572,025	0.75%	0.75%	\$12,568.25
D-109-267	238200 2670	RealProp	ESCALA CONDOMINIUM	MAULETS EDWARD-CYNTHIA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$3,422,000	\$3,472,025	0.75%	0.75%	\$9,268.25
D-109-268	238200 2680	RealProp	ESCALA CONDOMINIUM	PAUL NORTHWEST	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$3,422,000	\$3,472,025	0.75%	0.75%	\$9,268.25
D-109-269	238200 2690	RealProp	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA, LLC	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$4,522,000	\$4,572,025	0.75%	0.75%	\$

Exhibit E

**King County Assessor Valuation
of Subject Property in CWF-0171
(Exhibit 7 to testimony on 02/11/2020)**

EX 7

Refer

ADVERTISEMENT

View parcel	Map	View history	View details	View photos	View reports
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PARCEL

Parcel Number	238200-1180
Name	OSTERGAARD JONI H+WILLIAM H
Site Address	1920 4TH AVE
Legal	ESCALA CONDOMINIUM PCT UND INT 0.404

BUILDING 1

Year Built	2010
Construction Class	STRUCTURAL STEEL
Condition	Average
Building Quality	GOOD/EXCELLENT
Number of buildings	1
Number of units	267
Lot Size	25432
Present Use	Condominium(Residential)
Views	No
Waterfront	



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King
Dist
Lev

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Link

Prop

Was
Dep
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link)

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Boa
App
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Boa
App

Dist
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Rec

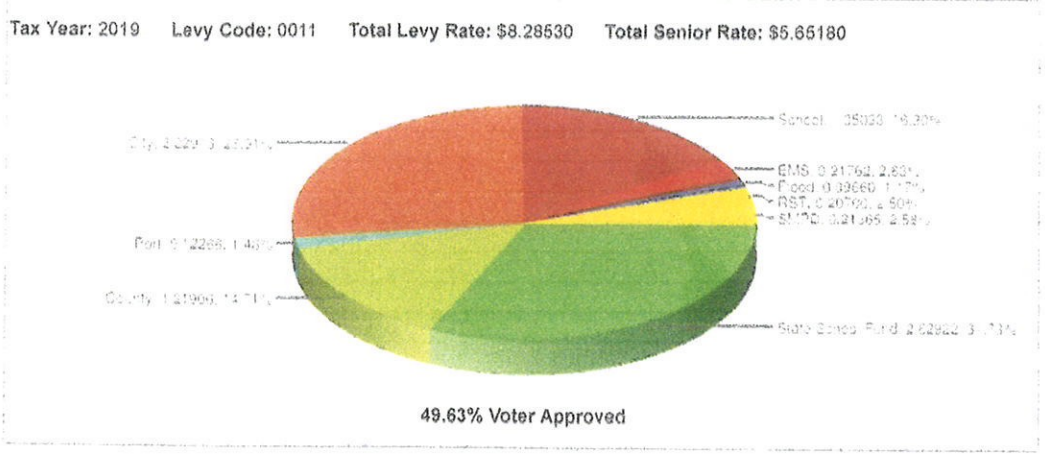
Scal
surd
map

Scal
plat

Notice
08/01/2

+ Units in this condominium complex

TOTAL LEVY RATE DISTRIBUTION



[Click here to see levy distribution comparison by year.](#)

TAX ROLL HISTORY

Valued	Tax	Appraised Land	Appraised Imps	Appraised	Appraised Imps	Taxable Land	Taxable Imps	Taxable
--------	-----	----------------	----------------	-----------	----------------	--------------	--------------	---------

Year	Year	Value (\$)	Value (\$)	Total (\$)	Increase (\$)	Value (\$)	Value (\$)	Total (\$)
2019	2020	123,200	1,049,800	1,173,000	0	123,200	1,049,800	1,173,000
2018	2019	113,000	1,254,000	1,367,000	0	113,000	1,254,000	1,367,000
2017	2018	102,700	1,089,300	1,192,000	0	102,700	1,089,300	1,192,000
2016	2017	87,300	961,700	1,049,000	0	87,300	961,700	1,049,000
2015	2016	77,000	868,000	945,000	0	77,000	868,000	945,000
2014	2015	71,900	876,100	948,000	0	71,900	876,100	948,000
2013	2014	61,600	726,400	788,000	0	61,600	726,400	788,000
2012	2013	51,400	630,600	682,000	0	51,400	630,600	682,000
2011	2012	51,400	649,600	701,000	0	51,400	649,600	701,000
2010	2011	51,400	669,600	721,000	254,805	51,400	669,600	721,000
2009	2010	51,388	384,002	435,390	0	51,388	384,002	435,390

ADVERTISEMENT

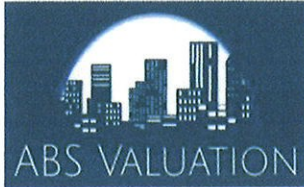
Exhibit F

Pages 112 and 113 from the

ABS Final Report

November 18, 2019

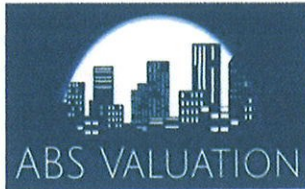
(City's Ex. C-17, pages 218-219)



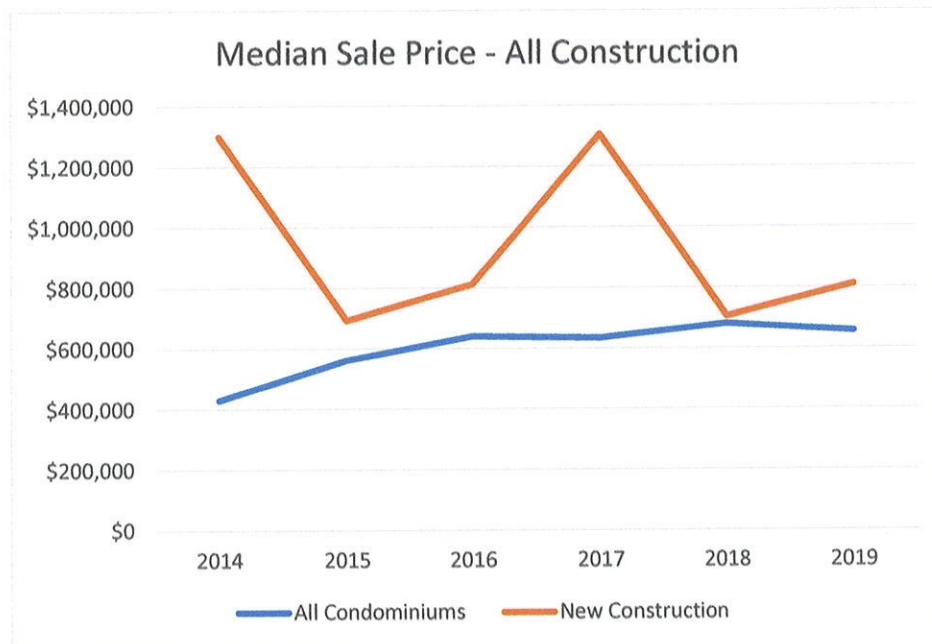
CITY OF SEATTLE - WATERFRONT SEATTLE PROJECT
 FINAL SPECIAL BENEFIT/PROPORTIONATE ASSESSMENT STUDY
 ADDENDA

**NWMLS Closed Sales
 Residential Market Statistics**

	Year	Total Units Sold	Median Price	Change	Average Days on Market
Area 701					
All Condominiums					
	2019	342	\$655,000	-3.68%	58
	2018	557	\$680,000	7.42%	36
	2017	551	\$633,000	-1.02%	22
	2016	958	\$639,500	13.89%	38
	2015	790	\$561,500	30.58%	43
	2014	521	\$430,000	- -	56
	Total	3,719			
Area 701					
New Construction					
	2019	3	\$810,000	15.07%	63
	2018	60	\$703,900	46.11%	102
	2017	16	\$1,306,250	60.89%	57
	2016	405	\$811,900	17.16%	127
	2015	302	\$693,000	46.69%	142
	2014	22	\$1,300,000	- -	267
	Total	808			



CITY OF SEATTLE - WATERFRONT SEATTLE PROJECT
FINAL SPECIAL BENEFIT/PROPORTIONATE ASSESSMENT STUDY
ADDENDA



Condominium sale prices in the subject area were on a downward trend through 2012; starting in 2013, however, they began to display gradual upward momentum. In concert with recovering home prices, the average number of days required to sell a condo unit (marketing period) in the downtown and Belltown neighborhoods reached a low of 22 days (57 days for new construction) in 2017. It is now evident that the frenzied buying trend of two years ago, with multiple and above asking price offers, is over. The table on the prior page shows that sale prices for a relatively small inventory of new condominiums in the subject area peaked in 2017, and for all condos it peaked in 2018. As shown above in the graphic depiction of the same data, average annual sale prices for newly constructed condominium units have been erratic, due in part to this low inventory. For all condos, a gradual upward price trend was in evidence (blue line) in the past few years and, although the 2019 year-to-date average price is down 3.5±%, the year-end average price may continue this upward trend.

An August 2019 update on the Seattle condo market by the website www.seattlecondosandlofts.com states that (based on NWMLS data) August numbers citywide outperformed last year. Year-over-year, Seattle experienced more sales, closings and listings compared to August 2018 with one exception; essentially unchanged from the prior month was the citywide median condo price, which was down 10.8% year-over-year at \$450,000.

Also from this website is the table below, showing that although the median condo sale price in August 2019 was significantly higher in the Downtown and Belltown neighborhoods than the entire Seattle region (\$676,000 vs \$450,000), there are more active listings, about the same number of sales, and a 2±% lower median sale price.

Exhibit G

ABS “before” and “after” numbers

And revised LID assessment

(Exhibit 9 to written submission 01/28/2020)

**Derivation of ABS “before” and “after” numbers
and revised LID assessment**

1. Before and after “methodology”

The “before” LID and “after” LID numbers for our property value on the second line on page 38 of the ABS spreadsheets (Exhibit 7) are actually derived numbers from (1) first calculating what the “special benefit” to our property “is” from multiplying the King County Assessor’s assessed valuation for **2018** property improvements (“Bldgs” on Exhibit 8 - \$1,254,000) times a certain percentage (0.0074), and then (2) calculating what the “before” market value would be if you determine the value that would result if the derived “special benefit” were 0.75 percent of the market value. Then (3) the “after” value is calculated by adding the “special benefit” number to the “before” market value number.

The math of this ABS “methodology” for stating the purported “Special Benefit” and “Market Value Without LID” and “Market Value With LID” for our property (PIN # 2382001180) on page 38 of the ABS spreadsheets (Exhibit 7) is shown below:

(1) $\$1,254,00 \times 0.0074 = \$9,340.69$ (“Special Benefit”)

(2) $\$9,340.69 \div 0.0075 = \$1,245,425.33$ (“Market Value Without LID”)

(3) $\$1,245,425.33 + \$9,340.69 = \$1,254,766.02$ (“Market Value With LID”)

2. ABS assessment calculation from that “methodology” for **2018**

The ABS “Total Assessment” column on page 38 of its spreadsheets based on **2018** numbers is then calculated by (4) multiplying the “Special Benefit” number times 0.3918219. (See page 9 of Exhibit 6 where ABS states that it multiplies the “special benefit” by 0.39 ±.)

The math of this derived 2018 “Total Assessment” is shown below:

(4) $\$9,340.69 \times 0.3918219 = \$3,659.89$ (“Total Assessment”)

3. ABS “methodology” using parallel **2019** King County Assessor’s numbers

Applying the above ABS “methodology” to parallel King County assessment valuation of property improvements (“Bldgs” on Exhibit 8) for **2019** would involve (5) multiplying the 2019 assessment for building improvements of \$1,049,800 times 0.0074 to get a “special benefit” and then (6) multiplying that “special benefit” number times 0.3918219 to derive the “total assessment.” The math based on 2019 King County numbers is as follows:

(5) $\$1,049,800 \times 0.0074 = \$7,768.52$ (“Special Benefit”)

(6) $\$7,768.52 \times 0.3918219 = \$3,043.88$ (“Total Assessment”)

1
2 **BEFORE THE CITY COUNCIL**
3 **CITY OF SEATTLE**
4
5
6

FILED
CITY OF SEATTLE

20 SEP 22 PM 3:25

CITY CLERK

7 **SEATTLE WATERFRONT LID**

CWF-0171

8 **APPEAL FROM THE FINDINGS**
9 **AND RECOMMENDATION**
10 **OF THE HEARING EXAMINER**
11

12 **INTRODUCTION**
13

14 The Hearing Examiner issued his Findings and Recommendation (“*F&R*”) on over 400 objections to the Waterfront LID on September 8, 2020. He recommended that the Council deny our objections in case CWF-0171. *F&R*, at 47-48. From that recommendation and the Hearing Examiner’s underlying findings, we appeal.

19 Objectors and appellants here, Joni H. Ostergaard and William H. Patton, are owners of a downtown condominium within the LID assessment area. Our address is 1920 4th Avenue, Unit 1208, Seattle, WA 98101-5112. Our King County Parcel ID # is 2382001180.

23 We timely filed written objections the proposed final assessment in the Waterfront LID (Seattle LID No. 6751) on January 28, 2020, including 9 attached exhibits. We were then assigned the case number CWF-0171 on February 4, 2020, when we signed up to provide oral testimony before the Hearing Examiner. We then appeared in person before the Hearing Examiner on February 11, 2020 where we testified for over an hour regarding our objections and introduced an additional

1 8 exhibits in support of those objections. At the end of in-person testimony (then
2 conducted remotely by Zoom connections as a result of the Covid-19 restrictions)
3 we cross-examined the City's valuation expert, Robert Macaulay, on June 25,
4 2020, and the City's Director of the Office of the Waterfront, Marshall Foster, on
5 June 26, 2020. At the end of Mr. Foster's cross, we entered an additional 9th
6 exhibit, a tape recording of a portion of the City Council Committee on Civic
7 Development, Public Assets and Native Communities' hearing on the proposed
8 Waterfront LID on May 16, 2018. At the conclusion of all testimony before the
9 Hearing Examiner, we submitted a Closing Argument on July 7, 2020.

10
11 APPEAL FROM THE HEARING EXAMINER'S
12 FINDINGS AND RECOMMENDATON
13

- 14 **1. The Waterfront Park LID is founded on a fundamentally flawed and**
15 **unlawful purpose as the primary purpose of the proposed Waterfront**
16 **Park is to benefit the public at large, though it may incidentally benefit**
17 **nearby property.**
18

19 The Hearing Examiner failed to directly address this fundamental argument
20 when he recommended denying our appeal. *F&R*, at 47-48. This is an odd
21 aversion, as we made it a central part of our initial filing on January 23, a central of
22 our oral testimony on February 11, a central part of our cross examination of
23 Marshall Foster on June 26 and a central part of our Closing Argument submission
24 on July 7, 2020. Perhaps that lapse can be explained by the large number of
25 objectors with which he was confronted.

26 Whatever the reason, the Hearing Examiner did – in a way – address similar
27 arguments made by other objectors in Section B 7 of his Findings. *F&R*, at 112.
But, in doing so, the Hearing Examiner created and then rejected an artificial

1 strawman. He claims that the objectors' argument is that **no** special benefit
2 whatsoever is provided to local properties. But that is neither the argument nor the
3 conclusion from the case law he cites. Any public park is assumed to create some
4 measure of benefit to adjacent property. That is not the issue. The central question
5 is: What is the **primary purpose** of the park?

6 It is plain from the City's own documents that the **primary purpose** of the
7 proposed Waterfront Park is for the benefit of members of the whole community,
8 and not primarily for the benefit of those properties that are adjacent to or
9 tangentially proximate to the proposed park.

10 The City resolution setting forth the funding principles of the proposed park
11 established the guiding principles of the Waterfront Park to be:

12
13 creating a **public asset** that **engages the entire city**, remains **focused**
14 **on public uses** and activities that attract people from all walks of life
15 and provides a '**waterfront for all.**'

16
17 Resolution 31768, Section 1, pp. 3-4; CWF-0171 Ex. 2, 01/28/2020 written
18 submission (emphasis added; quotation marks in original).

19 The City's ordinances forming the Waterfront LID and establishing
20 management principles with Friends of Waterfront Seattle likewise emphasized the
21 primary purpose of the Waterfront Park is to benefit the **entire** city by creating a
22 **public asset**. Attachment D to Ordinance 125761, signed by the Mayor on January
23 28, 2019, set out the "Central Waterfront Guiding Principles." (Ordinance 125761
24 is cited in the twelfth bullet of Ex. C-2.) The **first** principle is to:

25
26 1. Create a Waterfront for All.

27 The waterfront should **engage the entire city**. It is a **public asset** and
should remain focused on public use and activities that attract

1 people from all walks of life. **It should be a place for locals and**
2 **visitors alike – a place where everything comes together and**
3 **commingles effortlessly.** The process for **developing a waterfront**
4 **design should, in fact must, draw on the talents and dreams of the**
5 **entire city.** The resulting public spaces and surrounding development
6 will engage us through a range of activities throughout the day and
7 year.

8
9 (Emphasis added; underlining in original.)

10 On cross examination on June 26, 2020, Marshall Foster, Director of the
11 City’s Office of the Waterfront, succinctly summarized the primary purpose of the
12 proposed Waterfront Park:

13
14 **Q. So what is the primary purpose of the park?**

15 A. It's to provide public space to serve the city and the region.
16

17 (Cross of Marshall Foster by Will Patton, 06/26/2020, Tr. 57: 9-11.)

18 It is patently obvious, then, that the City’s proposed Waterfront Park is
19 primarily being developed for the benefit of the entire community. It is neither
20 conceived nor designed to be primarily for the benefit of adjacent or nearby
21 properties, with only incidental benefits to the public at large. Accordingly,
22 Waterfront Park is **not** a local improvement, and the LID should be annulled. *City*
23 *of Seattle v. Rogers Clothing for Men, Inc.*, 114 Wn.2d 213, 226 (1990).

24 In *Rogers Clothing*, the Washington Supreme Court upheld the validity of
25 Seattle’s assessments for a “Marketing Program” and a “Common Area
26 Maintenance Program” against businesses in the downtown Business Improvement
27 Area because these programs were primarily designed to provide special benefits

1 to those businesses, even though there could be ancillary benefits to the public at
2 large visiting that Business Improvement Area. *Id.* at 226. However, the Supreme
3 Court also noted that if the reverse were true, the creation of a local improvement
4 district would be invalid.

5
6 Laws recognize a distinction between public improvements
7 which benefit the entire community, and those local in their nature
8 which benefit particular real property or limited areas. . . . A local
9 improvement is a public improvement which, although it may
10 incidentally benefit the public at large, is made primarily for the
11 accommodation and convenience of the inhabitants of a particular
12 locality, and which is of such a nature as to confer a special benefit
13 upon the real property adjoining or near the improvement. **On the**
14 **other hand, if its primary purpose and effect are to benefit the**
15 **public, it is not a local improvement, although it may incidentally**
16 **benefit property in a particular locality.**

17
18 *Id.* (emphasis added).

19
20 This quotation from *Rogers Clothing* is set out on page 66 of the *Local and*
21 *Road Improvement Districts Manual for Washington State*, Sixth Edition (CWF-
22 0171, Ex 2, 02/11/2020), so the City's appraiser (as well as the Hearing Examiner)
23 should have been aware of that standard. Robert Macaulay, however, ignored this
24 primary principle of a local improvement district when he calculated special
25 benefits for the Waterfront Park LID, just as he did in ignoring oversized sewer
26 system issues when he calculated special benefits that were annulled in *Hasit, LLC*
27 *v. The City of Edgewood*, 179 Wn. App. 917 (2014). His job, as he saw it here, and
in other special benefit studies, was simply to calculate special benefits, regardless

1 of the context. As Mr. Macaulay testified on cross examination, he was only
2 focused on determining the special benefits to any properties in an LID, and did
3 not look at, measure, or care about general benefits that could indeed eclipse those
4 special benefits:

5 **Q. So let's begin with the general issue of specific benefits.**
6 **So your charge, as I understand it, was to do a special benefit**
7 **study for the special benefits of this six-element waterfront park;**
8 **is that right?**

9 A. That's correct.

10 **Q. And you ignored any discussion or any valuation of**
11 **general benefits surrounding that park?**

12 A. My job is to estimate special benefits -- excuse me, general
13 benefit, is to estimate special benefit, which is anything measurable in
14 the market before and after the improvements.

15 **Q. So you didn't take account in your study of any general**
16 **benefit to people in Seattle?**

17 A. No, it's not part of the scope of my study.

18 (Cross of Robert Macaulay by Vic Moses, 06/25/2020, Tr. 177:6-20.)

19 **Q. Well, do you think people go to Ocean Shores**
20 **from Tacoma for the purpose of enjoying the sewer LID?**

21 A. Well, they go to Ocean Shores to vacation. You know, it
22 obviously benefitted -- it's measurably benefitted the residents that it
23 impacted rather than -- in my relation to market value. That's what I
24 was considering in that case, as I would in any other special benefit
25 case.

26 **Q. So cite the example you used of a project that's not yet**
27 **built and maybe three or four years out in Pasco. That's a road**
28 **project; is that right?**

29 A. That's correct.

30 **Q. Okay. Again, in -- people go to Pasco to enjoy the roads**
31 **that will be developed in that project?**

1 A. Sure. And my job -- my job then is to estimate the
2 measurable benefit of property that -- that measurably increases in
3 value from the construction of that road. Not the public at large. And
4 not the general benefits and public at large.

5 (Cross of Robert Macaulay by Will Patton, 06/25/2020, Tr. 181:1-19)

6 This “head in the sand” approach that Mr. Macaulay takes to measuring
7 special benefits may arguably be appropriate for a vest pocket park, such as the
8 Urban Triangle Park on Westlake in Seattle. (CWF-0171, Ex. 3, 02/11/2020;
9 attached to this Appeal as **Exhibit A.**) The City itself notes in its description of
10 that park that it is not designed as a destination park for the whole city – as well as
11 others in the region – but rather, “This project redevelops the previous Enterprise
12 Car Rental site into park land that will serve the downtown businesses and
13 residences.” (Exhibit A at 2.) Yet even that small, urban park – with specified local
14 beneficiaries – was not funded by an LID.

15 However, when identifying comparable park projects to Seattle’s proposed
16 Waterfront Park, Macaulay chose to highlight six projects in other cities each of
17 whose primary purpose is to benefit the general public. Those six public park
18 projects are: (1) Tom McCall Waterfront Park, Portland, OR; (2) Rose Kennedy
19 Greenway, Boston, MA; (3) Hudson River Park, New York, NY; (4) The
20 Embarcadero, San Francisco, CA; (5) Millennium Park, Chicago, IL; and (6) False
21 Creek Conceptual Plan/Stanley Park, Vancouver, BC. (Ex C-17, pp. 155–162.)
22 Indeed, the project touted by the City as being a significant source of data because
23 of its many similarities to the Waterfront Park in Seattle was the San Francisco
24 Embarcadero project. (City’s Brief, 26:4-7.) But, in describing the Embarcadero
25 in the ABS final report, Macaulay notes that “The Embarcadero is a well-studied
26 **public benefit project....**” (Ex. C-17, p. 159; emphasis added.)

27 On cross, Macaulay could not show that a local improvement district method
of funding was employed in any one of these six comparable examples, including

1 the Embarcadero in San Francisco. (See Cross of Robert Macaulay by Will Patton,
2 06/26/2020, Tr. 194:17–195:12.) He could not, because each of these comparable
3 projects were major park projects designed primarily for the general benefit of the
4 public in each instance, and for which LID funding would be inappropriate. In
5 fact, LID funding for any one of those comparable park projects in other cities – as
6 well as for Waterfront Park in Seattle – would be unlawful in Washington under
7 the principles enunciated by the Washington Supreme Court in *Rogers Clothing*.

8
9 **2. Creating the Waterfront LID was the City’s quid pro quo for getting**
10 **private donations from Friends of Waterfront Seattle. Thus, the**
11 **Waterfront LID is based on a fundamentally flawed and unlawful basis,**
12 **as it is the product of a bribe.**

13
14 **A. The Hearing Examiner’s avoidance of this issue by claiming**
15 **jurisdictional prohibition is wrong.**
16

17 First it should be noted that the Hearing Examiner identified, but then
18 “ducked” this issue. “Objectors also raised issues not within the jurisdiction of the
19 Hearing Examiner to address in the context of a special assessment hearing (e.g.
20 violations of the Open Public Meetings Act, the LID is a quid pro quo for getting
21 private donations).” *F&R*, at 47-48. The Hearing Examiner, however, is mistaken
22 in claiming jurisdictional prohibition.

23 Apparently, the Hearing Examiner adopted the City’s lawyers’ view that this
24 quid pro quo issue, among other fundamental issues, must be taken up separately in
25 court. But they are both wrong.

26 The City lawyers contend that arguments regarding the validity of the
27 Waterfront LID, its formation, etc., are irrelevant in this proceeding as those
arguments must instead be brought only in a lawsuit. City’s Brief in Support of

1 Final Assessment Roll, June 26, 2020 (“City’s Brief”) at 9-11. Citing RCW
2 35.43.100 and RCW 35.44.100, the City essentially tells objectors to “get lost”
3 with those arguments.

4 The two statutes cited by the City lawyers, however, are both timing statutes.
5 They require either a lawsuit (RCW 35.43.100) or an objection (RCW 35.44.100)
6 to be filed within certain time requirements. The case the City lawyers use to
7 buttress their interpretation of those statutes likewise addresses a timing issue.
8 *Little Deli Marts, Inc. v. The City of Kent*, 108 Wn. App. 1 (2001), involved a
9 belated challenge to the City of Kent’s LID assessment for a road improvement
10 brought by Little Deli Marts after the time had passed both for bringing a lawsuit
11 and for objecting to the assessment role. In contrast, the objectors in this case,
12 CWF-0171, filed their written objections on January 28, 2020 – within the time
13 period allowed by the City for objections.

14 The principle that an objector may challenge the basic underpinnings of an
15 LID ordinance in the course of objecting to a city’s assessment pursuant to RCW
16 35.44 was upheld by the Court of Appeals in *Hasit, LLC v. The City of Edgewood*,
17 *supra*. In *Hasit*, the Court annulled the special assessments against the challenging
18 property owners, not only because of procedural errors made by Edgewood in
19 creating a sewer LID, but also because the city had calculated the assessments on a
20 “fundamentally wrong” basis. The fundamentally wrong basis for the “mass
21 appraisal” done by Robert Macaulay on behalf of Edgewood was the fact that
22 Macaulay’s apportionment attempted to charge the objecting property owners with
23 the cost of building a sewer system larger than required to serve those properties.
24 *Id.* at 938.

25 The successful challenge to the fundamental basis of Edgewood’s LID by the
26 *Hasit* objectors was pursued through objection to the assessment roll under the
27 procedures set out in RCW 35.44 as is the case with the objections in this
proceeding. The *Hasit* court did not throw out the objector challenges because

1 they had not brought a separate lawsuit under RCW 35.43. Indeed, the *Hasit* court
2 explicitly stated that after a hearing and review by the city council, a decision of
3 the city council may be appealed to superior court and “The court may ‘correct
4 change, modify, or annul the assessment insofar as it affects the property of the
5 appellant’ if it finds from the evidence that the ‘assessment is founded upon a
6 fundamentally wrong basis and/or the decision of the council ... was arbitrary or
7 capricious.” *Id.* at 934 (citing RCW 35.44.250). Further, the *Hasit* court noted
8 that “Courts may also annul an assessment if imposed through an unconstitutional
9 procedure.” *Id.* at 935 (citing *Pratt v. Water Dist. No. 79*, 58 Wn.2d 420 (1961)).

10 Moreover, Philip Trautman, a frequently cited authority on the assessment
11 process in Washington, notes that “questions relating to whether an improvement
12 constitutes a general or special benefit ... are to be raised at the subsequent hearing
13 on the assessment roll.” Philip A. Trautman, *Assessments in Washington*, 40
14 Wash. L. Rev. 100, 112 (1965); (CWF-0171, Ex. 1, 02/11/2020).

15
16 **B. The City created the Waterfront LID is an unlawful quid pro quo**
17 **for getting private funding from Friends of the Waterfront Seattle.**
18

19 The basic quid pro quo for the City’s receipt of private funding from Friends
20 of Waterfront Seattle is set out in Section 4 of Seattle Resolution 31768, passed by
21 the City Council on September 11, 2017, and signed by the Mayor on September
22 12, 2017:

23
24 **The City and Friends [of Waterfront Seattle] recognize that**
25 **philanthropy and the LID leverage each other and that funding**
26 **milestones for each other are mutually reinforcing.** Friends’
27 fundraising efforts to date have confirmed that Friends’ ability to meet
the overall goal for philanthropic support **depends upon . . .**

1 confidence that the Central Waterfront capital improvements will be
2 funded as described in Section 2 above, **including the funding**
3 **identified in the Funding Plan to be provided by the LID**
4

5 (CWF-0171, Ex 2, pp. 5-6, written submission 01/28/2020; emphasis added.)
6

7 Apparently, the City seeks to deny this express quid pro quo. Marshall
8 Foster was asked on direct by the City's attorney "And was the City's receipt of
9 the philanthropic funds from Friends of the Waterfront contingent on the City
10 creating a LID?" (06/18/2020, Tr. 41:20-22.) Mr. Foster's answer was "No, not as
11 I understand it." (06/18/2020, Tr. 41:23.)

12 Mr. Foster, however, is either lying or has somehow misunderstood what is
13 has been clearly stated in both City resolution and in testimony by the chair of
14 Friends of Waterfront Seattle. In the course of cross examination of Mr. Foster on
15 June 26, he was shown a video tape of a presentation by Maggie Walker, Chair of
16 the Board of Waterfront Seattle, before the Seattle City Council Committee on
17 Civic Development, Public Assets and Native Communities on Wednesday, May
18 16, 2018. (06/26/2020, Tr. 58:7.) That video tape shows that contributions from
19 Friends of Waterfront Seattle were indeed contingent on the formation of the LID.

20 The video tape was admitted as CWF-0171, Ex 9. (06/26/2020, Tr. 59:17.)
21 However, the transcript of the cross examination did not include the content of the
22 video tape. To make up for this written deficit, a transcription of Ms. Walker's
23 presentation is attached here as **Exhibit B**. In her testimony, Ms. Walker—who
24 was sitting right next to Marshall Foster at the Council Committee table—leaves
25 no doubt that philanthropic gifts from Friends of Waterfront Seattle were
26 contingent on the LID. Twice, she explicitly says that the funds are "**contingent**"
27 upon passage and formation of the LID.

1 In the first explicit statement of contingency, Ms. Walker testified as
2 follows:

3
4 So, we have a goal of raising \$100 million, which we committed to in
5 an MOU with the City in September, I believe it was – is that correct?
6 [Marshall Foster responds: “It is.”] **So, that was accepted, and it**
7 **was contingent on the passage of the LID for \$200 million as well.**
8

9 (Emphasis added.)
10

11 The reference to an “MOU” may seem somewhat confusing as the City has
12 produced no MOU with Friends of Waterfront Seattle, but it appears from Ms.
13 Walker’s statement – and Mr. Foster’s agreement with that statement – that the
14 reference to an “MOU” is really a reference to Seattle Resolution 31768 cited
15 above. That resolution was passed in September 2017, as Ms. Walker correctly
16 recalls, and it formally adopted the quid pro quo – trading philanthropy from
17 Friends in exchange for the City creating an LID. The fact that Resolution 31768
18 is what is actually meant by “MOU” is further evidenced by Ms. Walker’s
19 immediately preceding statement that “From the very beginning our plan was to
20 leverage the support from property owners downtown to create an opportunity for
21 folks within the region to give significant philanthropic gifts toward this iconic
22 downtown project.” This same concept—and indeed the same phrasing—was
23 formally adopted in Resolution 31768 as noted above: “The City and Friends [of
24 Waterfront Seattle] recognize that philanthropy and the LID leverage each other
25 and that funding milestones for each other are mutually reinforcing.”
26

27 In the second explicit statement of contingency, Ms. Walker testified:

1 So, we had agreed to have \$25 million in hand by September, and we
2 have exceeded our goal and will continue to fundraise. But we do not
3 have certainty around this project, and as you might imagine that adds
4 a little bit of excitement to the prospect of raising money from
5 philanthropists. **So, much of this money is contingent upon the**
6 **formation of the LID.**

7
8 (Emphasis added.)

9
10 In sum, the “philanthropy” from Friends did not come for nothing. The
11 exchange of money from Friends in trade for the City creating an LID is, in
12 essence, a bribe. In legal parlance, however, a quid pro quo payment (a bribe) to a
13 city as a whole rather than an individual councilmember is termed an “unlawful
14 delegation of legislative powers.” By accepting the quid pro quo offer in which
15 “gifts” from Friends were contingent on the City formally acting to form an LID,
16 so that downtown property owners – as opposed to all city taxpayers – are forced
17 to pay for a large part of the Waterfront Park costs, the City Council and Mayor
18 unlawfully delegated their legislative prerogatives and powers to Friends. Under
19 Washington law, “[i]t is unconstitutional for [a legislative body] to abdicate or
20 transfer its legislative function to others.” *Keeting v. Public Util. Dist. No. 1*, 49
21 Wn.2d 761, 767 (1957). In addition, the quid pro quo bargain with Friends
22 requiring the City to create a downtown LID in exchange for “philanthropic”
23 payments from Friends may also be a violation of federal law by targeting the
24 property of a particular subset of citizens “under color of law” in violation of 42
25 U.S.C. § 1983.

1 **3. The ABS assessments of Escala condos were based on derived values**
2 **and were created before or on May 9, 2018 – the wrong year. They are**
3 **therefore invalid. Minimally, an adjustment to the proposed assessment**
4 **against our condominium identified in CWF-0171 must be calculated**
5 **based on lower 2019 values.**

6
7 **A. The Hearing Examiner correctly notes the standard of review for**
8 **challenging a valuation report for which the City contracted does**
9 **not require expert testimony.**

10
11 The Hearing Examiner ends his discussion of the standard of review by
12 finding that, despite the City lawyers' argument that expert testimony is required to
13 rebut the valuation report for which the City contracted, all valuation evidence
14 should be accepted. *F&R*, at 109. Indeed, the *Hasit* case cited by the City's
15 lawyers for the proposition that expert testimony is required to rebut the City's
16 expert stands for the opposite. "[N]either precedent nor the plain meaning of the
17 passage from *Cammack* imply the requirements that (1) the challenging party
18 present the [expert] evidence, (2) the expert evidence be 'appraisal evidence,' or
19 (3) that a party claiming disproportionate assessment 'must' support the claim with
20 such evidence." *Hasit v. The City of Edgewood, supra*, 179 Wn. App at 946.

21 Accordingly, evidence presented by testimony of an objector, or analysis of
22 the City's contracted valuation report by an objector – or any other "non expert" –
23 is valid. Because the City sits as a "board of equalization" thus also means that a
24 heightened presumption of correctness carried by a "fundamentally wrong basis
25 and arbitrary and capricious standards . . . would afford unwarranted deference to a
26 report prepared under contract by a private appraisal firm." *Hasit*, 179 Wn. App. at
27 949.

1 **B. Analysis of the ABS Valuation report itself, together with its**
2 **author's testimony, shows that it is fatally flawed.**
3

4 The ABS final study, dated November 18, 2019, states that the "Valuation
5 Date" date for assessing the special benefit values of all the properties in the LID
6 area is October 1, 2019. (Ex. C-17, p.1.) Incredibly, however, the "before" and
7 "after" values as well as the "special benefit" value for our Escala condominium
8 (set forth on the second line of the spreadsheet at Ex. C-17, p. 65) are exactly the
9 same as the spreadsheet numbers that the Valbridge preliminary valuation
10 produced on May 9, 2018. (Ex C-15, p. 49, line 27.) In fact, this exact duplication
11 of the preliminary 2018 values is true for all condos in the Escala building on the
12 spreadsheets contained in the final ABS report. For ease of comparison, the Escala
13 spreadsheets from the Valbridge preliminary report, dated May 9, 2018 (Ex C-15,
14 pp. 47-51) are attached here as **Exhibit C**, and the Escala spreadsheets from the
15 ABS final report dated November 18, 2019 (Ex C-17, pp. 63-67) are attached as
16 **Exhibit D**.

17 Not only are all the value and assessment numbers the same for each of the
18 Escala condos on the May 9, 2018 preliminary analysis and on the October 1, 2019
19 final analysis, but the "tiers" of condos with identical "before" values track exactly
20 the tiers of identical property assessments in the May 9, 2018 preliminary report.
21 For example, the \$1,245,425 "before" value of our condominium and the derived
22 "special benefit" and "after" value on line 2 of Ex. C-17, p. 65 – and on line 27 of
23 Ex C-15, p. 49 – is identical to eight other condos on pages 64-65 of Ex. C-17.
24 Those nine identically assessed condos, including ours, are tax id numbers
25 2382001000, 2382001030, 2382001060, 2382001090, 2382001120, 2382001150,
26 2382001180, 2382001210, and 2382001240. Each of those nine condos in this
27 "tier" has the identical "before" and "after" values on both the Valbridge
preliminary study and on the ABS final study. For Mr. Macaulay to contend that

1 identical numbers in his Escala calculations would be “just coincidence”
2 (06/25/2020, Tr. 203:16) cannot be believed.

3 Neither Robert Macaulay nor Mary Hamel explained how they arrived at
4 these Escala condo values on or before May 9, 2018 – the date of the Valbridge
5 preliminary report. But what is clear is that values are derived, or contrived,
6 numbers and not the product of parcel-by-parcel assessment. By a process of
7 “reverse engineering” it becomes clear that the “before” value for each condo is
8 not based on an individual assessment, but rather is mathematically derived based
9 on the next lowest tier of condos. The “before” values that are assigned to each of
10 the identical “tiers” of Escala condos in the Valbridge preliminary study (and
11 reprinted in the ABS final study) have virtually the same mathematical relationship
12 to one another. For example, the \$1,245,425 “before” value of the nine-condo tier
13 in which our condo is included is a derived number from the next lower tier of
14 condo units with the same square footage. The next lower tier of 1607 square feet
15 Escala condos listed on spreadsheet Ex. C-17, p. 64, is a group of sixteen condos
16 with the identical “before” value of \$1,205,250. If one multiplies \$1,205,250 by
17 1.03333333 the product is \$1,245,425 – the exact “before” value of our nine-
18 member tier of condos. Similarly, the “before” value of our next-door neighbors’
19 condo listed on line 1 of Ex. C-17, p. 65 is \$737,800. That “before” value is
20 derived in the same way from the “before” value assigned to the next lower tier of
21 condos with the same 952 square feet footprint. That next lower tier has a “before”
22 value designated by ABS of \$714,000. Multiply \$714,00 by the same
23 1.033333333 multiplier and the product is \$737,800 – the exact “before” value of
24 our next-door neighbors’ condo in the next higher tier.

25 Taking each of these three factors together – (1) the October 1, 2019
26 “before,” “after,” and “special benefit” values for Escala condos are identical to the
27 May 9, 2018 values in the Valbridge preliminary report; (2) the tiers of identically
valued condos in the Valbridge preliminary report track exactly the same tiers of

1 identically valued condos in the ABS final report; and (3) the “before” values of
2 each tier of condos is a derived number from the next lower tier by employing the
3 same mathematical equation – the claim that each of the condo values is the result
4 of a parcel-by-parcel analysis and that identical numbers are merely coincidental
5 must be rejected out of hand.

6 So, what is to be done? It is obvious that ABS spent no effort whatsoever on
7 figuring out a “before” value for any Escala condo as of the purported “Valuation
8 Date” of October 1, 2019. ABS simply imported wholesale the exact “before,”
9 “after,” and “special benefit” numbers from the May 9, 2018 Valbridge
10 preliminary study. No attempt at all was made to update those May 2018
11 calculations or to examine any market changes that might have affected them.
12 Those 2018 values stand encased in concrete. The statement by Mr. Macaulay that
13 “We -- we were finalizing the numbers we needed to have -- when we finalize the
14 report, we need to have the most current Assessor's data available” is laughable.

15 (Cross of Robert Macaulay by Will Patton, 06/25/2020, Tr. 203:23—204:2)

16 Had Macaulay actually looked at the most current King County Assessors
17 data available to him, he would have found that the value of our condominium –
18 along with others in our building -- **declined** in 2019. A printout from the King
19 County Assessor’s office submitted as Exhibit 7 in our testimony of February 11,
20 2020 and attached here as **Exhibit E**, shows that dramatic decline. As shown on
21 the King County “Official Property Valuation Notice” postcard for 2019
22 (submitted as Exhibit 8 to our written objection of January 23, 2020), the reduced
23 valuation for 2109 was mailed to us – and available to ABS – on August 1, 2019, a
24 full two months before the October 1, 2019 “valuation date.”

25 This dramatic evidence from the King County Assessor’s office cannot just
26 blithely be cast aside as meaningless. Even though expert evidence is not required
27 to make these objections, if the King County Assessor is not an expert in “mass
appraisal,” who is? Indeed, that expertise is acknowledged in Washington Law. As

1 the *Hasit* court noted, “A board of equalization presumes the value used by the
2 county assessor to be correct, unless overcome by clear, cogent, and convincing
3 evidence. WAC 458-14-046(4).” *Hasit*, 179 Wn. App. at 949, emphasis added.

4 Indeed, the ABS Valuation itself reports the decline of downtown
5 condominium values in 2019. Pages C-17 218 and 219 are attached as **Exhibit F**
6 demonstrating ABS’s own knowledge of the decrease in values of downtown
7 condominiums in 2019. Yet, the ABS Valuation report makes no attempt to
8 explain the effect of a declining market for condos on its “before” values for
9 condos in October 2019. Those condo values remained exactly the same as it
10 determined them to be in May 2018. Accordingly, the ABS assessment of our
11 condo in 2019 should be rejected in its entirety and the entire assessment annulled.
12 That 2019 assessment is founded on a fundamentally wrong basis – a guess as to a
13 “before” market value that was generated almost a year and a half prior. Not only
14 were the numbers just taken wholesale from a preliminary report, but they were
15 imported into a report where the “Valuation Date” was established well after the
16 onset of a declining market for condos in Seattle. “An assessment is founded on a
17 fundamentally wrong basis where the method of assessment or the procedures used
18 by the city involve ‘some error..., the nature of which is so fundamental as to
19 necessitate a nullification of the entire LID, as opposed to a modification of the
20 assessment as to a particular property.” *Hasit*, 179 Wn. App. at 934, citing
21 *Abbenhaus v. City of Yakima*, 89 Wn.2d 855, 859 (1978).

22 Moreover, the ABS October 1, 2019 values don’t meet basic standards
23 established by the Washington Supreme Court in *Bellevue Plaza, Inc. v. City of*
24 *Bellevue*, 121 Wn.2d 397 (1993). In *Bellevue Plaza* the Supreme Court rejected
25 the assessments against Bellevue Plaza both because the City appraisal did not
26 differentiate any supposed special benefit from general market conditions in the
27 City, and because there was no actual evidence from any seller or purchaser that
the price was higher because of the LID road improvements. *Id.* at 404-407. Here,

1 ABS made no analysis of the effect of a declining market for Seattle condos in
2 2019. Nor did ABS have any actual evidence from any seller or purchaser of a
3 condo that the price was higher as of October 1, 2019 because of the Waterfront
4 LID improvements. Obviously, ABS could not show any such sales, because it
5 just relied on and imported value estimates made nearly a year and a half before in
6 its preliminary report. Additionally, it was inappropriate for ABS to consider the
7 six elements of the proposed Waterfront Park as a whole in calculating its “before”
8 and “after” condo values when the City had not made an explicit finding that the
9 six LID improvements are to be treated as a single entity, a finding required by
10 RCW 35.43.050.

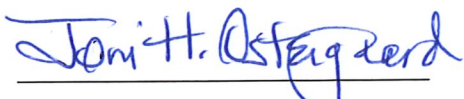
11 Even if the assessment against the CWF-0171 condo is not annulled in its
12 entirety, as it should be, then the assessment should be reduced by the amount
13 calculated in CWF-0171, Ex 9, written objections, 01/28/2020, attached here as
14 **Exhibit G**. The \$1,254,766.02 “Market Value with LID” number calculated by
15 ABC on line 1 of Ex. C-17, p. 65, is nearly identical to the King County Assessor’s
16 valuation for improvements in 2018 of \$1,254,000 shown in CWF-0171, Ex 8,
17 written objections, 01/28/2020. Accordingly, the King County Assessor number
18 can be used as a realistic measure of our condo’s value in 2018. It is not a realistic
19 number, however, for our condo’s value as of the valuation date of October 1,
20 2019. A realistic market value that recognizes the decline in condo values in 2019
21 can be obtained by using the King County Assessor’s reduced assessed valuation
22 of those same improvement in 2019, setting a 2019 value of \$1,049,800.
23 Following the mathematical calculations in CWF-0171, Ex. 9, written objections,
24 01/28/2020, the resulting modified “Special Benefit” would be \$7,768.52, and the
25 “Total Assessment” would be \$3,043.88.


1 CONCLUSION

2 The following actions, at a minimum, should be taken by the City Council
3 based on the above appeal and the testimony, exhibits, and cross examination of
4 the City's witnesses:
5

- 6 1. The Waterfront LID should be annulled because the primary purpose of the
7 proposed Waterfront Park is for public benefit as a "waterfront for all;" its
8 primary purpose is not simply to benefit adjacent or nearby property.
9 2. The Waterfront LID should be annulled because it is founded on a
10 fundamentally wrong basis — a bribe — in which "philanthropic" payments
11 from Friends of Waterfront Seattle are contingent on the City creating a
12 downtown LID.
13 3. The assessments against the condo in CWF-0171 – and all other condos –
14 should be annulled, because the "before" and "after" values were actually
15 calculated by the City's appraiser on or before the May 9, 2018 date of the
16 preliminary study, and then they were just imported wholesale, without
17 modification to reflect the subsequent declining downtown Seattle condo
18 market, into the purported final "Valuation Date" of October 1, 2019.
19 4. If the condo assessments are not annulled in their entirety, then the "special
20 benefit" and "total assessment" should at least be modified for the condo in
21 CWF-0171, as set forth in Exhibit G, to account for the market decline in
22 2019.
23

24 Respectfully submitted this 22nd day of September, 2020.

25 
26 _____
27 Joni H. Ostergaard



William H. Patton

Exhibit A

Urban Triangle Park

(Exhibit 3 to testimony on 02/11/2020)

3 x 3

⚠ Snow Procedures

Seattle Parks and Recreation staff are busy preparing for the potential for snowfall. Click [here](https://parkways.seattle.gov/2020/01/08/seattle-parks-and-recreation-snow-procedures/) (<https://parkways.seattle.gov/2020/01/08/seattle-parks-and-recreation-snow-procedures/>) for information on our snow procedures, including information on potential impacts to facilities and programs in the event of severe weather.

Seattle Parks and Recreation (parks)

Jesús Aguirre, Superintendent



(/) > [Home \(parks\)](#) > [About Us \(parks/about-us\)](#) > [Current Projects \(parks/about-us/current-projects\)](#) ▼

Westlake & Lenora Park Development (Urban Triangle Park)

Updated: November 26, 2019

Fall/Winter 2019

Thank you to everyone who participated in the ribbon cutting celebration!

You can view several photos from the event [here](#) 📷

([Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraCelebrationEventPho](#)

Visit our new park and enjoy the new park and public art. The public art, *Escape Destinations*, displays names of fictional places found in literature, film, television, comics, and games, from the eighth century BC to 2019. Places from works made for children and others from works made for adults. Place names change every day, some instantly recognizable, others may inspire search and discovery.

The park is substantially complete. We are working on the final the review for the custom play structure that references historical structures in this neighborhood. Once it passes final review it will fabricated off-site and installed as soon as possible.

This park has recently been officially named Urban Triangle Park. Seattle Parks and Recreation awarded the construction contract to MidMountain Contractors and construction of this new South Lake Union park began in January 2019. In 2014 we allocated funding to complete the design phase to ensure a seamless and coordinated design with the adjacent properties. Through the design process we created an **updated design** 📄 ([Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraDesignUpdate.pdf](#)) which allowed the park to be coordinated with the adjacent neighborhood development and become a seamless benefit to our urban environment. The

design includes an open lawn, new central play structure, seating edge, lighting, ADA access, places for vendors, landscaping, and other park elements.

Location

Urban Triangle Park (/parks/find/parks/urban-triangle-park), 2100 Westlake Avenue (<http://www.seattle.gov/parks/find/parks?searchType=Name&filterTerm=x97314>)

Budget

Funding for planning and schematic design is provided through city public benefit funds from a nearby street vacation project in the amount of \$150,000.

Seattle Park District provides \$2,450,000 for design and construction.

Schedule

Planning: Through May 2014

Design: May 2014 through August 2018

Construction: Early 2019 - Late Summer 2019

Project Description

This project redevelops the previous Enterprise Car Rental site into park land that will serve the downtown businesses and residences. In 2008, SPR purchased the 8,722 square foot property at 2100 Westlake Avenue for a new neighborhood park in the Denny Triangle Urban Center Village. It may include lighting, seating, landscaping, ADA access, places for vendors, and other park elements. It will be designed to have a seamless transition between the park and the adjacent tower development. Collaboration, on grading; circulation; materials, between the Parks Department team and the tower design team for areas within the alley which is being vacated, will occur at the schematic design stage.

History

Spring/Summer 2014

Seattle Parks is starting the design process for a new park in the Denny Triangle Urban Village Center. In April, 2014, \$150,000 was allocated to start the design process for a new park at Westlake and Lenora. This is a land banked site being held in its current condition until funds become available for development.

An alley exists between the park property and the adjacent tower development site. Parks is working with the adjacent developer to vacate the alley and bring mutual benefit to both parties. The adjacent development is currently being designed, so it's important for the design of the park to begin. We're excited to have Site Workshop, a local landscape architecture firm, lead the park design.

In order to ensure a seamless and coordinated design where the two properties meet, the park will be envisioned to a schematic level with special attention to grades and access within the alley. This will allow all parties to move forward informed and lay the groundwork for future park development.

Acquisition

On December 31, 2008 Seattle Parks purchased the 8,722 square foot property at 2100 Westlake Avenue for a new neighborhood park in the Denny Triangle Urban Center Village. King County approved \$900,000 to \$1 million in matching funds through the Conservation Futures Tax towards this acquisition.

Community Participation

Early Site Plan Design [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraSchematic.pdf)

Westlake Lenora Design Update 12/2017 [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraDesignUpdate.pdf)

Download the celebration event poster 9/4/2019 [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/WestlakeLenoraCelebrationPoster_20190904.pdf)

Public Meeting #1 5/20/2014

- 5/20/2014 Presentation [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/presentation_design_concepts_20140520.pdf)

- Survey Summary [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/survey_summary_20140603.pdf)

- 5/20/2014 Meeting Notes [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/notes_20140520.pdf)

Public Meeting #2 6/17/2014

- 6/17/2014 Presentation [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/presentation_boards_20140617.pdf)

- 6/17/2014 Meeting Notes [↗](#)

(Documents/Departments/ParksAndRecreation/Projects/WestlakeLenora/notes_20140617.pdf)

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Address: [Mailing](#)

(<http://www.facebook.com/pages/Seattle-Washington-Health-Plan/118151561418156>) (<http://www.seattlebanks.com>)

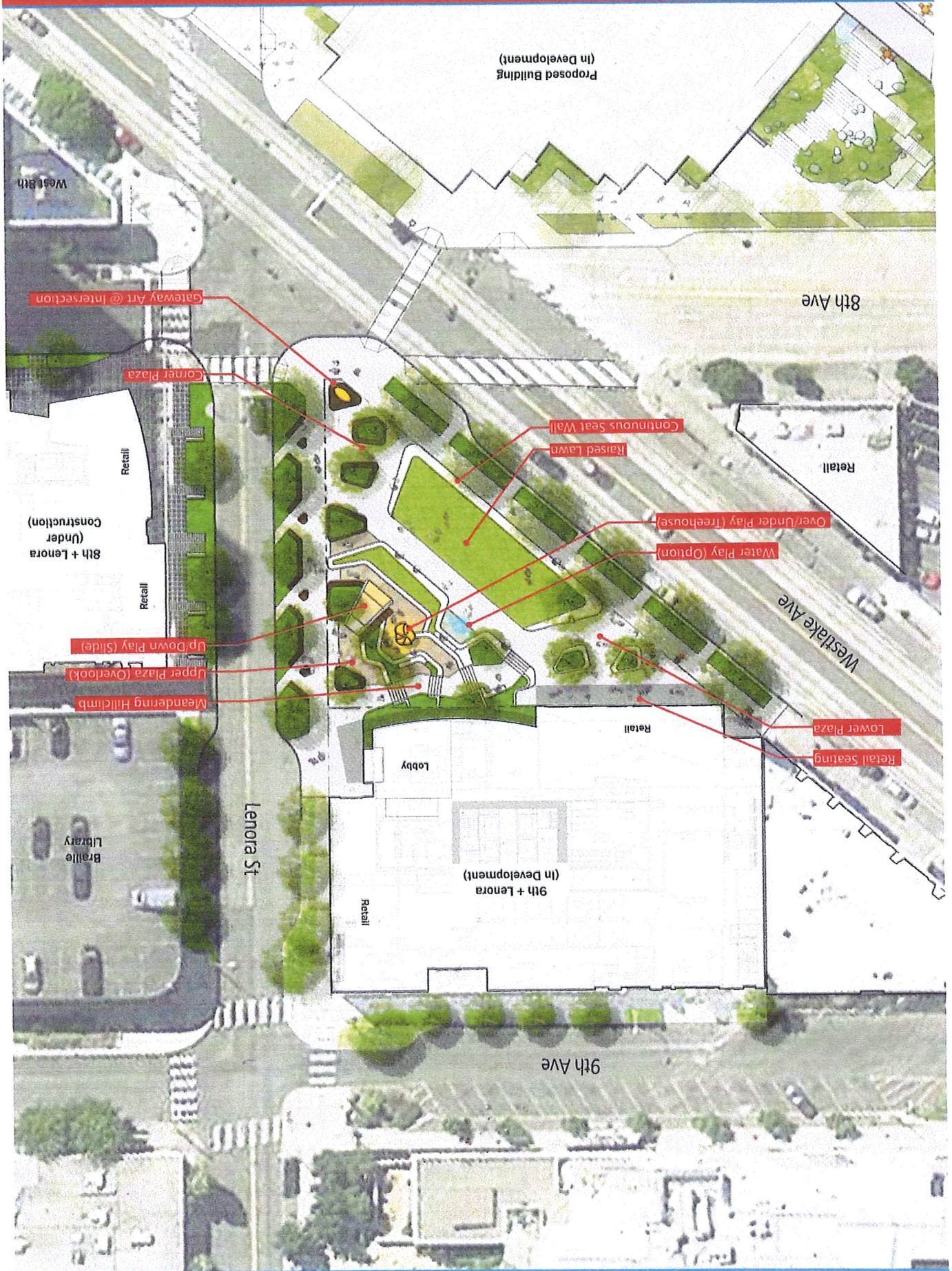
Services & Information (services-and-information)

5. Find a Community Center
(<http://www.seattle.gov/parks/centers.asp>)

Seattle Parks and Recreation promotes healthy people, a healthy environment, and strong communities.

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11/15/2020

Exhibit B

Presentation of Maggie Walker to Seattle City Council

Committee on Civic Development, Public Assets

and Native Communities

May 16, 2018

Testimony of Maggie Walker, Co-Chair of the Central Waterfront Committee and Chair of the Board of Friends of Waterfront Seattle (sitting next to Marshall Foster)

Seattle City Council Committee on Civic Development, Public Assets and Native Communities

Wednesday, May 16, 2018

"The Friends of Waterfront Seattle was created about six years ago as the stewardship partner to the project which was started about ten years ago under Mayor Nickels.

"We have taken it upon ourselves to make sure that this project has significant philanthropic funding. **From the very beginning our plan was to leverage the support from property owners downtown to create an opportunity for folks within the region to give significant philanthropic gifts toward this iconic downtown project.**

"So, we have a goal of raising \$100 million, which we committed to in an MOU with the City in September, I believe it was – is that correct? [Marshall Foster responds: "It is."] **So, that was accepted, and it was contingent on the passage of the LID for \$200 million as well.**

"So, we agreed that there would be a series of benchmarks; that we would have to have pledges in hand for everything to continue to move forward. So, to date, we have raised \$28.8 million towards this project, and that is from a number of donors who have great faith that this is a project that will change the face of the City and who are willing -- and they do not necessarily live in the City, they live in the region – but they believe in the vision of this project and that this is the moment that we need to do it. We have the opportunity to make a huge difference in our City.

"So, we had agreed to have \$25 million in hand by September, and we have exceeded our goal and will continue to fundraise. But we do not have certainty around this project, and as you might imagine that adds a little bit of excitement to the prospect of raising money from philanthropists. **So, much of this money is contingent upon the formation of the LID.**

"So, it's very unusual for people to contribute to a public project but it is a model that works in a lot of other cities, and it's one that we have tried to formulate, particularly around this project."

(Emphasis added.)

Exhibit C

Escala spreadsheets from the

Valbridge Preliminary Report

May 9, 2018

(City's Ex. C-15, pages 47-51)

Waterfront Seattle Formation Special Benefit Study

Residential Condominiums with Associated Retail Units

ID Map Number	King Co. Property Tax ID	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area / SF	Gross Building Area / SF	Net Building Area / SF	Highest and Best Use Without LID	Market Value Without LID	Highest and Best Use With LID	Market Value With LID	Special Benefit	Special Benefits % Change	Total Preliminary Assessment
C-077-288	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	JONES DAVID & CHUCK VIGIL	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-289	745720 2940	Seattle	ROYAL CREST CONDOMINIUM	LACIVITA LERMIT	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-290	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	TALTON JON P+SUSAN M	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-291	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	SECRETARY OF HOUSING & URB	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-292	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	RAINIER LIVING LLC	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-293	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	BOICE FORDINAND	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-294	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	MEXTINK WYNNE	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-295	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	SHAFER ROBERT J	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-296	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	UNATA STEPHEN DALE JACK MIC	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-297	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	GOLDSMITH LISA J GARY M	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-298	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	SCHREDE WILLIAM H WU SANDY	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-299	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	VOIT DONALD E	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-300	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	NOGLES JENNIFER E	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-301	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	LEIC JOHN T TERRY D	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-302	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	DELOACH LANTON NORA	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-303	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	PERSON RONALD E NARESSA	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-304	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	THOMAS JEFFERY A	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-305	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	COUTCHER JOHN S	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-306	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	MITCHELL JAMES ALAN E	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-307	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	MITCHELL JOHN PAURIE M	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-308	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	SAVOINI VIVIAN & ADRIANO	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-309	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	SAVOINI VIVIAN & ADRIANO	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-310	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	EVENSEN TERRY K RONALD G	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-311	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	FLUGEL LATHI L	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-312	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	CINCOTTA JOHN A	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-313	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	MUNAKATA HIROO K KURO	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-314	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	BOYCE FERDINAND D CLARANNE	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-315	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	RAMIRO LUCILA	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-316	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	HATT DOUGLAS ARLO-CHRISTIE	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-317	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	M N CHAN FAMILY LLC	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-318	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	RISBERG ASA	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-319	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	RINEHART ANITA C	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-320	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	ROYAL CREST CONDOMINIUMS	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-321	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	ROYAL CREST CONDOMINIUMS	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-322	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	GOLDSMITH LISA J GARY M	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-323	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	WANG WIN & JACRU	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-324	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	NICHOLSON JOANNA	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-077-325	745720 2950	Seattle	ROYAL CREST CONDOMINIUM	CARLTON LYNN	2100 3RD AVE	DMR/R 145/65	150,480	150,480	-	MULTI-FAMILY DWELLING	\$1,005	MULTI-FAMILY DWELLING	\$1,005	\$5	0.50%	\$0
C-098	238200 0000	Seattle	ESCALA CONDOMINIUM	ALACE PROPERTIES LLC	1920 4TH AVE	DMR/R 145/65	25,432	391,324	4,248	MULTI-FAMILY DWELLING	\$1,794,424	MULTI-FAMILY DWELLING	\$1,794,424	\$5,124	0.28%	\$0
C-098-001	238200 0010	Seattle	ESCALA CONDOMINIUM	ESCALA 2C SEATTLE LLC	1920 4TH AVE	DMR/R 145/65	391,324	391,324	5,085	MULTI-FAMILY DWELLING	\$2,129,900	MULTI-FAMILY DWELLING	\$2,129,900	\$18,104	0.85%	\$0
C-098-002	238200 0020	Seattle	ESCALA CONDOMINIUM	CHASE MATTHEW I-ANNE M	1920 4TH AVE	DMR/R 145/65	391,324	391,324	952	MULTI-FAMILY DWELLING	\$666,400	MULTI-FAMILY DWELLING	\$666,400	\$4,998	0.75%	\$0
C-098-003	238200 0030	Seattle	ESCALA CONDOMINIUM	WENDEL JAMES H-WEINBERG ME	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-004	238200 0040	Seattle	ESCALA CONDOMINIUM	MCELL DERRICK JOSEPH	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-005	238200 0050	Seattle	ESCALA CONDOMINIUM	YU GONGYU-WEI FANG	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-006	238200 0060	Seattle	ESCALA CONDOMINIUM	NORSWORTHY RENE L	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-007	238200 0070	Seattle	ESCALA CONDOMINIUM	HARRIS ALEXANDRA-LUCCHESI B	1920 4TH AVE	DMR/R 145/65	391,324	391,324	952	MULTI-FAMILY DWELLING	\$666,400	MULTI-FAMILY DWELLING	\$666,400	\$4,998	0.75%	\$0
C-098-008	238200 0080	Seattle	ESCALA CONDOMINIUM	KAPOR KARAN-SEEMA A	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-009	238200 0090	Seattle	ESCALA CONDOMINIUM	HARPER ANDREW W	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-010	238200 0100	Seattle	ESCALA CONDOMINIUM	PASHA ASIM-SABAH	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-011	238200 0110	Seattle	ESCALA CONDOMINIUM	NADER MAYA	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-012	238200 0120	Seattle	ESCALA CONDOMINIUM	MUELLER ROBERT A-FERIHAN DE	1920 4TH AVE	DMR/R 145/65	391,324	391,324	952	MULTI-FAMILY DWELLING	\$666,400	MULTI-FAMILY DWELLING	\$666,400	\$4,998	0.75%	\$0
C-098-013	238200 0130	Seattle	ESCALA CONDOMINIUM	TRACY JOSEPH MARK	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-014	238200 0140	Seattle	ESCALA CONDOMINIUM	SINGER STEVEN R	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-015	238200 0150	Seattle	ESCALA CONDOMINIUM	HUGHES MARY F	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-016	238200 0160	Seattle	ESCALA CONDOMINIUM	HANSEN LYSA-CULLY GARY	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-017	238200 0170	Seattle	ESCALA CONDOMINIUM	DENTON SUSAN H -TRUSTEE	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-018	238200 0180	Seattle	ESCALA CONDOMINIUM	YANG REX JR	1920 4TH AVE	DMR/R 145/65	391,324	391,324	952	MULTI-FAMILY DWELLING	\$666,400	MULTI-FAMILY DWELLING	\$666,400	\$4,998	0.75%	\$0
C-098-019	238200 0190	Seattle	ESCALA CONDOMINIUM	CHANG ALBERT C S	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-020	238200 0200	Seattle	ESCALA CONDOMINIUM	SPURLIN JEREMY-JESSICA WHIT	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-021	238200 0210	Seattle	ESCALA CONDOMINIUM	SQUIRE DAVID -THRYANT KELLY	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	\$0
C-098-022	238200 0220	Seattle	ESCALA CONDOMINIUM	HENRY DARON-NAM I LEE	1920 4TH AVE	DMR/R 145/65	391,324	391,324	910	MULTI-FAMILY DWELLING	\$637,000	MULTI-FAMILY DWELLING	\$637,000	\$4,778	0.75%	\$0
C-098-023	238200 0230	Seattle	ESCALA CONDOMINIUM	LEE FRANK	1920 4TH AVE	DMR/R 145/65	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,124,900	MULTI-FAMILY DWELLING	\$1,124,900	\$6,437	0.75%	

Waterfront Seattle Formation Special Benefit Study
Residential Condominiums with Associated Retail Units

UD Map Number	King Co. Prop. Tax ID	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/ SF	Gross Building Area/ SF	Net Building Area/ SF	Highest and Best Use Without LID	Market Value Without LID	Highest and Best Use With LID	Market Value With LID	Special Benefit	Special Benefit % Change	Total Preliminary Assessment
C-109-027	238200 0270	Seattle	ESCALA CONDOMINIUM	WEAVER WENDY L	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-028	238200 0280	Seattle	ESCALA CONDOMINIUM	KING MARTIN J+MARY E	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-029	238200 0290	Seattle	ESCALA CONDOMINIUM	JOHANSEN JOHN F	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$693,750	MULTI-FAMILY DWELLING	\$664,698	\$4,948	0.75%	\$0
C-109-030	238200 0300	Seattle	ESCALA CONDOMINIUM	SMITH JOHN F	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$693,750	MULTI-FAMILY DWELLING	\$664,698	\$4,948	0.75%	\$0
C-109-031	238200 0310	Seattle	ESCALA CONDOMINIUM	OSTERWINTER MARCUS H	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-032	238200 0320	Seattle	ESCALA CONDOMINIUM	LESHINSKY YAN	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-033	238200 0330	Seattle	ESCALA CONDOMINIUM	MURPHY GREGORY SCOTT +TTEE	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-034	238200 0340	Seattle	ESCALA CONDOMINIUM	SHREINER DAVID EDGAR	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-035	238200 0350	Seattle	ESCALA CONDOMINIUM	ICKOVITZ ABIGAIL L	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$693,750	MULTI-FAMILY DWELLING	\$664,698	\$4,948	0.75%	\$0
C-109-036	238200 0360	Seattle	ESCALA CONDOMINIUM	COE SAMUEL BHAREN L	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-037	238200 0370	Seattle	ESCALA CONDOMINIUM	COLWICK ANNE+HARBOUR MICHAEL	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-038	238200 0380	Seattle	ESCALA CONDOMINIUM	CAREY GEORGE+CHING LIM NG	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-039	238200 0390	Seattle	ESCALA CONDOMINIUM	HESF FAMILY TRUST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-040	238200 0400	Seattle	ESCALA CONDOMINIUM	SHENK GENE	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-041	238200 0410	Seattle	ESCALA CONDOMINIUM	LODE RODRIGO	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$693,750	MULTI-FAMILY DWELLING	\$664,698	\$4,948	0.75%	\$0
C-109-042	238200 0420	Seattle	ESCALA CONDOMINIUM	HAYES ASHLEY J +MICHAEL MA	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-043	238200 0430	Seattle	ESCALA CONDOMINIUM	RAEWSKI JOSEPH W III	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-044	238200 0440	Seattle	ESCALA CONDOMINIUM	SCHEER STEPHAN	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-045	238200 0450	Seattle	ESCALA CONDOMINIUM	HUA SEAN XIANG	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-046	238200 0460	Seattle	ESCALA CONDOMINIUM	GONZALEZ OLIVER VALLO-ANDR	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	910	MULTI-FAMILY DWELLING	\$693,750	MULTI-FAMILY DWELLING	\$664,698	\$4,948	0.75%	\$0
C-109-047	238200 0470	Seattle	ESCALA CONDOMINIUM	BRAGESHPOUR KIRAN V	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-048	238200 0480	Seattle	ESCALA CONDOMINIUM	LE ANDREW T	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-049	238200 0490	Seattle	ESCALA CONDOMINIUM	MICHAEL ASHUR R+ANNETTE S E	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-050	238200 0500	Seattle	ESCALA CONDOMINIUM	GHESIN YELINA	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-051	238200 0510	Seattle	ESCALA CONDOMINIUM	HALET MELISSA B	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-052	238200 0520	Seattle	ESCALA CONDOMINIUM	KOU MING BIN+ FUNG SHU-ET	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-053	238200 0530	Seattle	ESCALA CONDOMINIUM	BUCHANAN PATRICK K	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-054	238200 0540	Seattle	ESCALA CONDOMINIUM	ACHARYA BHANU G+CHAREN J	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-055	238200 0550	Seattle	ESCALA CONDOMINIUM	PHILLIPS BRIAN G+CHAREN J	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-056	238200 0560	Seattle	ESCALA CONDOMINIUM	MICHAEL ANNETTE	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-057	238200 0570	Seattle	ESCALA CONDOMINIUM	DUNCAN ROBERT W+GEORGIA C	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-058	238200 0580	Seattle	ESCALA CONDOMINIUM	PANG XIAOMING	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-059	238200 0590	Seattle	ESCALA CONDOMINIUM	STERN CHRISTOPHER	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-060	238200 0600	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-061	238200 0610	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-062	238200 0620	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-063	238200 0630	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-064	238200 0640	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-065	238200 0650	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-066	238200 0660	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-067	238200 0670	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-068	238200 0680	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-069	238200 0690	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-070	238200 0700	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-071	238200 0710	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-072	238200 0720	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-073	238200 0730	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-074	238200 0740	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-075	238200 0750	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-076	238200 0760	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-077	238200 0770	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-078	238200 0780	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-079	238200 0790	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-080	238200 0800	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-081	238200 0810	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-082	238200 0820	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-083	238200 0830	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-FAMILY DWELLING	\$1,185,075	MULTI-FAMILY DWELLING	\$1,173,813	\$8,788	0.75%	\$0
C-109-084	238200 0840	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	952	MULTI-FAMILY DWELLING	\$690,200	MULTI-FAMILY DWELLING	\$695,377	\$5,177	0.75%	\$0
C-109-085	238200 0850	Seattle	ESCALA CONDOMINIUM	STERN ERNEST	1920 4TH AVE	DDC2 300/300-550	391,324	391,324	1,607	MULTI-F						

Waterfront Seattle Formation Special Benefit Study
Residential Condominiums with Associated Retail Units

UD Map Number	King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/ Building Area/ SF	Gross Building Area/ SF	Net Building Area/ SF	Highest and Best Use Without UD	Market Value Without UD	Highest and Best Use With UD	Market Value With UD	Special Benefit	Special Benefit % Change	Total Preliminary Assessment
C-109-092	238200 0920	Seattle	ESCALA CONDOMINIUM	KENZIE JUSTIN W	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$714,355	\$5,355	0.75%	\$0
C-109-093	238200 0930	Seattle	ESCALA CONDOMINIUM	DAMMEN PETER	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$714,355	\$5,355	0.75%	\$0
C-109-094	238200 0940	Seattle	ESCALA CONDOMINIUM	ROEGER JOYCE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-095	238200 0950	Seattle	ESCALA CONDOMINIUM	FINEZA CHRISTINA JOSE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-096	238200 0960	Seattle	ESCALA CONDOMINIUM	TAN DEREK	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-097	238200 0970	Seattle	ESCALA CONDOMINIUM	KWOWA FARHAN S	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-098	238200 0980	Seattle	ESCALA CONDOMINIUM	HOLUR MARK	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-099	238200 0990	Seattle	ESCALA CONDOMINIUM	VEGAN ASSOCIATES LLC	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-100	238200 1000	Seattle	ESCALA CONDOMINIUM	BIGELOW BRADLEY	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-101	238200 1010	Seattle	ESCALA CONDOMINIUM	AL-YOUNG DAVID	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-102	238200 1020	Seattle	ESCALA CONDOMINIUM	SEDLER CHRISTOPHER W-DANA	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-103	238200 1030	Seattle	ESCALA CONDOMINIUM	KUTZNER MICHAEL	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-104	238200 1040	Seattle	ESCALA CONDOMINIUM	GRENIER DAVID R	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-105	238200 1050	Seattle	ESCALA CONDOMINIUM	REVES BROOKE-RYAN	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-106	238200 1060	Seattle	ESCALA CONDOMINIUM	BLANCO DANIE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-107	238200 1070	Seattle	ESCALA CONDOMINIUM	CHOU MONTE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-108	238200 1080	Seattle	ESCALA CONDOMINIUM	WANDERLUSTENTERPRISES COW L	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-109	238200 1090	Seattle	ESCALA CONDOMINIUM	SCHOPP JAMES H-CHON THIA W	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-110	238200 1100	Seattle	ESCALA CONDOMINIUM	XE DORA Y-JOHN Z YE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-111	238200 1110	Seattle	ESCALA CONDOMINIUM	PROVENZANO CHRISTIAN M-GREE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-112	238200 1120	Seattle	ESCALA CONDOMINIUM	RIESEL GARY-YUCCA	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-113	238200 1130	Seattle	ESCALA CONDOMINIUM	PIERANTOZZI ANDREA L-CRAG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-114	238200 1140	Seattle	ESCALA CONDOMINIUM	YUE BROWN K-LINDA M	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-115	238200 1150	Seattle	ESCALA CONDOMINIUM	WASHBURN LANCE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-116	238200 1160	Seattle	ESCALA CONDOMINIUM	OSTERGAARD JONI H-WILLIAM H	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-117	238200 1170	Seattle	ESCALA CONDOMINIUM	UANG ZI-CHONG-HUANG YATUAN	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-118	238200 1180	Seattle	ESCALA CONDOMINIUM	ZHOU CHU	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-119	238200 1190	Seattle	ESCALA CONDOMINIUM	WISDORF MELODY ANDERSON	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-120	238200 1200	Seattle	ESCALA CONDOMINIUM	COMAIR CHRISTOPHER	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-121	238200 1210	Seattle	ESCALA CONDOMINIUM	MCEDOWN KEVIN P	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-122	238200 1220	Seattle	ESCALA CONDOMINIUM	HIRSCHBERG RICHARD DANIEL	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-123	238200 1230	Seattle	ESCALA CONDOMINIUM	SCHWARTZ JAKE H	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-124	238200 1240	Seattle	ESCALA CONDOMINIUM	WONG KATHERINE SHIU YUE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-125	238200 1250	Seattle	ESCALA CONDOMINIUM	HOLM TIMOTHY-KIM ANNA HOLM	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-126	238200 1260	Seattle	ESCALA CONDOMINIUM	BRADDOCK LORNE SCOTT	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-127	238200 1270	Seattle	ESCALA CONDOMINIUM	CORRELL DANIE P	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-128	238200 1280	Seattle	ESCALA CONDOMINIUM	JOYNER BARBARA	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-129	238200 1290	Seattle	ESCALA CONDOMINIUM	BUTLER JEFFREY M	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-130	238200 1300	Seattle	ESCALA CONDOMINIUM	ARANGO KAREN	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-131	238200 1310	Seattle	ESCALA CONDOMINIUM	TANGEN KRISTOFFER W-SUZANNE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-132	238200 1320	Seattle	ESCALA CONDOMINIUM	GREENE KIRK P	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-133	238200 1330	Seattle	ESCALA CONDOMINIUM	LEE RYUNG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-134	238200 1340	Seattle	ESCALA CONDOMINIUM	MAGLE RON-SCHMITT BETSY	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-135	238200 1350	Seattle	ESCALA CONDOMINIUM	RY MICHAEL W-SUSAN M TRUS	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-136	238200 1360	Seattle	ESCALA CONDOMINIUM	LUTHER LEBER-ANDREAS	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-137	238200 1370	Seattle	ESCALA CONDOMINIUM	BERIA KATHLEEN-FRANK J	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-138	238200 1380	Seattle	ESCALA CONDOMINIUM	INGRID TING-NIEN	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-139	238200 1390	Seattle	ESCALA CONDOMINIUM	SHIN JENGSIK-WYUNGDOOK	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-140	238200 1400	Seattle	ESCALA CONDOMINIUM	CHRETTIE DAVID MCINTOSH K	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-141	238200 1410	Seattle	ESCALA CONDOMINIUM	MELLINGER STEVEN A	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-142	238200 1420	Seattle	ESCALA CONDOMINIUM	DO DIA	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-143	238200 1430	Seattle	ESCALA CONDOMINIUM	BEETON BEVERLY	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-144	238200 1440	Seattle	ESCALA CONDOMINIUM	FORMAN PAUL	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-145	238200 1450	Seattle	ESCALA CONDOMINIUM	WANG JIAN QING-HUI JIANG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619	\$5,119	0.75%	\$0
C-109-146	238200 1460	Seattle	ESCALA CONDOMINIUM	WANG MAOYING	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-147	238200 1470	Seattle	ESCALA CONDOMINIUM	GOELTZ THOMAS A	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-148	238200 1480	Seattle	ESCALA CONDOMINIUM	GOELTZ THOMAS A	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	952	MULTI-FAMILY DWELLING	\$714,000	MULTI-FAMILY DWELLING	\$712,355	\$1,645	0.23%	\$0
C-109-149	238200 1490	Seattle	ESCALA CONDOMINIUM	COOPER CHARLES PETER-STEPHA	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,285,250	MULTI-FAMILY DWELLING	\$1,284,289	\$9,961	0.75%	\$0
C-109-150	238200 1500	Seattle	ESCALA CONDOMINIUM	PIRUM FRANK DAVID	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	910	MULTI-FAMILY DWELLING	\$682,500	MULTI-FAMILY DWELLING	\$687,619</			

Waterfront Seattle Formation Special Benefit Study
Residential Condominiums with Associated Retail Units

LD Map Number	King Co. Parcel ID	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/ SF	Gross Building Area/ SF	Net Building Area/ SF	Highest and Best Use Without LD	Market Value Without LD	Highest and Best Use With LD	Market Value With LD	Special Benefit	Special Benefits % Change	Total Preliminary Assessment
C-109-157	238200 1570	Seattle	ESCALA CONDOMINIUM	CHEN JIANDEYI FANG DENG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,282,600	MULTI-FAMILY DWELLING	\$1,285,242	\$9,642	0.75%	\$0
C-109-158	238200 1580	Seattle	ESCALA CONDOMINIUM	BA YU XIN-YIM YICK FUNG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$761,600	MULTI-FAMILY DWELLING	\$761,600	\$0	0.75%	\$0
C-109-159	238200 1590	Seattle	ESCALA CONDOMINIUM	SALAZAR-RUBIO SOFIA-SALAZAR	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$809,200	MULTI-FAMILY DWELLING	\$809,200	\$0	0.75%	\$0
C-109-160	238200 1600	Seattle	ESCALA CONDOMINIUM	PHILLIPS STEVEN P-SUSAN D	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-161	238200 1610	Seattle	ESCALA CONDOMINIUM	MOORTHY YOUNG P-SUSAN D	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$775,500	MULTI-FAMILY DWELLING	\$775,500	\$0	0.75%	\$0
C-109-162	238200 1620	Seattle	ESCALA CONDOMINIUM	LEE JIANMIN JAE KIM	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,376,195	MULTI-FAMILY DWELLING	\$1,376,195	\$0	0.75%	\$0
C-109-163	238200 1630	Seattle	ESCALA CONDOMINIUM	APPELT SHARON ROTTEN DARRE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-164	238200 1640	Seattle	ESCALA CONDOMINIUM	ELSTON LADONNIS	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$785,400	\$0	0.75%	\$0
C-109-165	238200 1650	Seattle	ESCALA CONDOMINIUM	MCCENTRE KIP-LARRY K II	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$785,400	\$0	0.75%	\$0
C-109-166	238200 1660	Seattle	ESCALA CONDOMINIUM	ROBINSON SIMON	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,325,775	\$0	0.75%	\$0
C-109-167	238200 1670	Seattle	ESCALA CONDOMINIUM	HSUEH ALBERT JOHN	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$749,750	MULTI-FAMILY DWELLING	\$749,750	\$0	0.75%	\$0
C-109-168	238200 1680	Seattle	ESCALA CONDOMINIUM	WIEBER NINA M	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,325,775	\$0	0.75%	\$0
C-109-169	238200 1690	Seattle	ESCALA CONDOMINIUM	MCCLEAREN WILLIAM K-EMILY M	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$785,400	\$0	0.75%	\$0
C-109-170	238200 1700	Seattle	ESCALA CONDOMINIUM	ROH GRACE YOUNG-JEFFREY S	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$809,200	MULTI-FAMILY DWELLING	\$809,200	\$0	0.75%	\$0
C-109-171	238200 1710	Seattle	ESCALA CONDOMINIUM	HEWLETT ANTHONY L-VICKI K	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-172	238200 1720	Seattle	ESCALA CONDOMINIUM	SEMONS GARY M-HANN M J UN	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$775,500	MULTI-FAMILY DWELLING	\$775,500	\$0	0.75%	\$0
C-109-173	238200 1730	Seattle	ESCALA CONDOMINIUM	LIBRARI JIM	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$775,500	MULTI-FAMILY DWELLING	\$775,500	\$0	0.75%	\$0
C-109-174	238200 1740	Seattle	ESCALA CONDOMINIUM	SWOPE MICHAEL L-YONG A	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-175	238200 1750	Seattle	ESCALA CONDOMINIUM	FERZL YOUSSEF	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$809,200	MULTI-FAMILY DWELLING	\$809,200	\$0	0.75%	\$0
C-109-176	238200 1760	Seattle	ESCALA CONDOMINIUM	SAVIERIS F GRANT F-HORRIT M	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,325,775	\$0	0.75%	\$0
C-109-177	238200 1770	Seattle	ESCALA CONDOMINIUM	ALSDORF JEFFREY	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$785,400	\$0	0.75%	\$0
C-109-178	238200 1780	Seattle	ESCALA CONDOMINIUM	WU WEN CHIEH	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,325,775	\$0	0.75%	\$0
C-109-179	238200 1790	Seattle	ESCALA CONDOMINIUM	ROBERTS STEPHEN D	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$749,750	MULTI-FAMILY DWELLING	\$749,750	\$0	0.75%	\$0
C-109-180	238200 1800	Seattle	ESCALA CONDOMINIUM	RHODES HAMEL ROBERT JR-SYDNEY	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,325,775	\$0	0.75%	\$0
C-109-181	238200 1810	Seattle	ESCALA CONDOMINIUM	OTNESS VICKI	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$809,200	MULTI-FAMILY DWELLING	\$809,200	\$0	0.75%	\$0
C-109-182	238200 1820	Seattle	ESCALA CONDOMINIUM	JENNER INTERNATIONAL CORP	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-183	238200 1830	Seattle	ESCALA CONDOMINIUM	WATSON A G-WART E	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$775,500	MULTI-FAMILY DWELLING	\$775,500	\$0	0.75%	\$0
C-109-184	238200 1840	Seattle	ESCALA CONDOMINIUM	SHENG KUANG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$775,500	MULTI-FAMILY DWELLING	\$775,500	\$0	0.75%	\$0
C-109-185	238200 1850	Seattle	ESCALA CONDOMINIUM	MOORE DANIEL W-PEECE CARTER	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-186	238200 1860	Seattle	ESCALA CONDOMINIUM	ABRAMS DALE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$809,200	MULTI-FAMILY DWELLING	\$809,200	\$0	0.75%	\$0
C-109-187	238200 1870	Seattle	ESCALA CONDOMINIUM	MARSHING ELLIOT JOSHUA	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,325,775	\$0	0.75%	\$0
C-109-188	238200 1880	Seattle	ESCALA CONDOMINIUM	O CONNOR CONWAY	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$785,400	\$0	0.75%	\$0
C-109-189	238200 1890	Seattle	ESCALA CONDOMINIUM	YE ANDY	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$775,500	MULTI-FAMILY DWELLING	\$775,500	\$0	0.75%	\$0
C-109-190	238200 1900	Seattle	ESCALA CONDOMINIUM	REISNER FIBER W-MATTHEW+DEORE	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,325,775	\$0	0.75%	\$0
C-109-191	238200 1910	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$785,400	MULTI-FAMILY DWELLING	\$785,400	\$0	0.75%	\$0
C-109-192	238200 1920	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-193	238200 1930	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-194	238200 1940	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-195	238200 1950	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-196	238200 1960	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-197	238200 1970	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-198	238200 1980	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-199	238200 1990	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-200	238200 2000	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-201	238200 2010	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-202	238200 2020	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-203	238200 2030	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-204	238200 2040	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-205	238200 2050	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-206	238200 2060	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-207	238200 2070	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-208	238200 2080	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-209	238200 2090	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-210	238200 2100	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-211	238200 2110	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-212	238200 2120	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-213	238200 2130	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-214	238200 2140	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-215	238200 2150	Seattle	ESCALA CONDOMINIUM	NG CHIEH-FENFIEB HONG	1920 4TH AVE	DOC2 500/300-550	391.324	391.324	1,607	MULTI-FAMILY DWELLING	\$1,365,950	MULTI-FAMILY DWELLING	\$1,365,950	\$0	0.75%	\$0
C-109-216	238200 2160	Seattle	ESCALA CONDOMINIUM	NG												

Waterfront Seattle Formation Special Benefit Study
Residential Condominiums with Associated Retail Units

LD Map Number	King Co. Property Tax ID Link	County	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/ SF	Gross Building Area/ SF	Net Building Area/ SF	Highest and Best Use Without LD	Market Value Without LD	Highest and Best Use With LD	Market Value With LD	Special Benefit	Special Benefit % Change	Total Preliminary Assessment
C-109-222	238200 2220	King	ESCALA CONDOMINIUM	YENTER STEVEN RAY+TINA R	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,405,125	MULTI-FAMILY DWELLING	\$1,415,671	\$10,546	0.75%	\$0
C-109-223	238200 2230	King	ESCALA CONDOMINIUM	ANDREWS EDWIN	1920 4TH AVE	DOC2 300/300-550	391,324	1,955	1,955	MULTI-FAMILY DWELLING	\$1,710,625	MULTI-FAMILY DWELLING	\$1,725,455	\$12,830	0.75%	\$0
C-109-224	238200 2240	King	ESCALA CONDOMINIUM	SMITH JANET K	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-225	238200 2250	King	ESCALA CONDOMINIUM	PAIRE GEOFFREY S	1920 4TH AVE	DOC2 300/300-550	391,324	1,878	1,878	MULTI-FAMILY DWELLING	\$1,549,350	MULTI-FAMILY DWELLING	\$1,560,970	\$11,620	0.75%	\$0
C-109-226	238200 2260	King	ESCALA CONDOMINIUM	SOSNOWY JOHN+PATRICIA L	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,325,775	MULTI-FAMILY DWELLING	\$1,335,718	\$9,943	0.75%	\$0
C-109-227	238200 2270	King	ESCALA CONDOMINIUM	BEHAR HOWARD + LYNN	1920 4TH AVE	DOC2 300/300-550	391,324	4,016	4,016	MULTI-FAMILY DWELLING	\$3,451,200	MULTI-FAMILY DWELLING	\$3,455,718	\$4,518	0.13%	\$0
C-109-228	238200 2280	King	ESCALA CONDOMINIUM	YALCH RICHARD F+REBECCA P E	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,405,125	MULTI-FAMILY DWELLING	\$1,415,671	\$10,546	0.75%	\$0
C-109-229	238200 2290	King	ESCALA CONDOMINIUM	TARR WALTER L	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,405,125	MULTI-FAMILY DWELLING	\$1,415,671	\$10,546	0.75%	\$0
C-109-230	238200 2300	King	ESCALA CONDOMINIUM	JOYNER BYRON DAVID	1920 4TH AVE	DOC2 300/300-550	391,324	1,955	1,955	MULTI-FAMILY DWELLING	\$1,710,625	MULTI-FAMILY DWELLING	\$1,725,455	\$12,830	0.75%	\$0
C-109-231	238200 2310	King	ESCALA CONDOMINIUM	KAUMPF DONALD L	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-232	238200 2320	King	ESCALA CONDOMINIUM	LOVYO FRANK + VICTORIA	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-233	238200 2330	King	ESCALA CONDOMINIUM	MCDONAMS REBECCA C+HOLLACK C	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-234	238200 2340	King	ESCALA CONDOMINIUM	PAVALUNAS ROBERT M+JUDY D	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-235	238200 2350	King	ESCALA CONDOMINIUM	HEACOX RACINE B+CYNTHIA A H	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-236	238200 2360	King	ESCALA CONDOMINIUM	CHOZEN MICHAEL ALAN+PAMELA	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-237	238200 2370	King	ESCALA CONDOMINIUM	TRENDEL E ROBERTO+CORRY LEE	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-238	238200 2380	King	ESCALA CONDOMINIUM	FUNG ERIC M	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-239	238200 2390	King	ESCALA CONDOMINIUM	MEYER JERRY C+JINNA ZINGALE	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-240	238200 2400	King	ESCALA CONDOMINIUM	RANDLES MERIDETH A+MATTHEW	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-241	238200 2410	King	ESCALA CONDOMINIUM	MEILLO JAMES J	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-242	238200 2420	King	ESCALA CONDOMINIUM	MCCOY MICHAEL E	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-243	238200 2430	King	ESCALA CONDOMINIUM	GARCIA-PALATO PEDRO	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-244	238200 2440	King	ESCALA CONDOMINIUM	KRAH JOHN ENGLAND+RITO ALEX	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-245	238200 2450	King	ESCALA CONDOMINIUM	MCKENZIE TAMEIRA D	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-246	238200 2460	King	ESCALA CONDOMINIUM	RAMAN VIJAYALAKSHMI GADAD	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-247	238200 2470	King	ESCALA CONDOMINIUM	SAVIER GRANT HORRITT	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-248	238200 2480	King	ESCALA CONDOMINIUM	SANDERS CORAZON+MARTIN	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-249	238200 2490	King	ESCALA CONDOMINIUM	CHANDRA NALA SARAT	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-250	238200 2500	King	ESCALA CONDOMINIUM	CROGHAN RAYMOND D+DEBRA R	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-251	238200 2510	King	ESCALA CONDOMINIUM	BENNETT JEFFREY ANTHON+HELI	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-252	238200 2520	King	ESCALA CONDOMINIUM	JUDY RONALD J	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-253	238200 2530	King	ESCALA CONDOMINIUM	AVARIS DOUGLAS DEAN+KALESU	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-254	238200 2540	King	ESCALA CONDOMINIUM	VON GERH GEORGE	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-255	238200 2550	King	ESCALA CONDOMINIUM	UNGER PARK+LOQUITA M R	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-256	238200 2560	King	ESCALA CONDOMINIUM	VANDER SCHALKY GERARDO+JUDITH	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-257	238200 2570	King	ESCALA CONDOMINIUM	SHREVE DONNA K	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-258	238200 2580	King	ESCALA CONDOMINIUM	MURPHY DONNA K	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-259	238200 2590	King	ESCALA CONDOMINIUM	WAGNER BRUCE WALTER	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-260	238200 2600	King	ESCALA CONDOMINIUM	LEACH BRUCE WALTER	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-261	238200 2610	King	ESCALA CONDOMINIUM	ESSEN CYNTHIA S	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-262	238200 2620	King	ESCALA CONDOMINIUM	HALL CYNTHIA A (TRUSTEE)	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-263	238200 2630	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-264	238200 2640	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-265	238200 2650	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-266	238200 2660	King	ESCALA CONDOMINIUM	MALETIS EDWARD+CONTHA	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-267	238200 2670	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-268	238200 2680	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-269	238200 2690	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-270	238200 2700	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-271	238200 2710	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-272	238200 2720	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-273	238200 2730	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-274	238200 2740	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-275	238200 2750	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-276	238200 2760	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-277	238200 2770	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-278	238200 2780	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-279	238200 2790	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE	DOC2 300/300-550	391,324	1,607	1,607	MULTI-FAMILY DWELLING	\$1,252,775	MULTI-FAMILY DWELLING	\$1,265,718	\$9,943	0.75%	\$0
C-109-280	238200 2800	King	ESCALA CONDOMINIUM	STAR 4TH & VIRGINIA LLC	1920 4TH AVE</											

Exhibit D

Escala spreadsheets from the

ABS Final Report

November 18, 2019

(City's Ex. C-17, pages 63-67)

Ex. C-17, Page63

Waterfront Seattle Final Special Benefit Study

Residential Condominiums and Associated Commercial

UD Map Number	King Co. Property Tax ID	County Juris.	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without UD	Market Value Without UD	Highest and Best Use With UD	Market Value With UD	Special Benefit % Change	Special Benefit	Total Assessment	
C-109-001	745720 3140	RealProp	ROYAL CREST CONDOMINIUM	ELY ELIZABETH T	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-002	745720 3140	RealProp	ROYAL CREST CONDOMINIUM	ELY ELIZABETH T	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-003	745720 3140	RealProp	ROYAL CREST CONDOMINIUM	ELY ELIZABETH T	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-004	745720 3140	RealProp	ROYAL CREST CONDOMINIUM	ELY ELIZABETH T	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-005	745720 3140	RealProp	ROYAL CREST CONDOMINIUM	ELY ELIZABETH T	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-006	745720 3170	RealProp	ROYAL CREST CONDOMINIUM	EVENSTEN TERRY KAROLAND G	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-007	745720 3170	RealProp	ROYAL CREST CONDOMINIUM	FLUGEL FAITH L	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-008	745720 3180	RealProp	ROYAL CREST CONDOMINIUM	HE LANGFAR + CHEN GING	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-009	745720 3190	RealProp	ROYAL CREST CONDOMINIUM	MUNAKATA HIROCHIKUO	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-010	745720 3200	RealProp	ROYAL CREST CONDOMINIUM	BOYCE FERDINAND	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-011	745720 3210	RealProp	ROYAL CREST CONDOMINIUM	HEYMANN RAMIRO 3RD AVE	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-012	745720 3220	RealProp	ROYAL CREST CONDOMINIUM	HART DOUGLAS MALCHORCHIE	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-013	745720 3230	RealProp	ROYAL CREST CONDOMINIUM	INVESTMENT LLC	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-014	745720 3240	RealProp	ROYAL CREST CONDOMINIUM	INVESTMENT LLC	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-015	745720 3250	RealProp	ROYAL CREST CONDOMINIUM	INVESTMENT LLC	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-016	745720 3260	RealProp	ROYAL CREST CONDOMINIUM	INVESTMENT LLC	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-017	745720 3270	RealProp	ROYAL CREST CONDOMINIUM	INVESTMENT LLC	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-018	745720 3280	RealProp	ROYAL CREST CONDOMINIUM	ROYAL CREST CONDOMINIUMS	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-019	745720 3290	RealProp	ROYAL CREST CONDOMINIUM	ROYAL CREST CONDOMINIUMS	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-020	745720 3300	RealProp	ROYAL CREST CONDOMINIUM	GOLDSMITH USA + GARY M	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-021	745720 3310	RealProp	ROYAL CREST CONDOMINIUM	WANG VIN + KACRU	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-022	745720 3320	RealProp	ROYAL CREST CONDOMINIUM	PHANG RENHUI	2100 3RD AVE, SEATTLE 98121	DMR/R 145/65	12,968	150,480	0	Parking	\$1,000	Parking	\$1,005	\$5	0.50%	\$5	\$2
C-109-023	745720 3330	RealProp	ROYAL CREST CONDOMINIUM	CHASE MATTHEW + HANNE M	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	9,333	Condominium/Mixed Use	\$666,400	Condominium/Mixed Use	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-024	745720 3340	RealProp	ROYAL CREST CONDOMINIUM	CHASE MATTHEW + HANNE M	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$546,400	Mixed-Use/Residential	\$1,133,337	\$58,937	0.75%	\$58,937	\$3,306
C-109-025	745720 3350	RealProp	ROYAL CREST CONDOMINIUM	WENDELL ANNE HANNEBERG	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-026	745720 3360	RealProp	ROYAL CREST CONDOMINIUM	MCKELL BERNICE JOSEPH	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$637,000	Mixed-Use/Residential	\$1,133,337	\$4,998	0.75%	\$4,998	\$1,958
C-109-027	745720 3370	RealProp	ROYAL CREST CONDOMINIUM	YU GONGYANG + FENG WEI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$637,000	Mixed-Use/Residential	\$1,133,337	\$4,998	0.75%	\$4,998	\$1,958
C-109-028	745720 3380	RealProp	ROYAL CREST CONDOMINIUM	NONWORTHY RENEE L	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-029	745720 3390	RealProp	ROYAL CREST CONDOMINIUM	FAHRAKHANI ALI	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-030	745720 3400	RealProp	ROYAL CREST CONDOMINIUM	KAPOOR KARAN + SEEMA A	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$1,133,337	\$8,437	0.75%	\$8,437	\$3,306
C-109-031	745720 3410	RealProp	ROYAL CREST CONDOMINIUM	HARPER ANDREW W	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-032	745720 3420	RealProp	ROYAL CREST CONDOMINIUM	PASIA ASMA-SABAH	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$637,000	Mixed-Use/Residential	\$1,133,337	\$8,437	0.75%	\$8,437	\$3,306
C-109-033	745720 3430	RealProp	ROYAL CREST CONDOMINIUM	MAGREZ JESSICA	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$637,000	Mixed-Use/Residential	\$1,133,337	\$8,437	0.75%	\$8,437	\$3,306
C-109-034	745720 3440	RealProp	ROYAL CREST CONDOMINIUM	MUELLER ROBERT A-FERHAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-035	745720 3450	RealProp	ROYAL CREST CONDOMINIUM	TRACY JOSEPH MARK	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-036	745720 3460	RealProp	ROYAL CREST CONDOMINIUM	SINGER STEVEN R	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-037	745720 3470	RealProp	ROYAL CREST CONDOMINIUM	HUGHES MARY F	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$637,000	Mixed-Use/Residential	\$1,133,337	\$8,437	0.75%	\$8,437	\$3,306
C-109-038	745720 3480	RealProp	ROYAL CREST CONDOMINIUM	HANSEN VISA-CYLLI GARY	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-039	745720 3490	RealProp	ROYAL CREST CONDOMINIUM	NICOLL CHRISTOPHER W	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-040	745720 3500	RealProp	ROYAL CREST CONDOMINIUM	YANG REX J	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-041	745720 3510	RealProp	ROYAL CREST CONDOMINIUM	CHANG ALBERT C S	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-042	745720 3520	RealProp	ROYAL CREST CONDOMINIUM	SCOTT JESSICA KELLY	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-043	745720 3530	RealProp	ROYAL CREST CONDOMINIUM	SQUIRE DAVID T-BARTNAT K	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-044	745720 3540	RealProp	ROYAL CREST CONDOMINIUM	FRANK DANON-HANI L LEE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,124,900	Mixed-Use/Residential	\$541,778	\$4,778	0.75%	\$4,778	\$1,872
C-109-045	745720 3550	RealProp	ROYAL CREST CONDOMINIUM	LEE RAN	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-046	745720 3560	RealProp	ROYAL CREST CONDOMINIUM	COOK BRANDON AUGUSTUS	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-047	745720 3570	RealProp	ROYAL CREST CONDOMINIUM	WEAVER WENDY L	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-048	745720 3580	RealProp	ROYAL CREST CONDOMINIUM	KING MARTIN J	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-049	745720 3590	RealProp	ROYAL CREST CONDOMINIUM	SMILGIN JOHN F	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-050	745720 3600	RealProp	ROYAL CREST CONDOMINIUM	OSTERWINTER MARCUS H	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-051	745720 3610	RealProp	ROYAL CREST CONDOMINIUM	CHESWATER VANCE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-052	745720 3620	RealProp	ROYAL CREST CONDOMINIUM	SHERRA GENE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-053	745720 3630	RealProp	ROYAL CREST CONDOMINIUM	LODE RODRIGO	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-054	745720 3640	RealProp	ROYAL CREST CONDOMINIUM	SHEKOVITZ ABRAHAM L	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-055	745720 3650	RealProp	ROYAL CREST CONDOMINIUM	COE SAMUEL	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-056	745720 3660	RealProp	ROYAL CREST CONDOMINIUM	CARLEY GEORGE-CHANG LIM NG	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-057	745720 3670	RealProp	ROYAL CREST CONDOMINIUM	SHERRA FAMILY TRUST	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$666,400	Mixed-Use/Residential	\$671,398	\$4,998	0.75%	\$4,998	\$1,958
C-109-058	745720 3680	RealProp	ROYAL CREST CONDOMINIUM	HESS GENE	1920 4TH AVE, SEATTLE 98101	DOCC 500/300-550	25,432	385,548									

Waterfront Seattle Final Special Benefit Study
Residential Condominiums and Associated Commercial

UD Map Number	King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Zoning	Land Area (sq ft)	Gross Building Area (sq ft)	Net Building Area (sq ft)	High and Best Use Without UD	Market Value Without UD	High and Best Use With UD	Market Value With UD	Special Benefit % Charge	Special Benefit	Total Assessment
C-109-050	238200 0500	RealProp	ESCALA CONDOMINIUM	GREEN VELLA B	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$689,200	Mixed-Use/Residential	\$689,377	0.25%	\$5,177	\$2,026
C-109-051	238200 0510	RealProp	ESCALA CONDOMINIUM	HALET WELLSA B	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$714,355	0.25%	\$5,355	\$3,542
C-109-052	238200 0520	RealProp	ESCALA CONDOMINIUM	KO MING BING SHU-ET	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$2,006
C-109-053	238200 0530	RealProp	ESCALA CONDOMINIUM	AN LIU PATRICIA R	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-054	238200 0540	RealProp	ESCALA CONDOMINIUM	PAUQUIST BRIAN G-CAREN J	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-055	238200 0550	RealProp	ESCALA CONDOMINIUM	MICHAEL ANNETTE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-056	238200 0560	RealProp	ESCALA CONDOMINIUM	SULLIVAN THOMAS C	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-057	238200 0570	RealProp	ESCALA CONDOMINIUM	PANG XIAOMING	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-058	238200 0580	RealProp	ESCALA CONDOMINIUM	KEEN CHRISTINA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-059	238200 0590	RealProp	ESCALA CONDOMINIUM	DEI MELINA EWEAVER KELLY B	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-060	238200 0600	RealProp	ESCALA CONDOMINIUM	STERN JOSHUA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-061	238200 0610	RealProp	ESCALA CONDOMINIUM	MERTH ANURUPHA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-062	238200 0620	RealProp	ESCALA CONDOMINIUM	VANESCA ROSALYN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-063	238200 0630	RealProp	ESCALA CONDOMINIUM	CHEN JIN MING	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-064	238200 0640	RealProp	ESCALA CONDOMINIUM	CHEN JIN MING	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-065	238200 0650	RealProp	ESCALA CONDOMINIUM	BRUM FRANK D	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-066	238200 0660	RealProp	ESCALA CONDOMINIUM	GABRIEL JOSEPH WAMARY C	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-067	238200 0670	RealProp	ESCALA CONDOMINIUM	DUVANGIAN ALBERT	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-068	238200 0680	RealProp	ESCALA CONDOMINIUM	HABIB AQIL	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-069	238200 0690	RealProp	ESCALA CONDOMINIUM	BYERS KEITH MICHAEL	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-070	238200 0700	RealProp	ESCALA CONDOMINIUM	PLUT FRANK HELIDA OLIVERIO	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-071	238200 0710	RealProp	ESCALA CONDOMINIUM	LEE SU CHING SALINA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-072	238200 0720	RealProp	ESCALA CONDOMINIUM	KIM ROBERT C	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-073	238200 0730	RealProp	ESCALA CONDOMINIUM	SHUHANAN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-074	238200 0740	RealProp	ESCALA CONDOMINIUM	MCLENNAN WILLIAM KEMIL M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-075	238200 0750	RealProp	ESCALA CONDOMINIUM	PIREST PATRICIA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-076	238200 0760	RealProp	ESCALA CONDOMINIUM	GOLMARVI MAURO	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-077	238200 0770	RealProp	ESCALA CONDOMINIUM	NGOUSTROM INA RICHARD	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-078	238200 0780	RealProp	ESCALA CONDOMINIUM	BRUELES GLEN R & DEBRA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-079	238200 0790	RealProp	ESCALA CONDOMINIUM	CHAN VICTOR PO OH-INDA L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-080	238200 0800	RealProp	ESCALA CONDOMINIUM	OLE DOUGLAS STUART-ALIDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-081	238200 0810	RealProp	ESCALA CONDOMINIUM	KUNG LUCHANG-MARY CHUNLI	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-082	238200 0820	RealProp	ESCALA CONDOMINIUM	HO TH-BERNARD CHRISTIAN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-083	238200 0830	RealProp	ESCALA CONDOMINIUM	INMAN FRANKLIN H-JIMIE T	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-084	238200 0840	RealProp	ESCALA CONDOMINIUM	JACAB MICHAEL JULIE K	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-085	238200 0850	RealProp	ESCALA CONDOMINIUM	DAVE STEVEN G-CLAUDIA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-086	238200 0860	RealProp	ESCALA CONDOMINIUM	LING TZU H	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-087	238200 0870	RealProp	ESCALA CONDOMINIUM	ZARATE JOSE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-088	238200 0880	RealProp	ESCALA CONDOMINIUM	OPEN MARK V	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-089	238200 0890	RealProp	ESCALA CONDOMINIUM	DAMMEN PETER	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-090	238200 0900	RealProp	ESCALA CONDOMINIUM	ROGERS JOYCE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-091	238200 0910	RealProp	ESCALA CONDOMINIUM	FINDEA CRISTINA JOSE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-092	238200 0920	RealProp	ESCALA CONDOMINIUM	TAT DEREK	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-093	238200 0930	RealProp	ESCALA CONDOMINIUM	RYONAKI TARIHAN S	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-094	238200 0940	RealProp	ESCALA CONDOMINIUM	VEGAN ASSOCIATES LLC	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-095	238200 0950	RealProp	ESCALA CONDOMINIUM	ALYELONG DAVID	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-096	238200 0960	RealProp	ESCALA CONDOMINIUM	BEIGELW BRADLEY AND	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-097	238200 0970	RealProp	ESCALA CONDOMINIUM	SEGLER CHRISTOPHER	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-098	238200 0980	RealProp	ESCALA CONDOMINIUM	KUTZNER MICHAEL	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-099	238200 0990	RealProp	ESCALA CONDOMINIUM	GRENER DAVID R	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-100	238200 1000	RealProp	ESCALA CONDOMINIUM	REVES BROOKER W	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-101	238200 1010	RealProp	ESCALA CONDOMINIUM	YANG PATRICK & SHU-OW	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-102	238200 1020	RealProp	ESCALA CONDOMINIUM	CHOU MONTE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-103	238200 1030	RealProp	ESCALA CONDOMINIUM	LICHMAN MOSHE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$5,119	\$2,006
C-109-104	238200 1040	RealProp	ESCALA CONDOMINIUM	DEE DORA Y-CHIN Z-YE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$1,205,250	Mixed-Use/Residential	\$1,214,289	0.75%	\$9,039	\$3,542
C-109-105	238200 1050	RealProp	ESCALA CONDOMINIUM	VEE DORA Y-CHIN Z-YE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$714,000	Mixed-Use/Residential	\$719,355	0.75%	\$5,355	\$2,006
C-109-10																

Waterfront Seattle Final Special Benefit Study															
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UID Map Number	King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without LID	Market Value Without LID	Highest and Best Use With LID	Market Value With LID	Special Benefit % Change	Total Assessment
C-109-117	238200 1170	King	ESCALA CONDOMINIUM	WASHBURN LANCE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-118	238200 1180	King	ESCALA CONDOMINIUM	OSTERGAARD JON HAWILLAM	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-119	238200 1190	King	ESCALA CONDOMINIUM	LIANG ZONGHONGHUANG YUANTO	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-120	238200 1200	King	ESCALA CONDOMINIUM	ZHOU XU	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-121	238200 1210	King	ESCALA CONDOMINIUM	WISDOPE MELROY ANDERSON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-122	238200 1220	King	ESCALA CONDOMINIUM	CONRAD CHRIS OPIER	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-123	238200 1230	King	ESCALA CONDOMINIUM	HIRSCHBERG RICHARD DANIEL	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-124	238200 1240	King	ESCALA CONDOMINIUM	WALQUIST BRIAN G-CAREN J	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-125	238200 1250	King	ESCALA CONDOMINIUM	PAQUET THERESSE SHU YUE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-126	238200 1260	King	ESCALA CONDOMINIUM	HOLM TIMOTHYTHOMAS SCOTT	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-127	238200 1270	King	ESCALA CONDOMINIUM	BRADDOCK LORNE SCOTT	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-128	238200 1280	King	ESCALA CONDOMINIUM	CORRELL DAN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-129	238200 1290	King	ESCALA CONDOMINIUM	WALTERS MARC-NICOLE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-130	238200 1310	King	ESCALA CONDOMINIUM	JOYNER BARBARA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-131	238200 1310	King	ESCALA CONDOMINIUM	BUTLER JEFFREY M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-132	238200 1320	King	ESCALA CONDOMINIUM	AKHNOV KAREN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-133	238200 1330	King	ESCALA CONDOMINIUM	AKHNOV KAREN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-134	238200 1340	King	ESCALA CONDOMINIUM	MOORE LINDA SHARON	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-135	238200 1350	King	ESCALA CONDOMINIUM	GREENE KIRK P	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-136	238200 1360	King	ESCALA CONDOMINIUM	TATNEEN SATYAM	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$738,000	Mixed-Use/Residential	\$733,460	0.75%	\$2,139
C-109-137	238200 1370	King	ESCALA CONDOMINIUM	LEE KYUNG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$738,000	Mixed-Use/Residential	\$733,460	0.75%	\$2,139
C-109-138	238200 1380	King	ESCALA CONDOMINIUM	MAELE RON-SCHMITT BETSY	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-139	238200 1390	King	ESCALA CONDOMINIUM	FRY MICHAEL WADSWAN M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-140	238200 1400	King	ESCALA CONDOMINIUM	LUTHER ELFRIDE ANDREAS	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-141	238200 1410	King	ESCALA CONDOMINIUM	BERRIA KATHLEEN-HANNA J	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-142	238200 1420	King	ESCALA CONDOMINIUM	INGRID YING-NIEN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-143	238200 1430	King	ESCALA CONDOMINIUM	COOPER CHARLES	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-144	238200 1440	King	ESCALA CONDOMINIUM	LE BRUN YVONNE DAVID	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-145	238200 1450	King	ESCALA CONDOMINIUM	CHEN JIANDE-ZHANG DENG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-146	238200 1460	King	ESCALA CONDOMINIUM	BA YU-NIYIN YICK FUNG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-147	238200 1470	King	ESCALA CONDOMINIUM	SALAZAR-ALBUJO	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$738,000	Mixed-Use/Residential	\$733,460	0.75%	\$2,139
C-109-148	238200 1480	King	ESCALA CONDOMINIUM	FORMAN PAUL	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$738,000	Mixed-Use/Residential	\$733,460	0.75%	\$2,139
C-109-149	238200 1490	King	ESCALA CONDOMINIUM	WANG JIAN QING-HUI JIANG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$738,000	Mixed-Use/Residential	\$733,460	0.75%	\$2,139
C-109-150	238200 1500	King	ESCALA CONDOMINIUM	WANG XIAOMING	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-151	238200 1510	King	ESCALA CONDOMINIUM	GOELT THOMAS A	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-152	238200 1520	King	ESCALA CONDOMINIUM	VENMATHALAM ARSHVA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-153	238200 1530	King	ESCALA CONDOMINIUM	COOPER CHARLES	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-154	238200 1540	King	ESCALA CONDOMINIUM	LE BRUN YVONNE DAVID	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-155	238200 1550	King	ESCALA CONDOMINIUM	CHEN JIANDE-ZHANG DENG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-156	238200 1560	King	ESCALA CONDOMINIUM	BA YU-NIYIN YICK FUNG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$737,800	Mixed-Use/Residential	\$743,334	0.75%	\$2,168
C-109-157	238200 1570	King	ESCALA CONDOMINIUM	SALAZAR-ALBUJO	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	\$738,000	Mixed-Use/Residential	\$733,460	0.75%	\$2,139
C-109-158	238200 1580	King	ESCALA CONDOMINIUM	PHILLIPS STEVEN P-SUN D	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-159	238200 1590	King	ESCALA CONDOMINIUM	WORTHINGTON REYCOLEDA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-160	238200 1600	King	ESCALA CONDOMINIUM	LEE JANE-MIN JAE KIM	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-161	238200 1610	King	ESCALA CONDOMINIUM	AGNER MAXIMILIAN-TERESA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-162	238200 1620	King	ESCALA CONDOMINIUM	ELSTON LADONNIS	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-163	238200 1630	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-164	238200 1640	King	ESCALA CONDOMINIUM	LE KENNY-MARY	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-165	238200 1650	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	\$1,245,425	Mixed-Use/Residential	\$1,254,766	0.75%	\$3,660
C-109-166	238200 1660	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-167	238200 1670	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-168	238200 1680	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-169	238200 1690	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-170	238200 1700	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-171	238200 1710	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-172	238200 1720	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-173	238200 1730	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-174	238200 1740	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-175	238200 1750	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619	0.75%	\$2,006
C-109-176	238200 1760	King	ESCALA CONDOMINIUM	MCENTREE EPH-LARRY K II	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	\$682,500	Mixed-Use/Residential	\$687,619		

Waterfront Seattle Final Special Benefit Study														
Residential Condominiums and Associated Commercial														
UID Map Number	King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/SF	Gross Building Area/SF	Net Building Area/SF	Highest and Best Use Without LID	Market Value Without LID	Market Value With LID	Special Benefit % Change	Total Assessment
C109-184	2382001840	RealProp/ESCALA CONDOMINIUM	WATSON & GARMAT E	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-185	2382001850	RealProp/ESCALA CONDOMINIUM	SHENG KUANG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	Mixed-Use/Residential	\$773,500	\$779,301	0.75%	\$2,273
C109-186	2382001860	RealProp/ESCALA CONDOMINIUM	NANDA KUANG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	Mixed-Use/Residential	\$773,500	\$779,301	0.75%	\$2,273
C109-187	2382001870	RealProp/ESCALA CONDOMINIUM	MOORE DANIEL W/PENCE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-188	2382001880	RealProp/ESCALA CONDOMINIUM	ADAMS DANIEL	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	Mixed-Use/Residential	\$800,200	\$812,489	0.75%	\$2,409
C109-189	2382001890	RealProp/ESCALA CONDOMINIUM	MARSING ELLIOT TOSHUA	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	952	Mixed-Use/Residential	Mixed-Use/Residential	\$785,400	\$797,448	0.75%	\$2,409
C109-190	2382001900	RealProp/ESCALA CONDOMINIUM	O'CONNOR CORRIE	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-191	2382001910	RealProp/ESCALA CONDOMINIUM	YE ANDY	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	910	Mixed-Use/Residential	Mixed-Use/Residential	\$773,500	\$779,301	0.75%	\$2,273
C109-192	2382001920	RealProp/ESCALA CONDOMINIUM	ABRAMSKY EMAN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-193	2382001930	RealProp/ESCALA CONDOMINIUM	RESNAYWEBER	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-194	2382001940	RealProp/ESCALA CONDOMINIUM	RYE CARL+PENNIER HONG	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-195	2382001950	RealProp/ESCALA CONDOMINIUM	KYNGIDE JOHN EDWARD JR	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-196	2382001960	RealProp/ESCALA CONDOMINIUM	YUE BROWN KALINDA M	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,878	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-197	2382001970	RealProp/ESCALA CONDOMINIUM	NET RELOCATION INC	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-198	2382001980	RealProp/ESCALA CONDOMINIUM	SEHR BENJAMIN THOMAS	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-199	2382001990	RealProp/ESCALA CONDOMINIUM	PETUCOSKEI CHRISTIAN	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-200	2382002000	RealProp/ESCALA CONDOMINIUM	FLORINGST DANIEL A JR	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-201	2382002010	RealProp/ESCALA CONDOMINIUM	BRUNDMIT MAHESH	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,607	Mixed-Use/Residential	Mixed-Use/Residential	\$1,365,950	\$1,376,195	0.75%	\$4,014
C109-202	2382002020	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-203	2382002030	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-204	2382002040	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-205	2382002050	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-206	2382002060	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-207	2382002070	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-208	2382002080	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-209	2382002090	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-210	2382002100	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-211	2382002110	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-212	2382002120	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-213	2382002130	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-214	2382002140	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-215	2382002150	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-216	2382002160	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-217	2382002170	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-218	2382002180	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-219	2382002190	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-220	2382002200	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-221	2382002210	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-222	2382002220	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-223	2382002230	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-224	2382002240	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-225	2382002250	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-226	2382002260	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-227	2382002270	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-228	2382002280	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-229	2382002290	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-230	2382002300	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-231	2382002310	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-232	2382002320	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-233	2382002330	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-234	2382002340	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-235	2382002350	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-236	2382002360	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-237	2382002370	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-238	2382002380	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-239	2382002390	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-240	2382002400	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-241	2382002410	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-242	2382002420	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-243	2382002430	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251	\$1,687,325	0.75%	\$4,883
C109-244	2382002440	RealProp/ESCALA CONDOMINIUM	WONG DOUGLAS L	1920 4TH AVE, SEATTLE 98101	DOC2 500/300-550	25,432	385,548	1,955	Mixed-Use/Residential	Mixed-Use/Residential	\$1,674,251			

Waterfront Seattle Final Special Benefits Study Residential Condominiums and Associated Commercial

UD Map Number	King Co. Property Tax ID	County Link	Property Name	Tax Payer Name	Property Address	Zoning	Land Area/sf	Gross Building Area/sf	Net Building Area/sf	Highrise and Best Use With/Without UD	Market Value Without UD	Market Value With UD	Special Benefit % Charge	Total Assessment
C-109-251	238200 2510	RealProp	ESCALA CONDOMINIUM	ROBINS HARLAN	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	\$5,920
C-109-252	238200 2520	RealProp	ESCALA CONDOMINIUM	BENNETT JEFFREY	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,319,900	\$2,337,299	0.75%	\$6,817
C-109-253	238200 2530	RealProp	ESCALA CONDOMINIUM	JUDY RONALD J	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$1,788,850	\$1,802,266	0.75%	\$5,257
C-109-254	238200 2540	RealProp	ESCALA CONDOMINIUM	AVARA LILAS	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,136,750	\$2,152,776	0.75%	\$6,279
C-109-255	238200 2550	RealProp	ESCALA CONDOMINIUM	COLEMAN GEORGE	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	\$5,920
C-109-256	238200 2560	RealProp	ESCALA CONDOMINIUM	UNIVERSITY MARK VACQUITA M	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$1,553,475	\$1,565,126	0.75%	\$4,565
C-109-257	238200 2570	RealProp	ESCALA CONDOMINIUM	SHREVE SCHAUW	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	\$5,920
C-109-258	238200 2580	RealProp	ESCALA CONDOMINIUM	MURPHY DANIEL K	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$2,319,900	\$2,337,299	0.75%	\$6,817
C-109-259	238200 2590	RealProp	ESCALA CONDOMINIUM	ROBERTS STEPHEN D	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,136,750	\$2,152,776	0.75%	\$6,279
C-109-260	238200 2600	RealProp	ESCALA CONDOMINIUM	LESCHER CATHERINE S	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$1,788,850	\$1,802,266	0.75%	\$5,257
C-109-261	238200 2610	RealProp	ESCALA CONDOMINIUM	HALL CYNTHIA A (TRUSTEE)	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	\$5,920
C-109-262	238200 2620	RealProp	ESCALA CONDOMINIUM	PAUL NORTHWEST	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$1,553,475	\$1,565,126	0.75%	\$4,565
C-109-263	238200 2630	RealProp	ESCALA CONDOMINIUM	UNIVERSITY MARK VACQUITA M	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	\$5,920
C-109-264	238200 2640	RealProp	ESCALA CONDOMINIUM	SHREVE SCHAUW	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,319,900	\$2,337,299	0.75%	\$6,817
C-109-265	238200 2650	RealProp	ESCALA CONDOMINIUM	ROBERTS STEPHEN D	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$1,788,850	\$1,802,266	0.75%	\$5,257
C-109-266	238200 2660	RealProp	ESCALA CONDOMINIUM	LESCHER CATHERINE S	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	\$5,920
C-109-267	238200 2670	RealProp	ESCALA CONDOMINIUM	HALL CYNTHIA A (TRUSTEE)	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$1,553,475	\$1,565,126	0.75%	\$4,565
C-109-268	238200 2680	RealProp	ESCALA CONDOMINIUM	UNIVERSITY MARK VACQUITA M	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,014,650	\$2,029,760	0.75%	\$5,920
C-109-269	238200 2690	RealProp	ESCALA CONDOMINIUM	SHREVE SCHAUW	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Residential	\$2,319,900	\$2,337,299	0.75%	\$6,817
C-109-270	238200 2700	RealProp	ESCALA CONDOMINIUM	ROBERTS STEPHEN D	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	1,863	Mixed-Use/Residential	\$1,788,850	\$1,802,266	0.75%	\$5,257
C-109-001	238200 0010	RealProp	ESCALA CONDOMINIUM	ALACRE PROPERTIES LLC	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Commercial	\$3,375,400	\$3,393,700	0.75%	\$1,720
C-109-002	238200 0020	RealProp	ESCALA CONDOMINIUM	ESCALA 2C SEATTLE LLC	1920 4TH AVE, SEATTLE 98101	DDC2 500/300-550	25,432	385,548	2,442	Mixed-Use/Commercial	\$2,783,000	\$2,793,000	0.75%	\$8,346
C-180	439750 0000	RealProp	LOFTS THE CONDOMINIUM	JANKOWSKI CHRISTINE	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-003	439750 0030	RealProp	LOFTS THE CONDOMINIUM	JANKOWSKI PATRICK	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-004	439750 0040	RealProp	LOFTS THE CONDOMINIUM	BRN INVESTMENT GROUP LLC	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-005	439750 0050	RealProp	LOFTS THE CONDOMINIUM	BRN INVESTMENT GROUP LLC	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-006	439750 0060	RealProp	LOFTS THE CONDOMINIUM	HUNTER ERIC W	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-007	439750 0070	RealProp	LOFTS THE CONDOMINIUM	LOHMEYER SASHA VAN	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-008	439750 0080	RealProp	LOFTS THE CONDOMINIUM	ELIAS CHRISTOPHER HERBIE W	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-009	439750 0090	RealProp	LOFTS THE CONDOMINIUM	NONOMO LLC	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-010	439750 0100	RealProp	LOFTS THE CONDOMINIUM	JOHNSON STEPHEN	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-011	439750 0110	RealProp	LOFTS THE CONDOMINIUM	YACOBUS STEPHEN	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-012	439750 0120	RealProp	LOFTS THE CONDOMINIUM	ERICKSON STEVEN A	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-013	439750 0130	RealProp	LOFTS THE CONDOMINIUM	VOGEL ERNEST B	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-014	439750 0140	RealProp	LOFTS THE CONDOMINIUM	THOMAS JEFFREY S JR	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-015	439750 0150	RealProp	LOFTS THE CONDOMINIUM	CHENG KEVIN TONY	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-016	439750 0160	RealProp	LOFTS THE CONDOMINIUM	KUCERA GREGORY MAYOCOM	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-017	439750 0170	RealProp	LOFTS THE CONDOMINIUM	KUCERA GREGORY MAYOCOM	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-001	439750 0010	RealProp	LOFTS THE CONDOMINIUM	KUCERA GREGORY MAYOCOM	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
C-180-002	439750 0020	RealProp	LOFTS THE CONDOMINIUM	KUCERA GREGORY MAYOCOM	210 3RD AVE S, SEATTLE 98104	PSM 100/120-150	7,211	8,614	8,614	Condominium/Mixed Use	\$85,225	\$85,783	0.25%	\$838
D-020	358900 0000	RealProp	INSIGNIA	MACGARRAHOV JOSEPH	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-004	358900 0040	RealProp	INSIGNIA	FLORENTINI BRUNO	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-005	358900 0050	RealProp	INSIGNIA	FLORENTINI BRUNO	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-006	358900 0060	RealProp	INSIGNIA	BARFIELD PATRICE	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-007	358900 0070	RealProp	INSIGNIA	ANBROSIO JALANDA	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-008	358900 0080	RealProp	INSIGNIA	HAYAKAWA DAVID K TERRY W	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-009	358900 0090	RealProp	INSIGNIA	SCOTT NICHOLAS JORDAN H	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-010	358900 0100	RealProp	INSIGNIA	COHEN AVY TAL	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-011	358900 0110	RealProp	INSIGNIA	CHAIR ALLEY PROPERTIES LLC	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-012	358900 0120	RealProp	INSIGNIA	LU XUE	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-013	358900 0130	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-014	358900 0140	RealProp	INSIGNIA	RODAN ROY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-015	358900 0150	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-016	358900 0160	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-017	358900 0170	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-018	358900 0180	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-019	358900 0190	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-020	358900 0200	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-021	358900 0210	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-022	358900 0220	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-023	358900 0230	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-024	358900 0240	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-025	358900 0250	RealProp	INSIGNIA	CHAKRAVARTHI ABHYUDAY	588 BELL ST, SEATTLE 98121	DMC 240/290-440	83,726	797,496	914	Mixed-Use/Residential	\$755,935	\$755,935	0.25%	\$738
D-020-026	358900 0260	RealProp	INSIGNIA	CHAKRAVARTHI ABHY										

Exhibit E

King County Assessor Valuation
of Subject Property in CWF-0171
(Exhibit 7 to testimony on 02/11/2020)

Ex 7

Refer

[King Dist Lev](#)

[King Link](#)

[Proj](#)

[Was Dep Rev link](#)

[Was BoA App link](#)

[BoA App](#)

[Dist Rep](#)

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Notice
08/01/2

ADVERTISEMENT

Site Search	Property Tax Bill	Map This Property	History of Taxes	Assess Report	Property Detail
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PARCEL

Parcel Number	238200-1180
Name	OSTERGAARD JONI H+WILLIAM H
Site Address	1920 4TH AVE
Legal	ESCALA CONDOMINIUM PCT UND INT 0.404

BUILDING 1

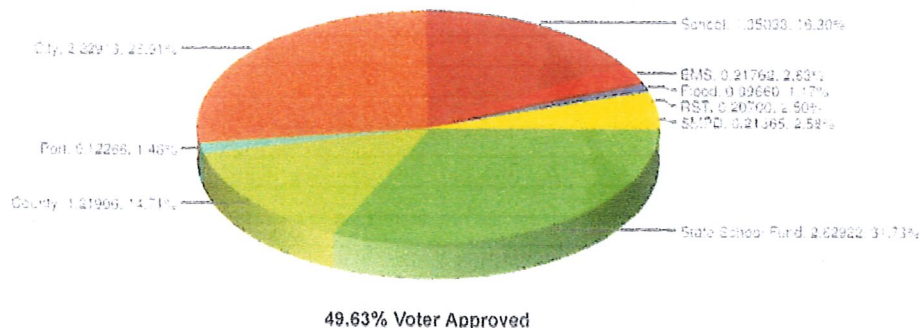
Year Built	2010
Construction Class	STRUCTURAL STEEL
Condition	Average
Building Quality	GOOD/EXCELLENT
Number of buildings	1
Number of units	267
Lot Size	25432
Present Use	Condominium(Residential)
Views	No
Waterfront	



+ Units in this condominium complex

TOTAL LEVY RATE DISTRIBUTION

Tax Year: 2019 Levy Code: 0011 Total Levy Rate: \$8.28530 Total Senior Rate: \$5.65180



[Click here to see levy distribution comparison by year.](#)

TAX ROLL HISTORY

Valued	Tax	Appraised Land	Appraised Imps	Appraised	Appraised Imps	Taxable Land	Taxable Imps	Taxable
--------	-----	----------------	----------------	-----------	----------------	--------------	--------------	---------

Year	Year	Value (\$)	Value (\$)	Total (\$)	Increase (\$)	Value (\$)	Value (\$)	Total (\$)
2019	2020	123,200	1,049,800	1,173,000	0	123,200	1,049,800	1,173,000
2018	2019	113,000	1,254,000	1,367,000	0	113,000	1,254,000	1,367,000
2017	2018	102,700	1,089,300	1,192,000	0	102,700	1,089,300	1,192,000
2016	2017	87,300	961,700	1,049,000	0	87,300	961,700	1,049,000
2015	2016	77,000	868,000	945,000	0	77,000	868,000	945,000
2014	2015	71,900	876,100	948,000	0	71,900	876,100	948,000
2013	2014	61,600	726,400	788,000	0	61,600	726,400	788,000
2012	2013	51,400	630,600	682,000	0	51,400	630,600	682,000
2011	2012	51,400	649,600	701,000	0	51,400	649,600	701,000
2010	2011	51,400	669,600	721,000	254,805	51,400	669,600	721,000
2009	2010	51,388	384,002	435,390	0	51,388	384,002	435,390

ADVERTISEMENT

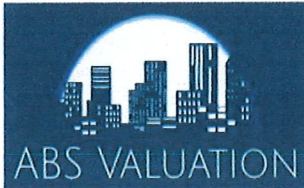
Exhibit F

Pages 112 and 113 from the

ABS Final Report

November 18, 2019

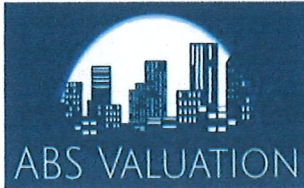
(City's Ex. C-17, pages 218-219)



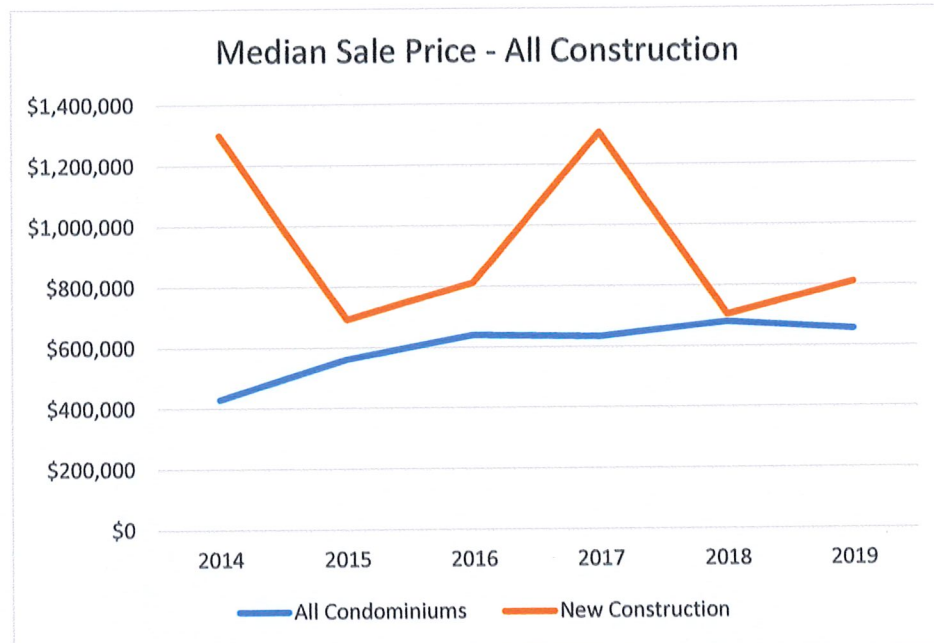
CITY OF SEATTLE - WATERFRONT SEATTLE PROJECT
 FINAL SPECIAL BENEFIT/PROPORTIONATE ASSESSMENT STUDY
 ADDENDA

**NWMLS Closed Sales
 Residential Market Statistics**

		Total	Median		Average Days
	Year	Units Sold	Price	Change	on Market
Area 701					
All Condominiums					
	2019	342	\$655,000	-3.68%	58
	2018	557	\$680,000	7.42%	36
	2017	551	\$633,000	-1.02%	22
	2016	958	\$639,500	13.89%	38
	2015	790	\$561,500	30.58%	43
	2014	521	\$430,000	--	56
	Total	3,719			
Area 701					
New Construction					
	2019	3	\$810,000	15.07%	63
	2018	60	\$703,900	46.11%	102
	2017	16	\$1,306,250	60.89%	57
	2016	405	\$811,900	17.16%	127
	2015	302	\$693,000	46.69%	142
	2014	22	\$1,300,000	--	267
	Total	808			



CITY OF SEATTLE - WATERFRONT SEATTLE PROJECT
FINAL SPECIAL BENEFIT/PROPORTIONATE ASSESSMENT STUDY
ADDENDA



Condominium sale prices in the subject area were on a downward trend through 2012; starting in 2013, however, they began to display gradual upward momentum. In concert with recovering home prices, the average number of days required to sell a condo unit (marketing period) in the downtown and Belltown neighborhoods reached a low of 22 days (57 days for new construction) in 2017. It is now evident that the frenzied buying trend of two years ago, with multiple and above asking price offers, is over. The table on the prior page shows that sale prices for a relatively small inventory of new condominiums in the subject area peaked in 2017, and for all condos it peaked in 2018. As shown above in the graphic depiction of the same data, average annual sale prices for newly constructed condominium units have been erratic, due in part to this low inventory. For all condos, a gradual upward price trend was in evidence (blue line) in the past few years and, although the 2019 year-to-date average price is down 3.5±%, the year-end average price may continue this upward trend.

An August 2019 update on the Seattle condo market by the website www.seattlecondosandlofts.com states that (based on NWMLS data) August numbers citywide outperformed last year. Year-over-year, Seattle experienced more sales, closings and listings compared to August 2018 with one exception; essentially unchanged from the prior month was the citywide median condo price, which was down 10.8% year-over-year at \$450,000.

Also from this website is the table below, showing that although the median condo sale price in August 2019 was significantly higher in the Downtown and Belltown neighborhoods than the entire Seattle region (\$676,000 vs \$450,000), there are more active listings, about the same number of sales, and a 2±% lower median sale price.

Exhibit G

ABS “before” and “after” numbers

And revised LID assessment

(Exhibit 9 to written submission 01/28/2020)

**Derivation of ABS “before” and “after” numbers
and revised LID assessment**

1. Before and after “methodology”

The “before” LID and “after” LID numbers for our property value on the second line on page 38 of the ABS spreadsheets (Exhibit 7) are actually derived numbers from (1) first calculating what the “special benefit” to our property “is” from multiplying the King County Assessor’s assessed valuation for **2018** property improvements (“Bldgs” on Exhibit 8 - \$1,254,000) times a certain percentage (0.0074), and then (2) calculating what the “before” market value would be if you determine the value that would result if the derived “special benefit” were 0.75 percent of the market value. Then (3) the “after” value is calculated by adding the “special benefit” number to the “before” market value number.

The math of this ABS “methodology” for stating the purported “Special Benefit” and “Market Value Without LID” and “Market Value With LID” for our property (PIN # 2382001180) on page 38 of the ABS spreadsheets (Exhibit 7) is shown below:

$$(1) \$1,254,00 \times 0.0074 = \$9,340.69 \text{ (“Special Benefit”)}$$

$$(2) \$9,340.69 \div 0.0075 = \$1,245,425.33 \text{ (“Market Value Without LID”)}$$

$$(3) \$1,245,425.33 + \$9,340.69 = \$1,254,766.02 \text{ (“Market Value With LID”)}$$

2. ABS assessment calculation from that “methodology” for **2018**

The ABS “Total Assessment” column on page 38 of its spreadsheets based on **2018** numbers is then calculated by (4) multiplying the “Special Benefit” number times 0.3918219. (*See* page 9 of Exhibit 6 where ABS states that it multiplies the “special benefit” by 0.39 ±.)

The math of this derived 2018 “Total Assessment” is shown below:

$$(4) \$9,340.69 \times 0.3918219 = \$3,659.89 \text{ (“Total Assessment”)}$$

3. ABS “methodology” using parallel **2019** King County Assessor’s numbers

Applying the above ABS “methodology” to parallel King County assessment valuation of property improvements (“Bldgs” on Exhibit 8) for **2019** would involve (5) multiplying the 2019 assessment for building improvements of \$1,049,800 times 0.0074 to get a “special benefit” and then (6) multiplying that “special benefit” number times 0.3918219 to derive the “total assessment.” The math based on 2019 King County numbers is as follows:

$$(5) \$1,049,800 \times 0.0074 = \$7,768.52 \text{ (“Special Benefit”)}$$

$$(6) \$7,768.52 \times 0.3918219 = \$3,043.88 \text{ (“Total Assessment”)}$$

FILED

8:48 am, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: kngielen@mindspring.com
To: [City Clerk Filing](#)
Subject: Notice of Appeal of Final Waterfront LID Assessment Recommendation, Hearing Examiner Case No. CWF-0176
Date: Tuesday, September 22, 2020 12:42:41 AM
Attachments: [CWF-0176 Appeal to City Council.pdf](#)
[Exhibit 0176-1.pdf](#)
[Exhibit 0176-2.pdf](#)

CAUTION: External Email

Appeal enclosed

Karen N. Gielen
206-920-7860
kngielen@mindspring.com

Notice of Appeal of Final Waterfront LID Assessment Recommendation.
Final Waterfront LID No. 6751
Hearing Examiner Case No. CWF-0176
Parcel Owners: Anton and Karen Gielen
King County Parcel No. 9195900200
Address: 1009 Western Ave, Apt. 1209, Seattle WA 98104

We, Karen and Anton Gielen, owners of the condominium property located at 1009 Western Ave. Apt. 1209, Seattle, WA 98104 (Parcel No, 9195900200), objected to the Final Assessment for our parcel and now submit this appeal of the Recommendations of the Hearing Examiner regarding Waterfront LID No. 6751 Case No. CWF-0176. pursuant to:

SMC 20.04.090.C

Any finding, recommendation, or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

However, we are not able to follow the instructions pursuant to:

SMC 20.04.110 - Appeal to City Council.

In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also designate by name or title and by sub number the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee.

Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.

Because the City has not provided “metered index numbers”, therefore our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee’s consideration of each individual appeal more efficient and fair. Instead page numbers of attached exhibits are referenced.

We request and demand an appeal hearing with the City Council. Our original appeal is included as Exhibit 0176-1. Our Final Argument is included as Exhibit 0176-2.

We appeal from the following portions of the Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner:

- 1) Decision, Page 49: Objectors claim that their unit was overvalued due to the City appraisal, because the property view has less value than determined by the City. Objector provides no appraisal evidence to indicate that the City’s calculation or reliance on King County Assessor’s view data are inaccurate. Recommendation: denial

From our initial appeal: “In the case of our property, Valbridge assigned our property a post-viaduct value resulting in an increase of 33.3% over the King County Assessor’s valuation. As you can see in the Exhibit A table, other units in the building with west facing views were assessed at an average of 9.9% increase after the demolition of the viaduct. Each of these properties have unobstructed Waterfront and Alaskan Way views from their major living areas while our unit has an obstructed water view which did not include the Viaduct and will not include the Alaskan Way “Promenade” planned by the City. Exhibit B includes a comparison of the unobstructed waterfront view of Apt. no. 1103 to our unit.”

The Hearing Examiner’s conclusion does not agree with the testimony presented during cross examination of Mr. Macaulay. He clearly stated that a view amenity has a direct effect on market value both in the before and after condition of the property. From the hearing transcript from 6/25/20 page 155 lines 19-25 and page 156 line 1:

19 Q. So did you apply a premium to both the –to the
20 view amenity?

21 A. The properties in a particular condo unit that

22 had a view amenity would have – would have a higher
23 market value, both in the before and after.
24 and –and, therefore, if—if they had a
25 higher overall benefit amount, then proportionally pay a
1 higher –a higher assessment amount.

Conclusion: The city failed to rebut the evidence we provided in our appeal, demonstrating the vast inferiority in the view from our unit as compared with another unit in the same building. Both units were assigned identical \$825/sq. foot valuations when the data provided a very different conclusion. As compared to other units in the building, a valuation of \$750/sq. ft. is appropriate, reducing the appraised value of PIN 9195900200 to \$1,518,000 for the pre-LID condition.

- 2) The Hearing Examiner failed to address the lack of special benefit for our property relative to other properties outside the LID boundaries as described in our final argument. Mr. Macaulay testified that condo owners would receive special benefit from the LID projects due to their proximity, which would be greater than the general public benefit, which cannot be measured. The HR&A Study, February 2019, directly contradicted this testimony. The study determined that downtown park adjacent visitors would make no net new visits to the park. In contrast, non-adjacent Metro residents would increase by 69,000 net new visitor days per year and other non-city residents would increase net new visitor days by 327,000. When challenged by this data demonstrating that adjacent property owners would perceive no value in terms of usage of the promenade when other city dwellers would receive a tangible benefit, Mr. Macaulay provided no evidence supporting his position.

Conclusion: The city provided no evidence justifying a 2.7% special benefit for properties directly abutting the Promenade. In fact, the testimony indicated that the Crompton study was mis-applied to residential properties and would result in a minimal, if any, benefit to adjacent residential properties. This was corroborated by the H&RA study indicating that nearby properties would use the park no more than if the LID was not constructed. The Council should invalidate the special assessment made against our property.

Karen and Anton Gielen

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

To the Office of the City Clerk
Seattle City Hall
600 Fourth Avenue, Floor 3
PO Box 94607
Seattle, WA 98124-6907

We object to and appeal the final assessment levied against us and our property.

Name: Karen N. Gielen and Anton P. Gielen

Property

Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104
King County

Tax Parcel ID: 9195900200

Owner's Mailing Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

We were notified on December 30, 2019 that the Final Special Benefit Study has been published and that property owners must submit their appeals by February 4, 2020 with a hearing scheduled for that day. A one day hearing will clearly not accommodate the number of potential testifiers. In addition, we each have pre-arranged travel plans that will take us out of Washington State the day of the hearing. **We respectfully request an opportunity to testify after returning to Seattle on February 12th and will require the normal 40 minutes usually allotted for a property valuation appeal by King County.** The following constitutes our objections to our proposed final LID assessment.

1. There are no "plans and specifications" on file with the Clerk's Office for the LID Improvements, and it is unlawful to move to final assessments without such "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009).
2. There has been no State Environmental Policy Act (SEPA) review of the Waterfront LID formation ordinance, and there are incomplete SEPA reviews of the LID Improvements themselves. It is unlawful to move forward with final assessments until all SEPA reviews are complete for both the Waterfront LID and the Waterfront LID Improvements. *LID Manual*, pp. 3, 6, 17, 24, 26; SMC 25.05.800.Q.

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

3. Without more design details and the date certain for completing construction, it is pure speculation what benefit (general or special), if any, the LID Improvements will create. *Anthony Gibbons Letter* (May 2, 2018).
4. Our property is not receiving any special benefits. It is unlawful to include any property that will not receive special benefits, and it is an unconstitutional taking of private property. *Heavens v. King County Rural Library District*, 66 Wash.2d 558, 564, 404 P.2d 453 (1965).
The attached letter from Richard Barbieri, President, Waterfront Place Building Residential HOA to the Seattle Hearing Examiner, dated July 13, 2018 outlines in detail why the LID improvements do not provide a special benefit to our properties.
5. The process used by Valbridge to create post-viaduct values for LID properties was overly simplified and flawed. Both the preliminary and final assessments bear no relationship with corresponding King County property appraisals but were instead broadly calculated on a "Dollar per square foot" methodology. Key differences between various properties and between properties (including views, noise impact, etc.) in the same building were overlooked causing the assessments themselves to be based on speculation. In the case of our property, Valbridge assigned our property a post-viaduct value resulting in an increase of 33.3% over the King County Assessor's valuation. As you can see in the Exhibit A table, other units in the building with west facing views were assessed at an average of 9.9% increase after the demolition of the viaduct. Each of these properties have unobstructed Waterfront and Alaskan Way views from their major living areas while our unit has an obstructed water view which did not include the Viaduct and will not include the Alaskan Way "Promenade" planned by the City. Exhibit B includes a comparison of the unobstructed waterfront view of Apt. no. 1103 to our unit.
6. The estimated value lift applied by Valbridge is less than 4% which is within the margin of error for any appraisal and thus, by definition, speculation. *Anthony Gibbons Letter* (May 2, 2018). Attached is a copy of Anthony Gibbons Letter.
7. The LID Improvements are unnecessary, purely aesthetic, and adjacent to a planned 8-lane roadway and mismanaged public spaces of poor quality. There will be no special benefit.
8. The LID is not local or intended to provide special benefits. It is a regional, national, and international destination. There is no special benefit.

Marshall Foster stated in a recent article for AAA's Journey magazine (Exhibit C), "we wanted to be one of the places that you have to see while you're in Seattle, whether you're visiting from Kent or you're visiting from across the world. We've designed it (The Waterfront Park) to be a destination park...like Millennium Park in Chicago, the High Line in New York or Golden Gate Park in San Francisco." Even the City of Seattle's Office of the Waterfront recognizes that this is not a local amenity and will, in fact, significantly increase the volume of visitors to the detriment of local residents.

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

9. The LID Improvements do not add anything new to the Central Waterfront, which already has a promenade, viewpoints, as well as connecting streets and bridges.
10. The construction estimates are not based upon substantially complete construction documents, are out of date, and uncertain. Final assessments will bind future City Councils and budgets to complete the LID Improvements regardless of cost. It is unlawful to bind future City Councils and future budgets to spend hundreds of millions of dollars on projects still early in the design process. Washington Attorney General Opinion 2012 No. 4 (May 15, 2012). Attached is a copy of AG Opinion 2012 No. 4.
11. We incorporate by reference all objections made as part of King County Superior Court Case No. 19-2-05733-5 SEA (Consolidated with No. 19-2-08787-1 SEA). Attached is a copy of the Third Amended Complaint.

Handwritten signatures of Anton P. Gielen and Karen N. Gielen in cursive script.

Karen N. Gielen and Anton P. Gielen
January 29, 2020

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

Exhibit A, LID Appeal for Tax Parcel ID: 9195900200

Parcel	2017 tax assessed value	Market value without Waterfront improvements?	Physical address:	Taxpayer name:	Building net square footage:	% increase	view
"9195900040"	\$2,733,000	\$3,061,575	1009 WESTERN AVE #1108 SEATTLE WA 98104	BARBIERI RICHARD L	3,711	12.0%	full waterfront from main living area
"9195900050"	\$1,316,000	\$1,482,525	1009 WESTERN AVE #1105 SEATTLE WA 98104	WAGONFELD JAMES+JUDITH B	1,797	12.7%	full waterfront from main living area
"9195900060"	\$1,302,000	\$1,464,575	1009 WESTERN AVE #1106 SEATTLE WA 98104	FOSSIL INVESTMENTS LTD	1,775	12.5%	full waterfront from main living area
"9195900070"	\$1,510,000	\$1,744,050	1009 WESTERN AVE #1107 SEATTLE WA 98104	MCWILLIAMS MARY D	2,114	15.5%	full waterfront from main living area
"9195900080"	\$1,175,000	\$1,116,000	1009 WESTERN AVE #1108 SEATTLE WA 98104	EVARTS KATE	1,440	-5.0%	full waterfront from main living area
"9195900150"	\$1,846,000	\$1,947,625	1009 WESTERN AVE #1204 SEATTLE WA 98104	STANSBURY MICHAEL E	2,561	5.5%	full waterfront from main living area
"9195900160"	\$1,355,000	\$1,515,525	1009 WESTERN AVE #1205 SEATTLE WA 98104	DONOVAN MARK C	1,837	11.8%	full waterfront from main living area
"9195900200"	\$1,253,000	\$1,669,800	1009 WESTERN AVE #1209 SEATTLE WA 98104	GIELEN ANTON PHILIP KAREN N	2,024	33.5%	Obstructed water view from secondary sitting room

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

Exhibit B, LID Appeal for Tax Parcel ID: 9195900200

Page 1 of 3



East-facing Panoramic View
from 1009 Western Ave., Apt
1103 main living areas



Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

Exhibit B, LID Appeal for Tax Parcel ID: 9195900200

Page 2 of 3



East-facing partially obstructed View from 1009 Western Ave., Apt 1209 from secondary sitting area



Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

Exhibit B, LID Appeal for Tax Parcel ID: 9195900200

Page 3 of 3

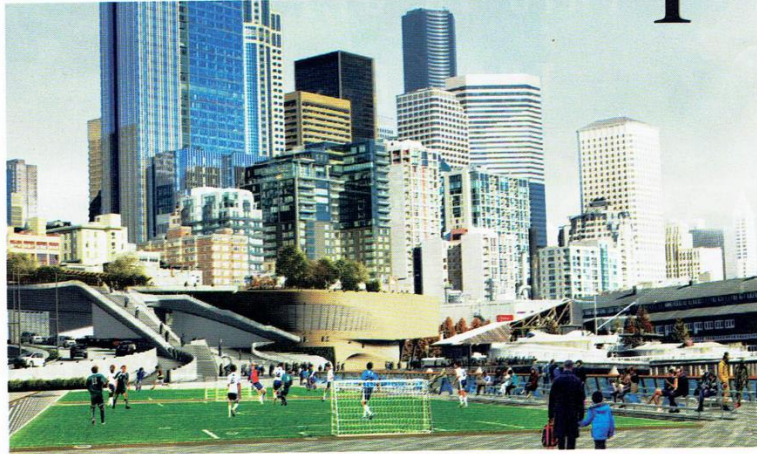


West view from 1009 Western Ave., Apt. 1209 main living areas

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

Exhibit C for Tax Parcel Identification No. 9195900200

q&a



MARSHALL FOSTER / CITY OF SEATTLE



► **Picture Seattle.** Are you thinking about waterfront landmarks such as Pike Place Market or the Great Wheel? Hold on to this image, because the waterfront is undergoing a major renovation. Marshall Foster, director of the city's Office of the Waterfront and Civic Projects, spoke with us about what visitors and residents may expect this year as the waterfront transformation chugs along toward its 2024 completion date.

Is the project on track? The project is on track. What visitors are going to see in 2020 is a lot of construction. We will be building out the new surface street: Alaskan Way gets completely rebuilt from the stadiums on the south end all the way through downtown and all the way up the hill into Belltown. That will be underway throughout the year. During that time, the public will still be able to visit the waterfront. It will be open with several lanes in each direction, providing access to all the historic piers, all the businesses and the Great Wheel. The last thing that is exciting is we'll be reopening a first piece of the waterfront, which is our concert pier.

What impact has the construction had on visitor experience and businesses? In 2018, we saw initially about 6.7 million unique visitors to the waterfront, which is down about 3 percent from 2017. Most of that [decline] is attributable to the construction. The waterfront has been in a constant state of transformation for about six years

now, and we're actually quite happy to see how many people continue to come to the waterfront despite the construction.

And some are coming to see the construction? Part of what is drawing people down there is the feeling that this is sort of a city remaking itself.

What's the vision behind the waterfront project? With the Alaskan Way Viaduct down and being replaced by the tunnel, it gives the city the opportunity to reclaim its front porch on Elliott Bay, to really have a great public park that will be a defining feature of visiting Seattle.

What inspired the design? We wanted to be one of the places that you have to see while you're in Seattle, whether you're visiting from Kent or you're visiting from across the world. We've designed it to be a destination park ... like Millennium Park in Chicago, the High Line in New York or Golden Gate Park in San Francisco. **— RANIA EFTHYMES**

RENDERING COURTESY SEATTLEWATERFRONT.COM

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

July 13, 2018

Hand Delivered

Honorable Hearing Examiner
Public Hearings
Waterfront Seattle Project LID
City of Seattle

Re: Discussion of Flaws in Special Benefit Study for Waterfront Seattle LID

Dear Sir or Madam

Waterfront Place Building Residential Condominium (Waterfront Place") is located at 1009 Western Ave., Seattle (King Co. Property Tax IDs 919590-0020 through -0290).

I write on behalf of the Board of Directors of the Waterfront Place Home Owners Association to advise you that the LID itself and the Valbridge Special Benefits Study May 9, 2018 ("SBS") supporting it are flawed for the following reasons which particularly affect Waterfront Place. I currently hold original signed formal protest forms objecting to formation of the Waterfront Seattle LID (the "LID") by 90% of the parcel owners comprising Waterfront Place, which I will deposit directly with the City Clerk of Seattle.

I. No Special Benefit and No Calculation of LID Cost for Waterfront Place.

The legislation providing authority to Seattle to levy assessments by an LID requires that the amount of an assessment not materially exceed either the special benefit or the cost of the LID improvement. The proposed LID does not satisfy either requirement with regard to Waterfront Place.

Waterfront Place is located on the central waterfront, on Western Ave. between Madison and Spring. Waterfront Place is immediately across Alaskan Way from Pier 54 on the waterfront. Across Alaskan Way for three blocks to the south of Waterfront Place are the fire station and the Seattle ferry terminal. Across Alaskan Way for three blocks to the north of Waterfront Place are Piers 55, 56 and 57.

The SBS describes the "before" conditions (the \$4.7B project without the LID) within three blocks of Waterfront Place as follows (pgs. 103-104):

- The Alaskan Way Viaduct Replacement Project (AWVRP) will be complete, with the viaduct eliminated and the SR 99 tunnel in operation.
 - The Seawall project will be complete and will include a new sidewalk inset with lightpenetrating surface (LPS).
 - The "Before" condition assumes a rebuilt "Main Corridor" (see description below).
 - Construction of the new Alaskan Way between S King Street and Pine Street, along the east side of the right of way
 - A dedicated transit lane in each direction along Alaskan Way between S. King Street and Columbia Street and on Columbia Street between Alaskan Way and First Avenue
 - Northbound ferry queuing lanes between S. King Street and Yesler Way, which include double left-turn lanes between S. Main Street and Yesler Way onto Colman Dock
 - On-street parking and loading zones located along the curbside where space is available
- Improvements for pedestrians would include wider sidewalks along the east and west sides of the new Alaskan Way. Sidewalks would continue along both sides of Elliott Way, with other pedestrian improvements including:

- Rebuilding the portion of the Marion Street pedestrian bridge over Alaskan Way, which connects to the Seattle Ferry Terminal.
- Reconstructing sidewalks and parking at Seneca Street between Alaskan Way and Western Avenue.
- A two-way bicycle facility would run along the west side of the new Alaskan Way. The facility would begin at S. King Street and continue north on the west side of Alaskan Way to about Virginia Street, where it would cross the road to join the existing path on the east side of the roadway. At the new intersection with Elliott Way, the bicycle facility would transition to separate northbound and southbound paths that would connect with existing bicycle lanes on Elliott and Western Avenues in Belltown.
- Within the footprint of the proposed "Promenade" LID element, the City could either install an extensive sidewalk or a double aisle, 60-degree angled parking arrangement between Union and Pike streets, and a single aisle parking arrangement between Union and Madison Street, totaling 115 new parking spaces."

The SBS describes the "after" conditions (with the LID) within three blocks of Waterfront Place as follows (pg 104):

"The Promenade would be a continuous public open space along the west side of the new Main Corridor from S King Street to Pine Street that would be designed for walking, sitting, gathering, and viewing the waterfront. The "Light Penetrating Surface" panels which constitute the westernmost 15± feet of the future promenade were built with the seawall are considered part of the "Before" condition and so are not factored into the LID special benefit calculations for the Promenade."

In fact, there is no measurable difference between the "before" and "after" conditions. When pressed in the last month for a true depiction of what the Promenade adjacent to the new Alaskan Way would look like without ("before") and with ("after") the LID, the City produced the following graphics:

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount



Above is the "before" (without the LID). The City acknowledges that the light green areas between the new Alaskan Way and the piers are drainage swale areas required for the construction of Alaskan Way, and as such would have also have to include plantings. Compare the "before" graphic to the following "after" graphic, and the only difference is what the City elects to plant in the drainage swales:



Unlike any other Local Improvement District ever imposed by Seattle, this LID seeks to plug a \$200M funding shortfall in a \$4.7B regional infrastructure project. The result of this process is there has never been any accurate cost established for the Promenade, the only "improvement" significant to Waterfront Place.

The City acknowledges it has never developed a cost estimate for building the "before" version of the pedestrian and bike lane and plantings and drainage swale areas adjacent to the new surface level Alaskan Way. Therefore the City has no realistic idea of whether there is any significant difference between the cost of building those areas as depicted in the "before" graphic and the "after" graphic which it characterizes as the Promenade LID improvement. Based on the guesstimates provided to date, every element of the cost of the "after" version would be required to construct the "before" version which the City is already obligated to deliver under the SBS. There is no significant additional cost for what the City calls the Promenade.

Neither the "before" or "after" condition of Alaskan Way and the adjacent walkway and bike path is a park. Both conditions describe a tree lined boulevard adjacent to commercial piers on a waterfront with no elevated viaduct. Even if there were a measurable cost difference between the "before" and "after" conditions, there is no measurable difference in special benefit to Waterfront Place from the before and after conditions of the Promenade—certainly nothing approaching the nearly One Million Dollars in special benefit assigned to the residential apartments of Waterfront Place.

II. Not a Single LID Project.

The LID is not a single project with a consistent measurable impact on Waterfront Place. Every component of the proposed LID other than the Promenade is either so distant from Waterfront Place as to be meaningless or is actually detrimental to the value of Waterfront Place. The SBS acknowledges (pg.38-39), only improvements enhancing the passive use of a park have any positive impact on residential values. Any modification which increases traffic and pedestrian density or converts passive use into active use performance centers is actually detrimental to a residential condominium.

- No component of converting the existing ferry terminal to the south into a major transit hub has any benefit to Waterfront Place, even assuming that there is actually any difference between the before and after conditions of that transit hub.
- The only LID component actually involving a park is the demolition and reconstruction of the existing Waterfront Park more than three blocks north of Waterfront Place. The specific purpose of this demolition and reconstruction is to convert it into a social gathering/performance center, detrimental to Waterfront Place even if considered close enough to have an impact.
- Every other component of the proposed LID, including the most expensive Overlook Walk component, is designed to deliver millions more tourists and pedestrians to a pre-existing waterfront boulevard/walkway/bike path which is already directly accessible on flat terrain to Waterfront Place.

Even if the the Promenade had a measurable special benefit to Waterfront Place, the SBS fails to account for the more than offsetting detrimental impacts of all other elements of the LID.

III. Conclusion.

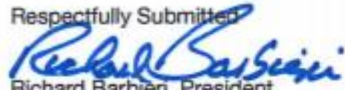
The following graphic prepared by the City of Seattle purports to show the "after" condition of the Seattle Waterfront Project LID looking north from the ferry terminal, with Waterfront

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

Place the structure directly in the middle of the graphic north of the ferry terminal. In fact, the graphic looks exactly as the waterfront adjacent to Waterfront Place will look without the LID.

The proposed LID has no special benefit for Waterfront Place.

Respectfully Submitted



Richard Barbieri, President
Waterfront Place Building Residential HOA

:



Before the Hearing Examiner of the City of Seattle

July 7, 2020

Case Number CWF-0176

Names: Karen N. Gielen, Anton P. Gielen

Property Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

King County Tax Parcel ID: 9195900200

Owner's Mailing Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

We, Karen N. Gielen and Anton P. Gielen, owners of the residential condominium property located at 1009 Western Ave., Ap. 1209, Seattle WA, 9104 (PIN 9195900200), respectfully submit the following closing arguments and statements in this matter, Case No. CWF-0176.

1. Introduction

Testimony provided by the city during its case presentation and subsequent cross examination of witnesses, along with declarations of other participants provided no rebuttal to our appeal filed on January 29, 2020.

2. "Before LID" Appraisal Process

The appraisal process used to develop "Before LID" appraisals of Residential Condominiums was inherently flawed and resulted in inaccurate appraisals which became the basis for establishing the "special benefit". The City and its witnesses provided no evidence that the appraisals were truly accomplished on a parcel-by-parcel basis or that they reflected accurate basic information on each unit.

- a. Under cross examination, Mr. Macaulay stated that during the normal appraisal process there would be back and forth communication between the appraiser and property owner to catch any erroneous assumptions. Instead of querying the city as to why there was no feedback, he assumed that his appraisals were validated. The city process informed property owners that they should not include concerns specific to their individual properties in the LID formation hearings. The only opportunity to make these issues known was the process we are currently participating in. (Pages 133 – 136 , Macaulay cross-examination, June 26, 2020).

- b. Mary Hamel stated that the following data from the King County Assessor were used as the basis for developing the “Before LID” appraisals for Residential Condominiums (Declaration of Mary K. Hamel, page 3): “...we relied on King County Assessor information for data on individual residential condominiums, including square footage, bathroom and bedroom counts, construction quality and type, and grade of view amenities”. An individual property’s view amenity is very important when considering the value of a downtown high-rise residential condominium.
- c. The city failed to rebut the evidence we provided in our appeal, demonstrating the vast inferiority in the view from my unit as compared with another unit in the same building. Both units were assigned identical \$825/sq. foot valuations when the data provided a very different conclusion. As compared to other units in the building, a valuation of \$750/sq. ft. is appropriate, reducing the appraised value of PIN 9195900200 to \$1,518,000.
- d. In his testimony, Mr. Macaulay stated that in developing the “Before LID” appraisal, future development was considered when it became known by the market. In fact, there was no change in Before LID assessments for units in Waterfront Place between the Preliminary and Final special benefit studies. Plans to convert the parking facility at 1101 Western Ave. directly north of Waterfront Place into a 16 story apartment building developed after the preliminary study and would have come to the attention of the market prior to completion of the final study. This major view-altering impact did not make any change to the before lid assessment of affected parcels

Conclusion: “Before LID” appraisals for Waterfront Place Residential Condominiums and particularly our parcel are flawed. To be consistent to other parcels in our building, a more appropriate appraisal for our property would be at \$750/per sq. ft. The Hearing Examiner should recommend that the “Before LID” appraisal for PIN 9195900200 be adjusted to \$1,518,000.

2. Proximity to Promenade

In his conflicted testimony, Mr. Macaulay cited proximity to the Promenade conferring special benefit based on Dr. Crompton’s analysis, while waving off any of the mitigating issues raised in Crompton’s studies.

- a. When asked about the special benefit to a residential property which already had direct access to the Waterfront as compared to one whose access was facilitated by the LID projects, Macaulay brought up the Maritime Building’s experience once the LID became known to the marketplace. When queried how the proximity would benefit a residential property that could not benefit from increase in foot traffic,

Macaulay reverted to his standard verbiage about the market and studies with no actual data or specific references. (Testimony from June 26, pages 141 – 144). When questioned about Dr. Crompton's critique of his use of the proximate principal, he brushed it off by saying he never talked to Crompton rather than supplying evidence that the critique was wrong (Page 144).

- b. Dr. Crompton's found that "Most of the enhanced value of parks derives from people's willingness to pay a premium to be proximate to the tranquility, peace, and psychological relaxation many parks provide." And "In contrast, enhanced property values associated with greenways are likely to come from access to a trail rather than from the views of nature and open space and is their functionality or activity potential that is likely to confer most added value." Also, "there's no evidence to suggest that they (trails) have a positive impact, so no proximate premium is recommended". When questioned why these would not directly apply in the context of the Promenade, Macaulay declined to call Crompton's critique wrong, instead stating that "I'm not saying they're incorrect. They're --they're -- they're different than what -- what is being done in the LID projects. So, again, they're used as background basis." This answer provided no evidence that there was an alternate study that would be more applicable than Dr. Crompton's analysis which was waved away as "background". (Page 145).
- c. Mr. Macaulay testified that condo owners would receive special benefit from the LID projects due to their proximity, which would be greater than the general public benefit, which cannot be measured. The HR&A Study, February 2019, directly contradicted this testimony. The study determined that downtown park adjacent visitors would make no net new visits to the park. In contrast, non-adjacent Metro residents would increase by 69,000 net new visitor days per year and other non-city residents would increase net new visitor days by 327,000. When challenged by this data demonstrating that adjacent property owners would perceive no value in terms of usage of the promenade when other city dwellers would receive a tangible benefit, Mr. Macaulay provided no evidence supporting his position.

Conclusion: The city provided no evidence justifying a 2.7% special benefit for properties directly abutting the Promenade. In fact, the testimony indicated that the Crompton study was mis-applied to residential properties and would result in a minimal, if any, benefit to adjacent residential properties. This was corroborated by the H&RA study indicating that nearby properties would use the park no more than if the LID was not constructed. The Hearing Officer should recommend that the special assessment made against our property be vitiated.

3. Erroneous Alaskan Way “before LID” depiction

The “Before LID” renderings of Alaskan Way did not reflect the actual build-out that would be required for the “Before” condition, resulting in overstated special benefit assessments in the “After LID” condition for adjacent Waterfront Place Residential Condominiums.

- a. At the time the formation study was completed, there was no rendering of the completed Alaskan Way if there were no LID. In fact, as stated in Marshall Foster’s testimony, “the contract called the main corridor included both the LID improvements and the reconstruction of Alaskan Way, itself”, so there was no distinct data available on what Alaska Way would be like if the LID was not enacted.
 - i. During meetings with the office of the waterfront in July 2018, Mr. Foster was asked to produce a rendering of what a completed Alaskan Way would look like without the LID. He provided the drawings included in our appeal (Exhibit CWF-0176-2) showing a Before LID Alaskan Way with exactly the same amount of green space as in the “After LID” rendering. At the time, he stated that the large planting areas in the LID design would be required for drainage purposes, whether or not the LID improvements were accomplished. The need for this surface drainage to complete the restoration of Alaskan Way was delineated in the Final special benefits study Addendum A, which stated that the “Before LID” scenario would be built to Green Stormwater Infrastructure (GSI) Code.
 - ii. Despite Mr. Foster’s attempt to brush off questioning, Seattle Public Utilities website describes GSI code as follows “GSI includes stormwater best management practices (BMP’s) designed to reduce runoff from development using infiltration, evapotranspiration and/or stormwater reuse. To be considered Green Stormwater Infrastructure, it must provide a function in addition to stormwater management such as water reuse, providing greenspace and/or habitat in the City. Examples of green stormwater infrastructure include trees, bioretention facilities, rain gardens, permeable pavement, vegetated roofs, and rainwater harvesting.” Each of these approaches requires more open green space thane included in traditional street environment.
 - iii. King County Wastewater Treatment Division website states that: “Drainage solutions that use plants, trees, and soil to soak up the rain are called green stormwater infrastructure (GSI) or natural drainage. These solutions are different from traditional infrastructure solutions that use pipes, underground storage tanks, and treatment plants to collect and clean the water. Natural drainage allows stormwater to soak into the earth, the way it did before Seattle was developed. This reduces the risk of combined sewer

overflows (CSOs) on rainy days, the cost and size of traditional facilities required to control CSOs, and neighborhood impacts.” This further reinforces the requirement for a significant increase in green space for GSI as compared to traditional stormwater facilities.

- b. Macaulay testified that the before LID rendering included in Addendum A depicts a multi-lane roadway with parking, sidewalks and nominal planting beds along each side of the street and was used to compare to the after LID condition to calculate special benefits. In his first day of testimony under questioning by Mr. Filipini Mr. Macaulay stated the following: “Extraordinary assumptions are something that if they're found to be false could alter the opinion of market value.” A correct “Before LID” rendering of Alaskan Way would be significantly different than that used by the appraiser, making it an extraordinary assumption proved false.
- c. The written description indicates that the before condition would include Green Stormwater Infrastructure (GSI) to code. This would result in a very different depiction of the before lid condition than that provided in Addendum A. In fact, with the exception of street furniture and variety of plantings, the before and after would be almost identical. They would each include roughly the same green footprint, bicycle lanes, continuous sidewalks and expansive views of the waterfront.

Conclusion: The difference between the actual “Before LID” redevelopment of Alaskan Way to meet GSI code requirements would not result in a 2.7% special benefit as currently assigned to Waterfront Place. The actual difference (adding street furniture and such) would be so small as to be effectively impossible to calculate. The Hearing Officer should recommend that the special assessment made against our property be vitiated.

4. Dis-amenities for residential condominiums

Dis-amenities for residential condominiums adjacent to the Promenade were not considered when developing “After LID” appraisals or were discarded by the appraiser based on faulty logic, therefore over-valuing the Waterfront Place Residential Condominium special benefit calculation.

- a. Mr. Macaulay testified that residents along Western Ave. would see no dis-amenity due to proximity to the Promenade because they already contend with congestion in the before situation. In fact, Western Ave. is a lightly traveled street with little foot traffic or activity. Placing a destination tourist facility one street over will significantly increase both the vehicle and pedestrian activity on Western, impacting parking, privacy and noise. Since Western will not be part of the official “park”, it will be managed like any other street. As Marshall Foster testified on June 26, page 69) about how a normal transportation corridor is managed by the city that is different

from a park. "That -- as part of that, you know, the Promenade, essentially, becomes a park space. Today the Promenade is a transportation corridor. If we do not have those things in place, the Promenade essentially is -- it's like any other sidewalk in the city, and it doesn't have that dedicated team in terms of addressing some of the issues that people have been concerned about." In addition, with the park closed to disruptive users, this activity would likely spill over to Western Ave. and the side streets emanating from Alaskan Way, where no enforcement would be applied.

- b. Mr. Macaulay dismissed consideration of parking loss for developing the special benefit for Residential Condominiums. On Page 153 of his June 26 testimony, he discussed the loss of 100+ parking spots along the Waterfront. His testimony stated: "they're primarily applied to the commercial properties. We felt that the market would be reacting more towards them than the commercial properties given the location of the parking lots." He acknowledged that no study was done for residential properties. When challenged by the fact that residential properties were also adjacent to the Waterfront, he reverted to his "parcel-by-parcel" appraisal approach to dismiss the issue.

Conclusion: Dis-amenities would more than offset any minimal special benefit conferred by the addition of street furniture resulting from the LID improvements. The Hearing Officer should recommend that the special assessment made against our property should be vitiated.



Karen N. Gielen
July 7, 2020



Anton P. Gielen
July 7, 2020

FILED

4:26 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: kngielen@mindspring.com
To: [City Clerk Filing](#)
Subject: RE: Notice of Appeal of Final Waterfront LID Assessment Recommendation, Hearing Examiner Case No. CWF-0176
Date: Tuesday, September 22, 2020 3:26:43 PM
Attachments: [CWF-0176 Appeal to City Council rev .pdf](#)
[Exhibit 0176-1 Rev.pdf](#)
[Exhibit 0176-2.pdf](#)

CAUTION: External Email

The filing provided yesterday for Case No. CWF-0176 has been revised. Please replace the filed documents with the enclosed updates.

From: kngielen@mindspring.com <kngielen@mindspring.com>
Sent: Tuesday, September 22, 2020 12:42 AM
To: 'cityclerkfiling@seattle.gov' <cityclerkfiling@seattle.gov>
Subject: Notice of Appeal of Final Waterfront LID Assessment Recommendation, Hearing Examiner Case No. CWF-0176

Appeal enclosed

Karen N. Gielen
206-920-7860
kngielen@mindspring.com

September 22, 2020

Notice of Appeal of Final Waterfront LID Assessment Recommendation.
Final Waterfront LID No. 6751

Hearing Examiner Case No. CWF-0176

Parcel Owners: Anton and Karen Gielen

King County Parcel No. 9195900200

Address: 1009 Western Ave, Apt. 1209, Seattle WA 98104

We, Karen and Anton Gielen, owners of the condominium property located at 1009 Western Ave. Apt. 1209, Seattle, WA 98104 (Parcel No, 9195900200), objected to the Final Assessment for our parcel and now submit this appeal of the Recommendations of the Hearing Examiner regarding Waterfront LID No. 6751 Case No. CWF-0176. pursuant to:

SMC 20.04.090.C

Any finding, recommendation, or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

However, we are not able to follow the instructions pursuant to:

SMC 20.04.110 - Appeal to City Council.

In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also designate by name or title and by sub number the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee.

Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of

appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.

Because the City has not provided “metered index numbers”, therefore our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee’s consideration of each individual appeal more efficient and fair. Instead page numbers of attached exhibits are referenced.

We request and demand an appeal hearing with the City Council. Our original appeal is included as Exhibit 0176-1. Our Final Argument is included as Exhibit 0176-2.

We appeal from the following portions of the Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner:

- 1) Decision, Page 49: “Objectors claim that their unit was overvalued due to the City appraisal, because the property view has less value than determined by the City. Objector provides no appraisal evidence to indicate that the City’s calculation or reliance on King County Assessor’s view data are inaccurate. Recommendation: denial”

From our initial appeal: “In the case of our property, Valbridge assigned our property a post-viaduct value resulting in an increase of 33.3% over the King County Assessor’s valuation. As you can see in the Exhibit A table, other units in the building with west facing views were assessed at an average of 9.9% increase after the demolition of the viaduct. Each of these properties have unobstructed Waterfront and Alaskan Way views from their major living areas while our unit has an obstructed water view which did not include the Viaduct and will not include the Alaskan Way “Promenade” planned by the City. Exhibit B includes a comparison of the unobstructed waterfront view of Apt. no. 1103 to our unit.”

The Hearing Examiner’s conclusion does not agree with the testimony presented during cross examination of Mr. Macaulay. He clearly stated that a view amenity has a direct effect on market value both in the before and after condition of the property. From the hearing transcript from 6/25/20 page 155 lines 19-25 and page 156 line 1:

19 Q. So did you apply a premium to both the –to the
20 view amenity?

21 A. The properties in a particular condo unit that
22 had a view amenity would have – would have a higher
23 market value, both in the before and after.
24 and –and, therefore, if—if they had a
25 higher overall benefit amount, then proportionally pay a
1 higher –a higher assessment amount.

Conclusion: The city failed to rebut the evidence we provided in our appeal, demonstrating the vast inferiority in the view from our unit as compared with another unit in the same building. Both units were assigned identical \$825/sq. foot valuations when the data provided a very different conclusion. As compared to other units in the building, a valuation of \$750/sq. ft. is appropriate, reducing the appraised value of PIN 9195900200 to \$1,518,000 for the pre-LID condition.

- 2) Decision, Page 49: The Hearing Examiner failed to address the lack of special benefit for our property relative to other properties outside the LID boundaries as described in our final argument. Mr. Macaulay testified that condo owners would receive special benefit from the LID projects due to their proximity, which would be greater than the general public benefit, which cannot be measured. The HR&A Study, February 2019, directly contradicted this testimony. The study determined that downtown park adjacent visitors would make no net new visits to the park. In contrast, non-adjacent Metro residents would increase by 69,000 net new visitor days per year and other non-city residents would increase net new visitor days by 327,000. When challenged by this data demonstrating that adjacent property owners would perceive no value in terms of usage of the promenade when other city dwellers would receive a tangible benefit, Mr. Macaulay provided no evidence supporting his position.

Conclusion: The city provided no evidence justifying a 2.7% special benefit for properties directly abutting the Promenade. In fact, the testimony indicated that the Crompton study was mis-applied to residential properties and would result in a minimal, if any, benefit to adjacent residential properties. This was corroborated by the H&RA study indicating that nearby properties would use the park no more than if the LID were not constructed. The Council should invalidate the special assessment made against our property.

- 3) Decision, Page 49: “In addition to these issues, the objection argues that the subject property would receive no special benefit. To support this argument Objector included a letter from the property HOA president to challenge the City appraisal’s special assessment for the property. The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit or that the City appraisal valuation process was flawed. Recommendation: denial.”

The Hearing Examiner completely dismissed our claim that there is no special benefit to properties adjacent to the Promenade as described by the letter from our HOA president included in the Appeal. The Examiner ignored the testimony provided in our Final Argument demonstrating that the actual “before” condition of the Promenade will be identical to the “after” in terms of green planted spaces. In his testimony during cross examination, Marshall Foster indicated that the existing contract for replacement of the streetscape of Alaskan Way includes the elements that are necessary for the LID landscaping, which is inseparable from the contract.

The difference between the actual “Before LID” redevelopment of Alaskan Way to meet GSI code requirements would not result in a 2.7% special benefit as currently assigned to Waterfront Place. The actual difference (adding street furniture and such) would be so small as to be effectively impossible to calculate. In his testimony during cross examination

Karen and Anton Gielen

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

To the Office of the City Clerk
Seattle City Hall
600 Fourth Avenue, Floor 3
PO Box 94607
Seattle, WA 98124-6907

We object to and appeal the final assessment levied against us and our property.

Name: Karen N. Gielen and Anton P. Gielen

Property

Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

King County
Tax Parcel ID: 9195900200

Owner's Mailing Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

We were notified on December 30, 2019 that the Final Special Benefit Study has been published and that property owners must submit their appeals by February 4, 2020 with a hearing scheduled for that day. A one day hearing will clearly not accommodate the number of potential testifiers. In addition, we each have pre-arranged travel plans that will take us out of Washington State the day of the hearing. **We respectfully request an opportunity to testify after returning to Seattle on February 12th and will require the normal 40 minutes usually allotted for a property valuation appeal by King County.** The following constitutes our objections to our proposed final LID assessment.

1. There are no "plans and specifications" on file with the Clerk's Office for the LID Improvements, and it is unlawful to move to final assessments without such "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009).
2. There has been no State Environmental Policy Act (SEPA) review of the Waterfront LID formation ordinance, and there are incomplete SEPA reviews of the LID Improvements themselves. It is unlawful to move forward with final assessments until all SEPA reviews are complete for both the Waterfront LID and the Waterfront LID Improvements. *LID Manual*, pp. 3, 6, 17, 24, 26; SMC 25.05.800.Q.

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

3. Without more design details and the date certain for completing construction, it is pure speculation what benefit (general or special), if any, the LID Improvements will create. *Anthony Gibbons Letter* (May 2, 2018).
4. Our property is not receiving any special benefits. It is unlawful to include any property that will not receive special benefits, and it is an unconstitutional taking of private property. *Heavens v. King County Rural Library District*, 66 Wash.2d 558, 564, 404 P.2d 453 (1965).
The attached letter from Richard Barbieri, President, Waterfront Place Building Residential HOA to the Seattle Hearing Examiner, dated July 13, 2018 outlines in detail why the LID improvements do not provide a special benefit to our properties.
5. The process used by Valbridge to create post-viaduct values for LID properties was overly simplified and flawed. Both the preliminary and final assessments bear no relationship with corresponding King County property appraisals but were instead broadly calculated on a “Dollar per square foot” methodology. Key differences between various properties and between properties (including views, noise impact, etc.) in the same building were overlooked causing the assessments themselves to be based on speculation. In the case of our property, Valbridge assigned our property a post-viaduct value resulting in an increase of 33.3% over the King County Assessor’s valuation. As you can see in the Exhibit A table, other units in the building with west facing views were assessed at an average of 9.9% increase after the demolition of the viaduct. Each of these properties have unobstructed Waterfront and Alaskan Way views from their major living areas while our unit has an obstructed water view which did not include the Viaduct and will not include the Alaskan Way “Promenade” planned by the City. Exhibit B includes a comparison of the unobstructed waterfront view of Apt. no. 1103 to our unit.
6. The estimated value lift applied by Valbridge is less than 4% which is within the margin of error for any appraisal and thus, by definition, speculation. *Anthony Gibbons Letter* (May 2, 2018). Attached is a copy of Anthony Gibbons Letter.
7. The LID Improvements are unnecessary, purely aesthetic, and adjacent to a planned 8-lane roadway and mismanaged public spaces of poor quality. There will be no special benefit.
8. The LID is not local or intended to provide special benefits. It is a regional, national, and international destination. There is no special benefit.

Marshall Foster stated in a recent article for AAA’s Journey magazine (Exhibit C), “we wanted to be one of the places that you have to see while you’re in Seattle, whether you’re visiting from Kent or you’re visiting from across the world. We’ve designed it (The Waterfront Park) to be a destination park...like Millennium Park in Chicago, the High Line in New York or Golden Gate Park in San Francisco.” Even the City of Seattle’s Office of the Waterfront recognizes that this is not a local amenity and will, in fact, significantly increase the volume of visitors to the detriment of local residents.

Objection to Final Waterfront LID Assessment and Appeal of Final Assessment Amount

9. The LID Improvements do not add anything new to the Central Waterfront, which already has a promenade, viewpoints, as well as connecting streets and bridges.
10. The construction estimates are not based upon substantially complete construction documents, are out of date, and uncertain. Final assessments will bind future City Councils and budgets to complete the LID Improvements regardless of cost. It is unlawful to bind future City Councils and future budgets to spend hundreds of millions of dollars on projects still early in the design process. Washington Attorney General Opinion 2012 No. 4 (May 15, 2012). Attached is a copy of AG Opinion 2012 No. 4.
11. We incorporate by reference all objections made as part of King County Superior Court Case No. 19-2-05733-5 SEA (Consolidated with No. 19-2-08787-1 SEA). Attached is a copy of the Third Amended Complaint.

Handwritten signatures of Anton P. Gielen and Karen N. Gielen in cursive script.

Karen N. Gielen and Anton P. Gielen
January 29, 2020

Before the Hearing Examiner of the City of Seattle

July 7, 2020

Case Number CWF-0176

Names: Karen N. Gielen, Anton P. Gielen

Property Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

King County Tax Parcel ID: 9195900200

Owner's Mailing Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

We, Karen N. Gielen and Anton P. Gielen, owners of the residential condominium property located at 1009 Western Ave., Ap. 1209, Seattle WA, 9104 (PIN 9195900200), respectfully submit the following closing arguments and statements in this matter, Case No. CWF-0176.

1. Introduction

Testimony provided by the city during its case presentation and subsequent cross examination of witnesses, along with declarations of other participants provided no rebuttal to our appeal filed on January 29, 2020.

2. "Before LID" Appraisal Process

The appraisal process used to develop "Before LID" appraisals of Residential Condominiums was inherently flawed and resulted in inaccurate appraisals which became the basis for establishing the "special benefit". The City and its witnesses provided no evidence that the appraisals were truly accomplished on a parcel-by-parcel basis or that they reflected accurate basic information on each unit.

- a. Under cross examination, Mr. Macaulay stated that during the normal appraisal process there would be back and forth communication between the appraiser and property owner to catch any erroneous assumptions. Instead of querying the city as to why there was no feedback, he assumed that his appraisals were validated. The city process informed property owners that they should not include concerns specific to their individual properties in the LID formation hearings. The only opportunity to make these issues known was the process we are currently participating in. (Pages 133 – 136 , Macaulay cross-examination, June 26, 2020).

- b. Mary Hamel stated that the following data from the King County Assessor were used as the basis for developing the “Before LID” appraisals for Residential Condominiums (Declaration of Mary K. Hamel, page 3): “...we relied on King County Assessor information for data on individual residential condominiums, including square footage, bathroom and bedroom counts, construction quality and type, and grade of view amenities”. An individual property’s view amenity is very important when considering the value of a downtown high-rise residential condominium.
- c. The city failed to rebut the evidence we provided in our appeal, demonstrating the vast inferiority in the view from my unit as compared with another unit in the same building. Both units were assigned identical \$825/sq. foot valuations when the data provided a very different conclusion. As compared to other units in the building, a valuation of \$750/sq. ft. is appropriate, reducing the appraised value of PIN 9195900200 to \$1,518,000.
- d. In his testimony, Mr. Macaulay stated that in developing the “Before LID” appraisal, future development was considered when it became known by the market. In fact, there was no change in Before LID assessments for units in Waterfront Place between the Preliminary and Final special benefit studies. Plans to convert the parking facility at 1101 Western Ave. directly north of Waterfront Place into a 16 story apartment building developed after the preliminary study and would have come to the attention of the market prior to completion of the final study. This major view-altering impact did not make any change to the before lid assessment of affected parcels

Conclusion: “Before LID” appraisals for Waterfront Place Residential Condominiums and particularly our parcel are flawed. To be consistent to other parcels in our building, a more appropriate appraisal for our property would be at \$750/per sq. ft. The Hearing Examiner should recommend that the “Before LID” appraisal for PIN 9195900200 be adjusted to \$1,518,000.

2. Proximity to Promenade

In his conflicted testimony, Mr. Macaulay cited proximity to the Promenade conferring special benefit based on Dr. Crompton’s analysis, while waving off any of the mitigating issues raised in Crompton’s studies.

- a. When asked about the special benefit to a residential property which already had direct access to the Waterfront as compared to one whose access was facilitated by the LID projects, Macaulay brought up the Maritime Building’s experience once the LID became known to the marketplace. When queried how the proximity would benefit a residential property that could not benefit from increase in foot traffic,

Macaulay reverted to his standard verbiage about the market and studies with no actual data or specific references. (Testimony from June 26, pages 141 – 144). When questioned about Dr. Crompton's critique of his use of the proximate principal, he brushed it off by saying he never talked to Crompton rather than supplying evidence that the critique was wrong (Page 144).

- b. Dr. Crompton's found that "Most of the enhanced value of parks derives from people's willingness to pay a premium to be proximate to the tranquility, peace, and psychological relaxation many parks provide." And "In contrast, enhanced property values associated with greenways are likely to come from access to a trail rather than from the views of nature and open space and is their functionality or activity potential that is likely to confer most added value." Also, "there's no evidence to suggest that they (trails) have a positive impact, so no proximate premium is recommended". When questioned why these would not directly apply in the context of the Promenade, Macaulay declined to call Crompton's critique wrong, instead stating that "I'm not saying they're incorrect. They're --they're -- they're different than what -- what is being done in the LID projects. So, again, they're used as background basis." This answer provided no evidence that there was an alternate study that would be more applicable than Dr. Crompton's analysis which was waved away as "background". (Page 145).
- c. Mr. Macaulay testified that condo owners would receive special benefit from the LID projects due to their proximity, which would be greater than the general public benefit, which cannot be measured. The HR&A Study, February 2019, directly contradicted this testimony. The study determined that downtown park adjacent visitors would make no net new visits to the park. In contrast, non-adjacent Metro residents would increase by 69,000 net new visitor days per year and other non-city residents would increase net new visitor days by 327,000. When challenged by this data demonstrating that adjacent property owners would perceive no value in terms of usage of the promenade when other city dwellers would receive a tangible benefit, Mr. Macaulay provided no evidence supporting his position.

Conclusion: The city provided no evidence justifying a 2.7% special benefit for properties directly abutting the Promenade. In fact, the testimony indicated that the Crompton study was mis-applied to residential properties and would result in a minimal, if any, benefit to adjacent residential properties. This was corroborated by the H&RA study indicating that nearby properties would use the park no more than if the LID was not constructed. The Hearing Officer should recommend that the special assessment made against our property be vitiated.

3. Erroneous Alaskan Way “before LID” depiction

The “Before LID” renderings of Alaskan Way did not reflect the actual build-out that would be required for the “Before” condition, resulting in overstated special benefit assessments in the “After LID” condition for adjacent Waterfront Place Residential Condominiums.

- a. At the time the formation study was completed, there was no rendering of the completed Alaskan Way if there were no LID. In fact, as stated in Marshall Foster’s testimony, “the contract called the main corridor included both the LID improvements and the reconstruction of Alaskan Way, itself”, so there was no distinct data available on what Alaska Way would be like if the LID was not enacted.
 - i. During meetings with the office of the waterfront in July 2018, Mr. Foster was asked to produce a rendering of what a completed Alaskan Way would look like without the LID. He provided the drawings included in our appeal (Exhibit CWF-0176-2) showing a Before LID Alaskan Way with exactly the same amount of green space as in the “After LID” rendering. At the time, he stated that the large planting areas in the LID design would be required for drainage purposes, whether or not the LID improvements were accomplished. The need for this surface drainage to complete the restoration of Alaskan Way was delineated in the Final special benefits study Addendum A, which stated that the “Before LID” scenario would be built to Green Stormwater Infrastructure (GSI) Code.
 - ii. Despite Mr. Foster’s attempt to brush off questioning, Seattle Public Utilities website describes GSI code as follows “GSI includes stormwater best management practices (BMP’s) designed to reduce runoff from development using infiltration, evapotranspiration and/or stormwater reuse. To be considered Green Stormwater Infrastructure, it must provide a function in addition to stormwater management such as water reuse, providing greenspace and/or habitat in the City. Examples of green stormwater infrastructure include trees, bioretention facilities, rain gardens, permeable pavement, vegetated roofs, and rainwater harvesting.” Each of these approaches requires more open green space thane included in traditional street environment.
 - iii. King County Wastewater Treatment Division website states that: “Drainage solutions that use plants, trees, and soil to soak up the rain are called green stormwater infrastructure (GSI) or natural drainage. These solutions are different from traditional infrastructure solutions that use pipes, underground storage tanks, and treatment plants to collect and clean the water. Natural drainage allows stormwater to soak into the earth, the way it did before Seattle was developed. This reduces the risk of combined sewer

overflows (CSOs) on rainy days, the cost and size of traditional facilities required to control CSOs, and neighborhood impacts.” This further reinforces the requirement for a significant increase in green space for GSI as compared to traditional stormwater facilities.

- b. Macaulay testified that the before LID rendering included in Addendum A depicts a multi-lane roadway with parking, sidewalks and nominal planting beds along each side of the street and was used to compare to the after LID condition to calculate special benefits. In his first day of testimony under questioning by Mr. Filipini Mr. Macaulay stated the following: “Extraordinary assumptions are something that if they're found to be false could alter the opinion of market value.” A correct “Before LID” rendering of Alaskan Way would be significantly different than that used by the appraiser, making it an extraordinary assumption proved false.
- c. The written description indicates that the before condition would include Green Stormwater Infrastructure (GSI) to code. This would result in a very different depiction of the before lid condition than that provided in Addendum A. In fact, with the exception of street furniture and variety of plantings, the before and after would be almost identical. They would each include roughly the same green footprint, bicycle lanes, continuous sidewalks and expansive views of the waterfront.

Conclusion: The difference between the actual “Before LID” redevelopment of Alaskan Way to meet GSI code requirements would not result in a 2.7% special benefit as currently assigned to Waterfront Place. The actual difference (adding street furniture and such) would be so small as to be effectively impossible to calculate. The Hearing Officer should recommend that the special assessment made against our property be vitiated.

4. Dis-amenities for residential condominiums

Dis-amenities for residential condominiums adjacent to the Promenade were not considered when developing “After LID” appraisals or were discarded by the appraiser based on faulty logic, therefore over-valuing the Waterfront Place Residential Condominium special benefit calculation.

- a. Mr. Macaulay testified that residents along Western Ave. would see no dis-amenity due to proximity to the Promenade because they already contend with congestion in the before situation. In fact, Western Ave. is a lightly traveled street with little foot traffic or activity. Placing a destination tourist facility one street over will significantly increase both the vehicle and pedestrian activity on Western, impacting parking, privacy and noise. Since Western will not be part of the official “park”, it will be managed like any other street. As Marshall Foster testified on June 26, page 69) about how a normal transportation corridor is managed by the city that is different

from a park. "That -- as part of that, you know, the Promenade, essentially, becomes a park space. Today the Promenade is a transportation corridor. If we do not have those things in place, the Promenade essentially is -- it's like any other sidewalk in the city, and it doesn't have that dedicated team in terms of addressing some of the issues that people have been concerned about." In addition, with the park closed to disruptive users, this activity would likely spill over to Western Ave. and the side streets emanating from Alaskan Way, where no enforcement would be applied.

- b. Mr. Macaulay dismissed consideration of parking loss for developing the special benefit for Residential Condominiums. On Page 153 of his June 26 testimony, he discussed the loss of 100+ parking spots along the Waterfront. His testimony stated: "they're primarily applied to the commercial properties. We felt that the market would be reacting more towards them than the commercial properties given the location of the parking lots." He acknowledged that no study was done for residential properties. When challenged by the fact that residential properties were also adjacent to the Waterfront, he reverted to his "parcel-by-parcel" appraisal approach to dismiss the issue.

Conclusion: Dis-amenities would more than offset any minimal special benefit conferred by the addition of street furniture resulting from the LID improvements. The Hearing Officer should recommend that the special assessment made against our property should be vitiated.



Karen N. Gielen
July 7, 2020



Anton P. Gielen
July 7, 2020

From: kngielen@mindspring.com
To: [City Clerk Filing](#)
Subject: Attention: Waterfront LID Appeal, CWF-0176
Date: Tuesday, February 16, 2021 4:57:34 PM
Attachments: [Case No. CWF-0176 City Council Appeal to Waterfront LID N. 6751.docx](#)

CAUTION: External Email

Enclosed is a response to the Waterfront LID Assessment Roll Hearing Final Report for Local Improvement District No. 6751. This should be considered additive to my Closing Argument provided on July 7, 2020, and original appeal dated January 29, 2020.

Karen N. Gielen
206-920-7860
kngielen@mindspring.com

February 16, 2021

Case Number CWF-0176

Names: Karen N. Gielen, Anton P. Gielen

Property Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

King County Tax Parcel ID: 9195900200

Owner's Mailing Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

We, Karen N. Gielen and Anton P. Gielen, owners of the residential condominium property located at 1009 Western Ave., Apt. 1209, Seattle WA, 9104 (PIN 9195900200), respectfully submit the following appeal of The Waterfront LID Assessment Roll Hearing Final Report for Local Improvement District No. 6751, filed by the Hearing Examiner on February 1, 2021.

1. Introduction

According to the Final Hearing Examiner's Report, although the original hearing date was set for February 4, appellants were given the opportunity to be scheduled on later dates in February, March, and April 2020. In our appeal we requested an opportunity to testify after return from an international trip on February 12. We never received notice of the opportunity to attend a later hearing date, so never had the opportunity to present our appeal in person.

We were able to participate in the presentation of the case and cross examination of city witnesses but were not invited to the pre-hearing deposition of Robert Macauley.

Our appeal included both common issues with other appellants as well as two specific and unique complaints: The "Before LID" appraisal of our property and the erroneous depiction of Alaskan Way in the "Before LID" condition. At no time did the city provide expert evidence refuting these complaints.

2. "Before LID" Appraisal Process

The Hearing examiner states in his final report "...the objection fails to support this argument (valuation process was flawed) with any expert appraisal or valuation evidence. Without such supporting evidence, the lay observations of the Objector are not sufficient to overcome the presumption in favor of the City's expert appraiser."

- a. Following is a comparison of the view from our living room side-by-side with the view from our neighbor's living room, provided in the appeal. You will note that our view is entirely territorial while our neighbor's includes unobstructed views of the harbor, Puget Sound, Olympic Mountains, and the cityscape. An "expert appraiser" cannot apply the exact same per square foot valuation to these two properties in the same building without losing credibility. In fact, City Witness Mary Hamel stated that "An individual property's view amenity is very important when considering the value of a downtown high-rise residential condominium".



Unit 1209



Unit 1103

- The City's "expert appraiser" valued these two very different views at the same per square foot value, demonstrating that either the appraiser was completely unfamiliar with the market value of Seattle views, or that a large error was made during his "parcel by parcel" appraisal process.
- b. Under cross examination, the city's Appraiser stated that a normal appraisal process would include back and forth communication between the appraiser and property owners to catch any erroneous assumptions. Instead of querying the city as to why

there was no feedback from property owners after the Preliminary Study was published in May 2018, he assumed that his appraisals were validated. The city processes informed property owners that they should not include concerns specific to their individual properties in the LID formation hearings. The only opportunity to make these issues known was during the appeals process, which was too late to change the appraisals in the Final Assessment Role. The Hearing Examiner disregarded any errors identified during the appeals process because it was not considered “expert” opinion.

- c. The Hearing Examiner failed to rebut the evidence we provided in our appeal, demonstrating the vast inferiority in the view from our unit as compared with another unit in the same building and disregarded the testimony from the Appraiser that give and take with property owners during the appraisal process would be necessary to validate his assumptions.

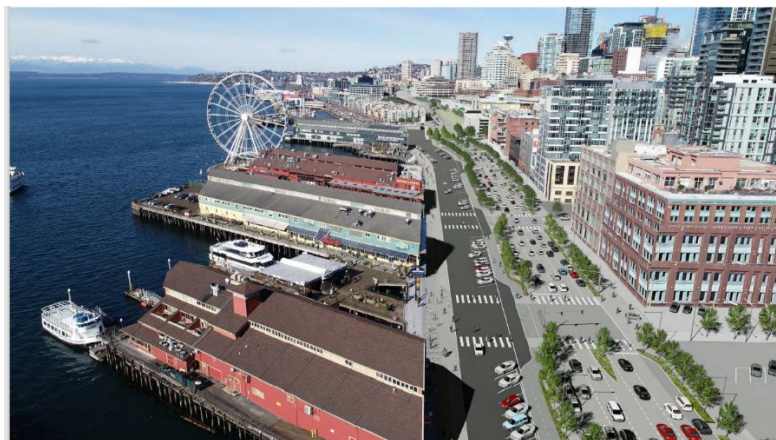
Conclusion: “Before LID” appraisal for our parcel is flawed. Contrary to the Hearing Examiner Final Report, credible evidence of the error in the appraisal was provided in our appeal. To be consistent to other parcels in our building, a more appropriate appraisal for our property would be at \$750/per sq. foot. Each unit in our building was assigned an identical “value lift” for the “After LID” condition. The overstated “Before LID” value inflated our assessment in proportion to other units in the building.

2. Erroneous Alaskan Way “before LID” depiction

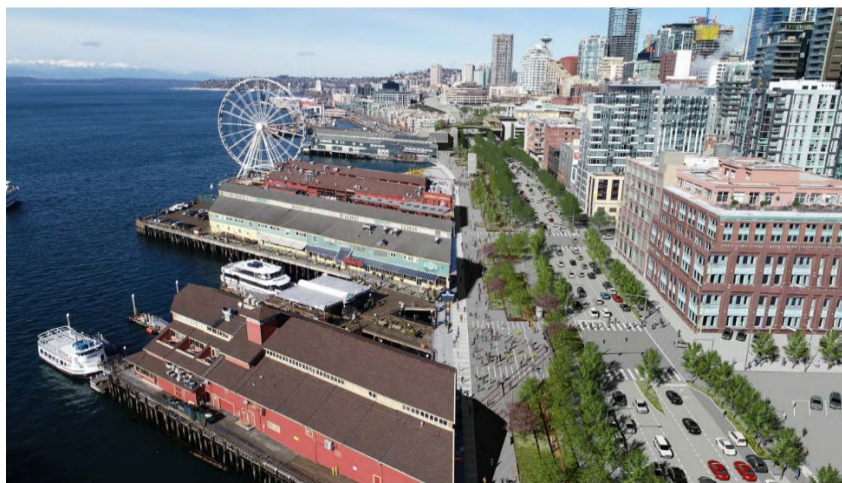
The Hearing Examiner states “...the Objection argues that the subject property would receive no special benefit. To support this argument Objector included a letter from the property HOA president to challenge the City appraisal’s (sic) special assessment for the property” and “.... The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit “.

- a. Supporting evidence was provided in the appeal but was never addressed directly by the Hearing Examiner. The HOA president’s letter included a depiction provided by the city in July 2018 of the likely condition of Alaskan Way if no LID were adopted. At the time, Mr. Foster acknowledged during a meeting that there were no official renderings of the “pre-LID” configuration of Alaskan Way. His staff provided a rendering for the meeting indicating that, absent the LID projects, Alaskan Way would still be built with the same extensive green areas to handle the drainage and stormwater requirements.
- b. When the Final Study was issued in late 2019, the “before LID” description indicated that Green Stormwater Infrastructure (GSI) would be employed. GSI has extremely specific requirements to satisfy Both National and Washington State requirements.

- i. Section 502 of the Clean Water Act defines green infrastructure as "...the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters. When rain falls in natural, undeveloped areas, the water is absorbed and filtered by soil and plants. Stormwater runoff is cleaner and less of a problem. Green infrastructure uses vegetation, soils, and other elements and practices to restore some of the natural processes required to manage water and create healthier urban environments. At the city or county scale, green infrastructure is a patchwork of natural areas that provides habitat, flood protection, cleaner air, and cleaner water. At the neighborhood or site scale, stormwater management systems that mimic nature soak up and store water.
- ii. In their paper "Expanding the Benefits of Seattle's Green Stormwater Infrastructure Examining Values Previously Unmeasured from Past and Potential Future Efforts in Seattle, Washington JANUARY 2017 EPA 832-R-16-011" Pam Emerson and Tracy Tackett (Seattle Public Utilities) claim that Green Stormwater Infrastructure (GSI) provides the types of urban greening that can contribute to improved mental health. This reinforces that Seattle's use of GSI results in an increase of vegetation as compared to a traditional stormwater approach.
- c. The following illustration is taken from Addendum A to the Final LID Study, depicting the "before LID" condition of Alaskan Way looking north from Spring Street. As you will note, there are only narrow strips of permeable green space, which provide none of the factors necessary to enable Green Stormwater Infrastructure to be applied or to obtain the benefits of "urban greening" noted in the Emerson/Tackett paper. This is the condition the Expert Appraiser used to develop his estimation of the property benefit the LID project would provide to adjacent property.



- i. The city's appraiser (Mr. Macaulay) testified that the before LID rendering included in Addendum A depicts a multi-lane roadway with parking, sidewalks, and nominal planting beds along each side of the street and was used to compare to the "After LID" condition to calculate special benefits.
 - ii. In his first day of testimony under questioning by city attorney Mr. Filipini, Mr. Macaulay stated the following: "Extraordinary assumptions are something that if they're found to be false could alter the opinion of market value." A correct "Before LID" rendering of Alaskan Way would be significantly different than that used by the appraiser, making it an extraordinary assumption proved false.
- d. The next picture is the "after LID" view of the same area. In this case significant green areas are included which will enable the elements of Green Stormwater Infrastructure to function. In fact, the "after LID" rendering is actually what will exist if the LID is not implemented, with the exception of street furniture, art and kiosks.



Conclusion: The difference between the actual "Before LID" redevelopment of Alaskan Way to meet GSI code requirements would be virtually indistinguishable from the "After LID" depiction in the Final Study. The only difference will be inclusion of street furniture, art and kiosks, a benefit so small as to be effectively impossible to calculate. There is no special benefit provided by the Alaskan Way portion of the LID.

Karen N. Gielen
February 16, 2021

Anton P. Gielen
February 16, 2021

FILED

4:11 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: janeфинch@cablespeed.com
To: [City Clerk Filing](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 3:48:53 PM
Attachments: [Notice of Appeal^LJ Waterfront LID No. 6751^LJ Case No. CWF 0215 \(1\).docx](#)

CAUTION: External Email

Dear City Clerk,

Attached you will find copy of my appeal for the Waterfront LID No 6751 for Case No. CWF0215.

Thank you,
Jane Finch

September 21, 2020

Notice of Appeal

Waterfront LID No. 6751

Hearing Examiner Case No. CWF-0215

Property Owner Jane A. Finch

Parcel Number 2570280140

Address: 1507 Western Avenue, Unit Number 303, Seattle, WA 98101

I, Jane A. Finch, owner of the condominium property located at 1507 Western Avenue, Unit Number 303, Seattle, WA, 98101, Parcel Number 2570280140, pursuant to SMC 20.04.090.C respectfully submit the appeal of the recommendations of the Hearing Examiner in the matter of Waterfront LID No. 6751 Case No. CWF-0215.

I request a hearing on this appeal.

I appeal the following portion of the recommendation of the Hearing Examiner found on pages 57-58 of the Seattle Central Waterfront Improvement Program, Local Improvement District, Assessment Hearing, Hearing Examiner Findings and Recommendation related to my Case No. CWF-0215:

“CWF-0215 (2570280140) – The objection raises the following common objection issues addressed below in the Legal Analysis section B: 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10. In addition to these issues, the Objector included a discussion concerning valuations of other condominiums in the same building, and also questioned the City valuation process as a challenge to the City’s appraiser’s valuation for the property. Without additional supporting evidence concerning the valuations of comparable condominiums, the concerns related to the City valuation process and the absence of analysis and data concerning the subject property are not adequate to demonstrate an error in the special assessment for this property. The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit or that the City appraisal valuation process was flawed. Recommendation: denial”

1. With regard to Valuations of other condominiums in the same building, the Hearing Examiner’s own LID Property Search Tool records show the following comparison for my Unit 303, Parcel Number 2570280140 with Unit 010, Parcel Number 2570280010:

Unit 303, Parcel Number 2570280140

Special Benefit and Preliminary Assessment:

Special Benefit: \$14,670

Preliminary Assessment Percentage*: 48.27%

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Property Owner Jane A. Finch
Parcel Number 2570280140
Address: 1507 Western Avenue, Unit 303, Seattle, WA 98101
Page 2 of 5

*Percentage is uniform for all properties

Preliminary Assessment (special benefit x assessment percentage: \$7,081

Additional Detail

Market value without Waterfront Improvements: \$489, 000

Market value with Waterfront Improvements: \$503,670

The difference in market value equals your special benefit number above.

Special benefit as a percentage of market value: 3%

Preliminary assessment as a percentage of market value: 1.45%

Property Data from King County Assessor

Property Name: Fix Building The Condominium

Physical Address: 1507 Western Avenue #R303 Seattle WA 98101

Mailing Address: 2507 Western Avenue, #303 Seattle, WA 98104

Taxpayer Name: Jane A Finch

Present Use: Condominium (Mixed Use)

Zoning: PMM-85

Building gross square footage: 24,640

Building net square footage: 815

Special benefit and preliminary assessment as of: 4/5/2018

King County Assessor data as of: 1/30/2018

Unit Comparison within my Building:

Unit 010, Parcel Number 2570280010

Special Benefit and Preliminary Assessment

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Special Benefit: \$412

Preliminary assessment percentage*: 48.27%

*Percentage is uniform for all properties

Preliminary assessment (special benefit x assessment percentage) \$199

Additional Detail

Market value without Waterfront improvements: \$164,900

Market value with Waterfront Improvements: \$165,312

The difference in market value equals your special benefit number above.

Special benefit as a percentage of market value: 0.25%

Preliminary assessment as a percentage value: 0.12%

Property Data from King County Assessor

Property name: Fix Building The Condominium

Physical address: 1507 Western Avenue #C010

Present use: Condominium (Mixed Use)

Zoning: PMM-85

Building gross square footage: 24,640

Building net square footage: 1,968

Special benefit and preliminary assessment as of: 4/5/2018

King County Assessor data as of: 1/30/2018

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UPDATE: Please note the data used to populate the search tool is based on the proposed final assessment roll. The official proposed final assessment roll is on file and available to be viewed at the Office of the City Clerk and online: [proposed final assessment roll](http://clerk.seattle.gov/~CFS_321491.pdf)
[\[http://clerk.seattle.gov/~CFS_321491.pdf\]](http://clerk.seattle.gov/~CFS_321491.pdf)

The City received property owner information from the King County Treasurer's office on 12/3/2019 provides the following update: My Unit 303, parcel number 2570280140

Property Data from King County Treasurer

Taxpayer name: Jane A Finch
Final Special Benefit and Assessment

Proposed final assessment {special benefit x assessment percentage} = \$5,748

Final special benefit = \$14,670

Final assessment percentage* : 39.2%

Comparison Unit 010, Parcel Number 2570280010

Final Special Benefit and Assessment

Proposed final assessment (special benefit x assessment percentage) = \$392

Final special benefit = \$1,000

Final assessment percent* : 39.2%

I question why my final assessment is \$5,748 with a final special benefit of \$14,670 for a unit with 815 square feet on the third floor of my building is considered so much more in value when compared with a unit (Unit 010 parcel number 2570280010) that has 1968 square feet, has kitchen facilities with bathroom has a \$392 final assessment and a final special benefit of \$1,000. They have rented the unit as both a commercial space and live/work space. I currently have a partial view but it will be lost to the Seattle Aquarium Ocean Pavilion that is planned. I am not able to find plans with specifications but can provide the following drawing found on Page 36 at this link:

https://www.seattleaquarium.org/sites/default/files/files/SEASOP_ScopingSummaryReport_062218.pdf

Notice of Appeal
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Case No. CWF-0215
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2. Included in the denial remarks was the statement: "The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit."

As with my original letter of appeal, I was unable to find plans with specifications, and a budget itemizing costs. How can the City LID Waterfront Project determine there would be a special benefit to my property lacking details?

Furthermore, the project will not be completed until 2024. Typically, costs change dramatically over time. And what about possible design changes, cost over runs?

There are so many questions related to the plans, design, and costs that are uncertain at this point. I fail to see how I am to provide proof that this project will be special benefit to my property. In fact, the sketches of the Overwalk and the Aquarium Ocean Pavilion suggests that the Overwalk and the Aquarium Pavilion would be placed on the west side of the Fix Building where I live and may possibly completely obstruct my view. That would be special benefit to me? Please see: Page 36 of

https://www.seattleaquarium.org/sites/default/files/files/SEASOP_ScopingSummaryReport_062218.pdf

For your consideration.

Sincerely,
Jane Finch

Emailed to the City Clerk on September 22, 2020

FILED

3:25 pm, Thu, February 04, 2021

OFFICE OF THE CITY CLERK

From: [Paul Lowber](#)
To: [City Clerk Filing](#)
Cc: [Paul Lowber](#)
Subject: Attention: Waterfront LID Appeal, CWF-0231 (insert CWF)
Date: Thursday, February 04, 2021 2:52:11 PM
Attachments: [image001.png](#)
[Written Objection WAC Garage Jan 31 2020.pdf](#)

CAUTION: External Email

Dear Ladies & Gentlemen:

I am writing to appeal the findings of the Hearing Examiner's final recommendations with regard to Waterfront LID No. 6751, specifically for CWF-0231. The basis of the appeal is contained in the attached written objection which was timely filed with the Office of the City Clerk on January 31, 2020. The Hearing Examiner did not address the issues raised in the objection, namely that an error was made in associating the WAC Garage with an adjacent property as opposed to the WAC Clubhouse which is located ½ block south.

If you have any questions regarding this appeal or need any additional information please contact the undersigned.

Sincerely,

Paul Lowber | Chief Financial Officer

WASHINGTON ATHLETIC CLUB
1325 Sixth Ave | PO Box 1709 | Seattle WA 98111-1709
t: 206.839.4790 | f: 206.464.1392 | e: plowber@wac.net





WASHINGTON
ATHLETIC CLUB

FILED

3:24 pm, Thu, February 04, 2021

OFFICE OF THE CITY CLERK

Office of the City Clerk
Seattle City Hall
600 Fourth Avenue, Floor 3
Seattle, WA 98124

January 31, 2020

Filed by email to: LIDHearingExaminer@seattle.gov

**Re: Objection to Proposed Final LID Assessment Amounts – Washington Athletic Club Garage
Parcel #7804110010; CWF-0231**

Dear Ladies & Gentlemen:

I am writing to object to the proposed final LID assessment amounts for the Washington Athletic Club Garage located at 1405 6th Avenue, Parcel #7804110010.

The grounds for my objection are twofold. First and foremost, I believe an error was made in determining the Special Benefit and related Special Benefit Percentage Change to this property. The second objection is with regard to the Market Value of the Property without the LID.

Special Benefit & Special Benefit Percentage Change

The Washington Athletic Club (WAC) owns two properties on 6th Avenue, a ½ block apart. The Clubhouse resides at 1325 6th Avenue, Parcel # 1975700025. The proposed final assessment amount for the Clubhouse seems reasonable and I am not objecting to that. The WAC has operated at its existing location since 1930. In the late 1980's the WAC entered into an agreement to exchange its former above ground parking facility for a condominium interest in which the WAC would acquire a brand-new parking facility build underground at 1405 6th Avenue, one half block north of the Clubhouse. As a result, the WAC owns the below grade parking facility at 1405 6th Avenue and the other owner owns the improvements above ground for retail, office, etc. The new WAC garage opened in 1989.

In reviewing the Waterfront Seattle Special Benefit Study worksheet, it appears that the appraiser associated the WAC Garage with the 6th and Union Condominium Retail component of the property located at 1405 6th Avenue, which is connected to the highrise at 1420 5th Avenue commonly known as the U.S. Bank Centre. The function of the WAC Garage has always been to ensure parking availability for WAC members and guests who are visiting the Clubhouse. While the Garage does allow public parking, the vast majority of its use is by WAC members. Monthly parking is only available to WAC members. Over two thirds of daily transient parking in the Garage is by WAC members. During busy times, the Garage is restricted to members use only. Thus, it is my contention that the WAC Garage Special Benefit Percentage should be the same as the WAC Clubhouse.

P 206.622.7900
F 206.464.1392
www.wac.net

1325 Sixth Avenue, Seattle, WA 98101
P.O. Box 1709, Seattle, WA 98111

Attached is a simple recap worksheet that compares the Assessment amounts for the Clubhouse and the Garage. The Special Benefit Percentage for the Clubhouse is 0.76%. The Garage which functions as a part of the WAC should have been assigned the same percentage. Further support for this position is evidenced by reviewing the percentages of comparable properties in the study. For example, the Hilton Hotel and Parking Garage located at 1301 6th Avenue share the same block as the WAC Clubhouse. The two separate parcels (#7802920010 hotel & #7802920020 parking garage) have the same Special Benefit Percentage of 0.85%. We object to the WAC Garage Special Benefit and request that it be adjusted to the same 0.76% as the WAC Clubhouse, with the proposed final assessment also adjusted accordingly.

Market Value without Waterfront Improvement's

In addition to the Special Benefit and Special Benefit Percentage Change objection noted above, it appears the WAC Garage's market value without the Waterfront Improvements is overstated in the study. The Market Value Without the LID for the WAC Garage as reported in the study is \$28,789,000. The Market Value of the Garage per the Preliminary Assessment as of April 5, 2018 was \$19,871,000 as noted on the attached worksheet. The updated market value represents an increase of \$8,918,000 or about 45%! Perhaps this increase is due to the linkage of the WAC Garage with the Retail portion of the 6th & Union Condominium noted above. Certainly, downtown parking garages have not escalated in value to that degree in this time period. One relevant example is the Hilton Garage referenced above. In 2015 it sold for \$45.4 million. In late 2019 it sold again for \$42.6 million, representing a depreciation in value of \$2.8 million over the four-year period.

Another indication of market value is the appraised value used for property tax purposes. The King County Assessed Value for 2019 property taxes for the WAC Garage is \$23,079,000. The LID Study Market Value is higher by \$5,710,000 or almost 25%. By comparison, the WAC Clubhouse has a King County Appraised Value (2018 for 2019 taxes) of \$68,336,800. The Market Value per the LID study is \$73,378,000 for a much more reasonable difference of 7.4%. Applying this same ratio of 7.4% over the County appraised value to the WAC Garage would result in a pre-LID value of \$24,781,000. I believe this value is much more appropriate for use with the LID study.

For the reasons noted above, absent other rationale not apparent in the study, I contend that the Special Benefit for the WAC Garage as determined, and the related Proposed Final Assessment Amount, is erroneous and should be revised.

If you have any questions concerning any of the foregoing please contact the undersigned at plowber@wac.net or (206) 839-4790.

Sincerely,



Paul Lowber

Office of the City Clerk

January 31, 2020

Chief Financial Officer

Attachment

Waterfront LID - Washington Athletic Club

	Clubhouse	Garage
Parcel #	1975700025	7804110010
Address	1325 6th Ave	1405 6th Ave
Property Name	WAC	6th & Union Parking & Retail Condominium
Preliminary Assessment (April 5, 2018):		
Market Value w/o Waterfront imp's	\$ 70,877,000	\$ 19,871,000
Market Value with Waterfront imp's	\$ 71,236,000	\$ 19,993,000
Special Benefit	\$ 359,000	\$ 122,000
% of Market Value	0.51%	0.61%
Preliminary Assessment %	48.27%	48.27%
Preliminary Assessment	\$ 173,283	\$ 58,887
% of Market Value	0.24%	0.30%
Proposed Final Assessment (December 30, 2019):		
Market Value w/o Waterfront imp's	\$ 73,378,000	\$ 28,789,000
Market Value with Waterfront imp's	\$ 73,933,000	\$ 29,147,000
Special Benefit	\$ 555,000	\$ 358,000
% of Market Value	0.76%	1.24%
Proposed Final Assessment %	39.20%	39.20%
Proposed Final Assessment	\$ 217,461	\$ 140,272
% of Market Value	0.30%	0.49%
Property Tax Appraised Values (2018 for 2019 taxes)	\$ 68,336,800	\$ 23,079,000

FILED

8:47 am, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [P.Z](#)
To: [Edlund-Cho, Galen](#); [City Clerk Filing](#); [Vasi](#)
Subject: Re: Attention: Waterfront LID Appeal
Date: Monday, September 21, 2020 11:06:14 PM

CAUTION: External Email

Notice of Appeal of Final Waterfront LID Assessment Recommendation.

Final Waterfront LID No. 6751

Hearing Examiner Case No. CWF-0001 to CWF-0441

Parcel Owners: Karin and Vasanth Philomin

King County Parcel No. 2538830860

Address: 1521 Second Avenue, Apt. 2400, Seattle, WA 98101

We, Karin and Vasanth Philomin, owners of the condominium property located at 1521 2nd Avenue, Apt 2400, Seattle WA, 98101 (Parcel No. 2538830860), objected to the Final Assessment for our parcel and now submit this appeal of the Recommendations of the Hearing Examiner regarding Waterfront LID No. 6751 Case No. CWF-0001 to 0441. pursuant to: SMC 20.04.090.C

Any finding, recommendation, or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

However, we are not able to follow the instructions pursuant to:

SMC 20.04.110 - Appeal to City Council.

In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also designate by name or title and by sub number the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee.

Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.

Because the City has not provided "metered index numbers", therefore our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Instead page numbers of attached exhibits are referenced.

We request and demand an appeal hearing with the City Council.

We appeal from the following portions of the Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner:

The out of control homeless situation in Seattle will make the waterfront park a health hazard and will reduce our property value. The city cannot even control the current parks.

Thanks, Karin and Vasanth Philomin

From: [P.Z](#)
To: [City Clerk Filing](#); [City Clerk Filing](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 7:52:35 PM
Attachments: [LID Appeal Philomin.pdf](#)

CAUTION: External Email

Please see my additional attached appeal from September 22nd to add to my earlier appeal from September 21st.

Beside all the financial appraisal and other issues listed to appeal, I want to stress that the city will have the biggest problem to control a homeless camp on the waterfront in the future and finally all visitors will stay away, what already a lot of people do or just see it once and never travel to Seattle again.

Thanks, Karin

Filed September 22, 2020

Notice of Appeal

Waterfront LID No. 6751

Hearing Examiner Case No. CWF-0252

Property Owners Vasanth and Karin Philomin

Parcel Number 2538830860

Address: 1521 Second Avenue, Apt. 2400, Seattle, WA 98101

We, Vasanth and Karin Philomin, owners of the condominium property located at 1521 2nd Avenue, APT 2400, Seattle WA, 98101 (PIN 2538830860), pursuant to SMC 20.04.090.C respectfully submit the appeal of the recommendations of the hearing officer in this matter, Waterfront LID No. 6751 Case No. CWF-0252. Because the City has not provided “metered index numbers”, our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee’s consideration of each individual appeal more efficient and fair. Instead page numbers of attached exhibits are referenced.

We request and demand a hearing on this appeal.

We appeal from the following portions of the recommendations of the Hearing Officer (attached as exhibit A):

1. Decision, Exhibit A, Page 19-20 “Without additional supporting evidence, the comparative market analyses information and Redfin and Zillow estimates are not adequate to demonstrate an error in the special assessment for this property. These sources failed to identify how or why that valuation is more accurate than the City’s. Instead, they are simply presented as alternative valuations that are more favorable to the Objector. This valuation information is not more reliable than the City appraiser’s expert opinions and findings, and supporting data identified in the record. The City’s conclusion reasonably falls within the range demonstrated by direct market sales evidence. The City appraiser based special benefit conclusions on its professional judgment of the impact of the LID Improvements on Objector’s parcel, given its use, condition, and location. As with all residential properties, ABS used a sales comparison approach to valuation to arrive at its value conclusions. In this case, the City appraiser found that unit numbers 1502 and 2602 are identical in size, bedroom count, and listed view amenity per King County Assessor’s records (each is 1,729 square feet in size, with two bedrooms and 1.75 baths). The market value of both units in the before condition was estimated in the City study at \$1,100 per square foot, or \$1,901,900. This conclusion falls within the range demonstrated by direct market sales

evidence. The King County Assessor listed both units as having equal view amenities, and market data research gathered and utilized in the analysis did not indicate a definitive, quantifiable value difference between the units based solely on floor placement. Objector argued that the City appraisal was in error because it concluded that several parcels within 1521 2nd Avenue have the same before value, even though Objector identifies differentiation between the properties (e.g. properties located on different floors). The City conducted a mass appraisal relying on King County Assessor information to determine individual unit data, and according to that data, found no quantifiable difference between the units. Objector did not provide adequate evidence to rebut the City's determination with regard to this issue. Objector failed to support its contention that the property will receive no special benefit with adequate expert evidence to overcome the presumption in favor of the City's determination."

This is clearly erroneous (and does not meet the Hearing Examiner's own decision at page 109). Direct evidence of three comparable sales was submitted from King County records, and completely ignored and left unaddressed by the City and the Hearing Examiner. See Exhibit B, Pages 16-23, and 53, and arguments at pages 2-4, and 82-83, admitted into the record. To the extent there is any assessment, it should be no more than \$15,388.97.

2. Decision, Exhibit A, Page 20 "Objector failed to support its contention that the property will receive no special benefit with adequate expert evidence to overcome the presumption in favor of the City's determination. The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit.
Recommendation: denial"

This is clearly erroneous. Numerous experts testified and the Hearing Examiner failed to consider, and the city failed to address or rebut, their testimony and the arguments and evidence concerning the lack of special benefit set forth at Exhibit B, Pages 6, 31-50, 84-94.

3. Decision, Exhibit A, Page 110 "The purpose of this hearing is not to enforce Ordinance 125760. This issue is not relevant to whether any specific property will receive a special benefit or whether the City appraisal process was flawed and is therefore not within the Hearing Examiner's jurisdiction to consider in the context of an assessment hearing."

This is clearly erroneous. The lack of Plans and Specifications on file renders the final assessments invalid, and accurate plans and specifications are a prerequisite to any final benefit study. See arguments Exhibit B, Pages 25-28, 30, 36, 80-82, 94.

4. Decision, Exhibit A, Page 110 "Objectors argued that the Final Special Benefit Study ignores the impacts for development not expected to be completed until 2023/2024 and ignores the uncertainty of completing a five-year project on time and on budget. The LID statutes do not require the consideration of these impacts even though the assessment of special benefits may be done prior to completion of the improvements. In addition, Mr. Macaulay testified that appraisals are predictive and represent his expert conclusion about the value of a property and, in the case of a special benefit study, what the value will be if the

improvements are in place. Objectors failed to contradict that position by reference to either the LID statutes or case law.”

This is clearly erroneous. The speculative nature of the current plans and specifications and funding and completion schedule makes the final benefit study premature and exercise in rank speculation and therefore invalid. See arguments Exhibit B, Pages 5, 28, 30, 36, 80-82, 94.

5. Decision, Exhibit A, Page 111 “Several appraisers testifying on behalf of various Objectors raised this issue. However, as described by these appraisers, the 4% margin of error is viewed as a rule of thumb and is not a hard legal standard. As such, Objectors failed to show that the City appraisal was completed in error in the context of this issue.”

This is clearly erroneous. See argument and evidence at Exhibit B, Pages 94, 182-186.

6. Decision, Exhibit A, Page 111 **“Final assessments will bind future City Councils and budgets to complete the LID Improvements regardless of cost. It is unlawful to bind future City Councils and budgets.**

This issue is not within the jurisdiction of the Hearing Examiner to consider in the context of a special assessment hearing. The purpose of this hearing is not to consider and rule on every possible potential future outcome of the LID. Further, no Objector cited any authority for the Hearing Examiner to consider such an issue.”

This is clearly erroneous. This issue renders the final assessments invalid as a matter of law. See argument and evidence at Exhibit B, Pages 95, 187-191.

7. Decision, Exhibit A, Page 111-112 “Some Objectors have argued that the special assessments are speculative because the designs for the Improvements are not yet complete, are subject to change, and that environmental permitting processes may require the City to alter the designs for the LID Improvements. Objectors offered no evidence that any potential changes would, in fact, alter the amount of special benefit provided by the Improvements. Conjecture of potential changes is not adequate to meet Objectors’ burden. Absent credible evidence that potential changes would impact the special benefit analysis, the assessments are valid so long as the LID’s fundamental purpose is accomplished.”

This is clearly erroneous. See argument and exhibits at Exhibit B, pages 5, 28, 30, 36, 80-82, 94.

8. Decision, Exhibit A, Page 113 “Objectors presented no credible evidence that the City’s appraiser failed to consider detriments that would result from the LID Improvements, or that the risk of these alleged detriments would have a net negative impact on their property values. Finally, in the hearing, the City offered specific evidence that the “negative impact” Objectors perceived with regard to pedestrian traffic and noise does not measurably affect property value in urban areas like Seattle.”

This is clearly erroneous. See argument and exhibits at Exhibit B, pages 6, 84-94.

9. The Hearing Examiner failed to address or make any recommendation on the argument that the city failed to comply with RCW 35.43.050 The city doesn’t even attempt to dispute the facts on this claim. The city does not dispute that the legislative body failed to make any finding as to the benefit

of the improvements as a whole to all of the property within the LID. Nor does the city dispute that it failed to ascertain the cost and expense of each continuous unit and impose the assessment rates on the basis of the cost and expense of each unit as required by law. Instead the city asserts, without any legal basis or citation, that this claim cannot be considered or addressed in the context of this hearing. The city's position is unsupported in law and makes no sense. The violation of RCW 35.43.050 did not exist until the city attempted to impose a final assessment that did not comport with that law. That event occurred in November 2019 when the city passed resolution 31915, published the final assessment roll, and, in December of 2019, informed property owners in the LID. This is when the city decided to ignore the requirements of RCW 35.43.050. This hearing process is precisely the time and manner to make this challenge under the law. Further, the nature of the violation of this statute is inextricably tied up in the ability for property owners to challenge the final assessments. For example, many properties are included in the LID at all because of proximity to Pike/Pine streetscape improvements or Pioneer Square Streetscape improvements and despite their great distance from the Promenade and Overlook Walk. Separating the analysis of these elements could (and likely would) show that the assessments for properties near these streetscape projects exceed the cost of these projects, and that they are illegally being forced to subsidize projects that bring them no special benefit. The purpose of this law is fully implicated in the challenge to the special benefits assessments. To declare that there is no avenue available to objectors to raise this violation of state law makes no sense.⁵ The city's argument should be rejected, and the final assessment roll should be tossed out. The city asks the Hearing Officer to ignore an obvious violation of state law in the final assessment roll that goes to the very heart of the assessments themselves. It would be ludicrous to ignore it and a massive waste of judicial, city and citizen resources.

The city's failure to abide by RCW 35.43.050 renders its final benefit study invalid as a matter of law.

10. Decision, Exhibit A, Page 115 "Testimony from Mr. Macaulay and the Final Special Benefit Study demonstrated that ABS did not apply a percentage to arrive at the "with LID" or "after LID" values. Instead, ABS calculated the value lift for each property in dollar terms. A percentage did result from this process, and this was shown in the spreadsheets in the Final Special Benefit Study to demonstrate the calculated increase in value as a percentage, not as a pre-applied formulaic percentage. Mr. Gibbons's (and other Objector representatives') belief that ABS applied a special benefit percentage formula seems to have been based on an understanding of the ABS process prior to receiving additional information from ABS on its processes that were revealed during the deposition and hearing process."

This is clearly erroneous. It would be statistically impossible that hundreds of separately evaluated properties in a single building would miraculously have identical percentages. The Special Benefit was calculated by applying the percentage, not vice versa. See Exhibit B, Pages 21-22.

11. Decision, Exhibit A, Page 116 "Regardless, the burden was not on the City to prove its case in this regard. Instead, Objectors had the burden of proof to demonstrate through evidence that properties will not be benefitted by the LID Improvements. In this case, Objectors

simply adopted an accusatory tone and asserted that they are already benefited by access; they provided no evidence analyzing a contrast between their current circumstances and the proposed improvements. Therefore, Objectors failed to meet their burden with regard to this issue.”

This is patently false. Far from “no evidence.” Extensive evidence and testimony was presented by numerous objectors. See for example Exhibit B, pages 41-46. That the hearing officer chose to completely ignore this admitted evidence is a clear error.

12. Decision, Exhibit A, Page 120 “Some Objectors challenged the accuracy of the City valuation for their condominium properties because of a lack of differentiation between valuation of condominium units within the same building. Except where otherwise determined by the Hearing Examiner, the record does not reflect an adequate analysis demonstrating that the City appraisal was inadequate or performed in error in this respect. Therefore, Objectors failed to meet the burden of proof required to demonstrate that the City appraisal process was flawed in this regard.”

This is clearly in error. By the city appraiser’s own words, they were supposed to, but failed, to account for “value adjustments ... based upon an individual unit’s floor placement” and yet failed to do so. In addition, the only evidence of value on residential properties submitted by the city was inadmissible as coming from an unsupervised trainee, and therefore prohibited by Washington state law. See Exhibit B at pages 3-4, 20-22 and 83.

Due to the homeless crisis, this park will be a health hazard and homeless invasion all around it will bring our property value down. Just compare the history around other parks like Denny, Williams Place at E. John Street and numerous other places in Seattle that are out of control.

As a result of these clear errors and failure to make any recommendation at all, the proposed special assessment for our property should be invalidated.

Respectfully Submitted

/s/ 

Karin and Vasanth Philomin

September 22, 2020

FILED

5:02 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Shannon Sperry](#)
To: [City Clerk Filing](#)
Subject: Attention: Waterfront LID appeal
Date: Tuesday, September 22, 2020 4:46:15 PM
Attachments: [20200922_16391780925.PDF](#)

CAUTION: External Email

Attached is the notice of Appeal for Waterfront LID No. 6751
Hearing Examiner Case No. CWF-0283
Property Owner: Marcia J. Sill
Parcel # 9197200740
Address: 1107 1st Ave. Apt. 1606, Seattle, WA 98101

Please confirm that your office has received this and if there is anything else you need or anyone else I need to serve in order to perfect this appeal.

Shannon Sperry

Attorney

DIRECT 206 654-2405



601 UNION STREET ■ SUITE 2600 ■ SEATTLE WA 98101

FAX 206-340-2563 ■ WWW.LASHER.COM

[Click here](#) to view my online bio

WE MAKE LAW MAKE SENSE.®

September 22, 2020

DIRECT LINE: (206) 683-7228
EMAIL: marciajs@aol.com

VIA EMAIL
City Clerk Filing CityClerkFiling@Seattle.gov
Attention: Waterfront LID Appeal
City of Seattle
Office of the City Clerk
P.O. Box 94728
Seattle, WA 98124-4728

Re: Notice of Appeal of Final Waterfront LID Assessment Recommendation.
Final Waterfront LID No. 6751
Hearing Examiner Case No. CWF-0283
Parcel Owner: Marcia J. Sill
King County Parcel No. 9197200740
Address: 1107 1st Ave. Apt. 1606, Seattle, WA 98101

As the owner of the condominium property located at 1107 1st Ave. Apt. 1606, Seattle WA, 98101 (Parcel No. 9197200740), I object to the Final Assessment for my parcel and now submit this appeal of the Findings, Recommendations and Decisions of the Hearing Examiner regarding Waterfront LID No. 6751 Case No. CWF-0283 pursuant to:

SMC 20.04.090.C

Any finding, recommendation, or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

However, we are not able to strictly follow the instructions pursuant to:

SMC 20.04.110 - Appeal to City Council.

In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also

September 22, 2020

Page 2

designate by name or title and by sub number the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee. Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.

Because the City has not provided "metered index numbers," therefore our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. We have not had practical or actual access to all the exhibits in the record to allow us to designate them for use on this appeal, therefore we again designate the exhibits referenced in and attached to our Feb. 3, 2020 letter to the LID Hearing Examiner.

We request and demand an appeal hearing with the City Council.

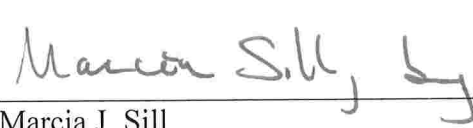
We appeal from the Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner, including:


Those which generally and specifically denied our objections to the LID assessment against our property as set forth in my Feb. 3, 2020 letter sent to the Seattle City Clerk LIDHearingExaminer@Seattle.gov Re: Objections to Final Waterfront LID #6751 Assessment and Appeal of Final Assessment Amount including, but not limited to, the Findings and Recommendations at page 73 applicable to CWF-0283 (91972007). There was no failure to meet the burdens of proof required to demonstrate that (1) the property will not receive a special benefit, or (2) that the City valuation was flawed.

Those burdens of proof were in fact met with competent evidence and supported by the requisite measure of evidence and proofs in the record including exhibits and testimony. The Findings, Recommendations and Decision were clearly erroneous and an abuse of discretion.

The relief sought now by us is a reversal of the Hearing Examiner's Findings, Recommendations and Decision insofar as they apply to our tax parcel and us.

Very truly yours,


Marcia J. Sill


Sharon Spring her attorney

From: [Rick Bohrer](#)
To: [City Clerk Filing](#)
Cc: rick.bohrer@gmail.com
Subject: Attention: Waterfront LID Appeal, CWF-0295
Date: Tuesday, February 16, 2021 6:14:18 PM
Attachments: [bohrer appeal 5160650560.pdf](#)
[Appraisal Report 2021 1st Ave #D16 \(no photos\).pdf](#)

CAUTION: External Email

Please accept the following appeal for CWF-0295, parcel #516065-0560.

Two documents:

1. "bohrer appeal 5160650560.pdf"
2. "Appraisal report 2021 #D16 (no photos).pdf"

Thank you,
-Rick Bohrer
206-914-5235

To:
City of Seattle Office of the City Clerk
Attention: Waterfront LID Appeal, CWF-0295
P.O. Box 94728; Seattle, WA 98124-4728

From:
Rick Bohrer
2021 1st Ave, APT D-16
Seattle, WA 98121

Tuesday, February 16, 2021

To whom it may concern,

I am submitting this appeal of the LID assessed against my property:

Parcel number:	5160650560
Property description:	Unit D-16 in Market Place North Condominium
Year built:	1982 (see Appendix-B: document (2) in "Reference Documents")
LID assessment:	\$19,015 or \$11.26/sf
Ref.*	Page 32, line B-193-056

* see Appendix-B: refers to locations in document (1) in "Reference Documents"

This appeal also provides additional information supporting claims made in an appeal submitted by email on February 3, 2020 at 10:24am, sent to LIDHearingExaminer@seattle.gov, from rick.bohrer@gmail.com.

The LID assessed against my unit is improperly and inappropriately high, both when compared to other units in the same building, and when compared to units in other nearby buildings.

For reference, my unit is on floor 14/16 and the top floor is 18/20 (yes, the floor names are peculiar). There are only four (4) units on the top floor, and seven (7) units on the floor my unit resides.

The following comparison, and specific objections, are based on a comparison of LID assessments for the top two floors of my building on a square footage (sq.ft.) basis, and also on a comparison of view quality and market value. The table in Appendix-A identifies the units being compared.

Referring to the table in Appendix-A, the following reasons describe why the LID assessment against my property (5160650560) is improper and inappropriate:

1. Two units on top floor (5160650660 and 5160650740) are assessed at \$11.26/sf. Both of these units are substantially larger, have superior views by virtue of being on a higher floor, and have a much higher market value.

2. The remaining two top floor units (5160650860 and 5160650850) are assessed only \$8.08/sf. One of these units is the same size as mine, the other is substantially larger. Both have superior views by virtue of being on a higher floor. These units have a lower market value ONLY due their low tax-value from being held by the same owners for decades. Both are top floor units, have several attributes that improve on my unit, and if listed today would demand a higher market value than my unit.
3. The unit to the south of mine (5160650490), on the same floor, is assessed only \$7.84/sf. Yet this unit is far larger (3,300 sf), has the same or better view, and a much higher market value.
4. All units on floor 14/16 -- EXCEPT MINE -- are assessed a LID of only \$7.94/sf or \$8.32/sf. And, among the units on my floor, mine is not the largest, does not have the best view, nor does it have the highest market value. My unit is the only unit on floor 14/16 being assess \$11.26/sf.

It improper and inappropriate that my unit be assessed a higher \$/sf than ALL other comparable units in the building, a rate that only larger, higher valued, units with superior views were assessed.

Appendix-C and Appendix-D compare 2 units The Fix Building (1507 Western Avenue) and two units in The Pomeroy (2319 1st Avenue), both nearby buildings. In both cases, the amount assessed against these units is far smaller than that assessed against my unit, grossly so in the case of the Pomeroy. In addition, as can be seen in the maps in Appendices A, C, and D, both The Fix Building and The Pomeroy received enormous benefit and increased value from the removal of the Alaskan Way viaduct. Massive reductions in noise levels were achieved along with vastly improved views. By comparison, my building (2021 1st Ave) received very very little reduction in noise and improvement of view (noise and traffic was buffered and hidden by the wall behind Victor Steinbrueck park and the Market Place businesses).

Finally, as further support, I had my unit appraised in 2017. Surprisingly, the measured square footage was smaller -- only 1,524 rather than the 1,688 per KCR. In addition, the appraised value was only \$1,375,000, which is lower than the tax-value at that time⁴. And, since 2017, tax-values have dropped⁴. The appraisal is attached (photos removed to reduce size), along with this document, to the submittal email.

I respectfully request that my LID assessment be reduced to \$7.84/sf, or \$11,948 based on a size of 1,524 square feet. The \$7.84/sf value was applied to two other properties on my floor as seen in the table in Appendix-A.

Thank you for your consideration,
-Rick Bohrer

APPENDIX – A : comparison of units on top two floors of Market Place North Phase 1 Condominium

Parcel # ¹	Unit #	Floor*	Market Value ¹	Size ¹ (sq. ft.)	LID ¹ Total	Ref**	LID as \$/sq.ft.	Last Sold	View Quality
5160650490	C-14 Danelo	14/16	\$2,640,000	3,300	\$25,860	Pg: 32 Ln: B-193-049	\$7.84	08/07/1998 ³	Excellent ³
5160650560	D-16 Bohrer	14/16	\$1,941,200	1,688	\$19,015	Pg: 32 Ln: B-193-056	\$11.26	01/14/2008 ⁴	Excellent ⁴
5160650640	E-14 Lorentz		\$1,343,850	1,581	\$13,164	Pg: 32 Ln: B-193-064	\$8.32	09/10/2007 ⁵	Excellent ⁵
5160650650	E-16 McLuckie	14/16	\$1,343,850	1,581	\$13,164	Pg: 32 Ln: B-193-065	\$8.32	04/09/2014 ⁶	Excellent ⁶
5160650730	F-14 Milkowski	14/16	\$1,779,050	2,093	\$17,427	Pg: 32 Ln: B-193-073	\$8.32	10/18/2011	Excellent
5160650830	G-14 Crowe	14/16	\$1,345,600	1,682	\$13,181	Pg: 33 Ln: B-193-083	\$7.84	10/03/1997	Excellent
5160650840	G-16 Jensen	14/16	\$1,075,250	1,265	\$10,533	Pg: 33 Ln: B-193-084	\$8.32	07/24/2007 ⁷	Excellent ⁷
5160650660	E-18 Buchanan	18/20	\$2,206,850	1,919	\$21,617	Pg: 32 Ln: B-193-066	\$11.26	01/09/2018 ¹⁰	Excellent ¹⁰
5160650740	F-18 ILU LLC.	18/20	\$2,178,100	1,894	\$21,336	Pg: 32 Ln: B-193-074	\$11.26	06/15/2004 ¹¹	Excellent ¹¹
5160650850	G-18 Ihrig+Knox	18/20	\$1,387,650	1,682	\$13,593	Pg: 33 Ln: B-193-085	\$8.08	08/27/1996 ¹²	Excellent ¹²
5160650860	G-20 Gerberding	18/20	\$1,485,000	1,800	\$14,546	Pg: 33 Ln: B-193-086	\$8.08	06/18/1993 ¹³	Excellent ¹³

Superscripts in column headings apply to all values in column.

Superscripts refer to documents listed in Appendix-B.

* floor 14/16 is a single floor and provides access to all “14” and “16” units. Floor 18/20 is a single floor and provides access to all “18” and “20” units.

** Ref column provides page and line number references to document (1) listed in Appendix-B.



APPENDIX – B

Reference Documents:

1. Waterfront Local Improvement District (LID #6751) Final Assessment Roll CORRECTION. Note that this document has inconsistent page numbers.
http://clerk.seattle.gov/~CFS/CF_321491.pdf
2. Market Place North Phase 1 Condominium. King County Parcel Viewer property report.
<https://blue.kingcounty.com/Assessor/eRealProperty/Dashboard.aspx?ParcelNbr=5160650000>
3. King County Parcel Viewer for 2021 1st Ave, Unit C-14, parcel #51506500490.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650490>
4. King County Parcel Viewer for 2021 1st Ave, Unit D-16, parcel #5160650560.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650560>
5. King County Parcel Viewer for 2021 1st Ave, Unit E-14, parcel #5160650640.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650640>
6. King County Parcel Viewer for 2021 1st Ave, Unit E-16, parcel #5160650650.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650650>
7. King County Parcel Viewer for 2021 1st Ave, Unit F-14, parcel #5160650730.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650730>
8. King County Parcel Viewer for 2021 1st Ave, Unit G-14, parcel #5160650830.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650830>
9. King County Parcel Viewer for 2021 1st Ave, Unit G-16, parcel #5160650840.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650840>
10. King County Parcel Viewer for 2021 1st Ave, Unit E-18, parcel #5160650660.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650660>
11. King County Parcel Viewer for 2021 1st Ave, Unit F-18, parcel #5160650740.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650740>
12. King County Parcel Viewer for 2021 1st Ave, Unit G-18, parcel #5160650850.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650850>
13. King County Parcel Viewer for 2021 1st Ave, Unit G-20, parcel #5160650860.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=5160650860>

14. King County Parcel Viewer for 1507 Western Ave, Unit R204, parcel #2570280100.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2570280100>
15. King County Parcel Viewer for 1507 Western Ave, Unit R602, parcel #2570280280.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2570280280>
16. King County Parcel Viewer for 2319 1st Ave, Unit 804, parcel #6839900520.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=6839900520>
17. King County Parcel Viewer for 2319 1st Ave, Unit 803, parcel #6839900510.
<https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=6839900510>

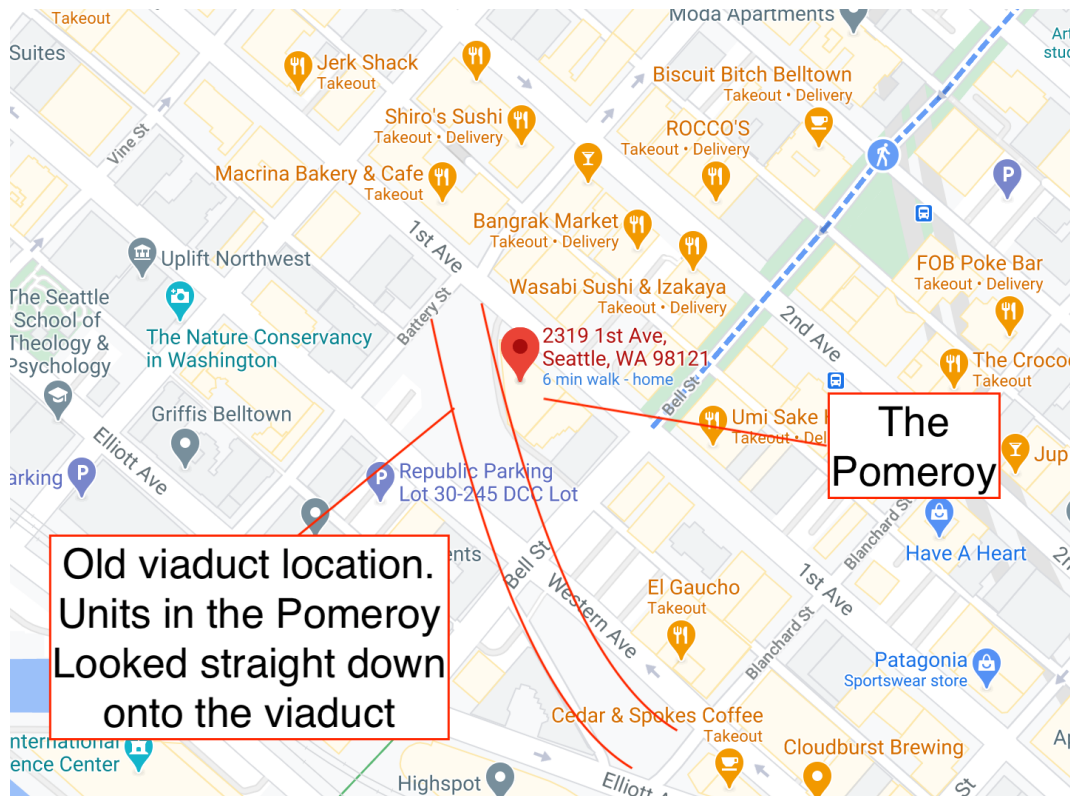
Appendix – C : The Fix Building, 1507 Western Ave

Parcel # ¹	Unit #	Floor*	Market Value ¹	Size ¹ (sq. ft.)	LID ¹ Total	Ref**	LID as \$/sq.ft.	View Quality
2570280100	R204 Peugh	02 ¹⁴	\$691,800	1,153	\$8,132	Pg: 82 Ln: E-002-010	\$7.05	Excellent ¹⁴
2570280280	R602 Kelly+Holmes	06 ¹⁵	\$610,400	872	\$7,175	Pg: 82 Ln: E-002-028	\$8.23	Excellent ¹⁵



Appendix – D : The Pomeroy, 2319 1st Avenue

Parcel # ¹	Unit #	Floor*	Market Value ¹	Size ¹ (sq. ft.)	LID ¹ Total	Ref**	LID as \$/sq.ft.	View Quality
6839900520	804 Blasi+Hellar	8 ¹⁶	\$1,866,200	2,666	\$3,656	Pg: 26 Ln: B-115-052	\$1.37	Excellent ¹⁶
6839900510	803 Ferrin	8 ¹⁷	\$1,328,600	1,898	\$2,603	Pg: 26 Ln: B-115-051	\$1.37	Excellent ¹⁷



Borrower	Bohrer, Richard A.				File No.	17032709	
Property Address	2021 1st Ave Apt D16						
City	Seattle	County	King	State	WA	Zip Code	98121
Lender/Client	Umpqua Bank						

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Individual Condominium Unit Appraisal Report

Loan #8501323035
File # 17032709

PROJECT INFORMATION

PROJECT ANALYSIS

UNIT DESCRIPTION

PRIOR SALE HISTORY

Describe the condition of the project and quality of construction.

The project is in good condition, is built to very good construction standards and the project appeared to be well maintained. The purchaser/client are hereby advised that this appraisal report does not serve as a warranty regarding the condition of the subject property but is performed to estimate fair market value. Please note, the appraiser only performed a visual inspection of accessible areas.

Describe the common elements and recreational facilities.

Secure Lobby w/ Doorman, parking, elevators, open areas.

Are any common elements leased to or by the Homeowners' Association?

☐ Yes ☒ No

If Yes, describe the rental terms and options.

Is the project subject to a ground rent?

☐ Yes ☒ No

If Yes, \$ per year (describe terms and conditions)

Are the parking facilities adequate for the project size and type?

☒ Yes ☐ No

If No, describe and comment on the effect on value and marketability.

I ☐ did ☒ did not analyze the condominium project budget for the current year. Explain the results of the analysis of the budget (adequacy of fees, reserves, etc.), or why the analysis was not performed.

No resale certificate or project budget was made available to appraiser with information taken from the owner, appraiser files, county records, metro scan and NWmls.

Are there any other fees (other than regular HOA charges) for the use of the project facilities?

☐ Yes ☒ No

If Yes, report the charges and describe.

Compared to other competitive projects of similar quality and design, the subject unit charge appears

☐ High ☒ Average ☐ Low

If High or Low, describe

Are there any special or unusual characteristics of the project (based on the condominium documents, HOA meetings, or other information) known to the appraiser?

☐ Yes ☒ No

If Yes, describe and explain the effect on value and marketability.

Unit Charge \$ 1,660 per month X 12 = \$ 19,920.00 per year Annual assessment charge per year per square feet of gross living area = \$ 13.07

Utilities included in the unit monthly assessment ☐ None ☐ Heat ☐ Air Conditioning ☐ Electricity ☐ Gas ☒ Water ☒ Sewer ☐ Cable ☒ Other (describe)

Garbage, Water, Sewer, Cable, Electric

General Description	Interior	materials/condition	Amenities	Appliances	Car Storage
Floor # 16	Floors	HW/Cpt/TI-Good	<input checked="" type="checkbox"/> Fireplace(s) # 1	<input checked="" type="checkbox"/> Refrigerator	<input type="checkbox"/> None
# of Levels 2	Walls	Drywall-Good	<input type="checkbox"/> WoodStove(s) # 0	<input checked="" type="checkbox"/> Range/Oven	<input checked="" type="checkbox"/> Garage <input type="checkbox"/> Covered <input type="checkbox"/> Open
Heating Type F.A. Fuel Elec	Trim/Finish	Wood-Good	<input checked="" type="checkbox"/> Deck/Patio 1/0	<input checked="" type="checkbox"/> Disp <input checked="" type="checkbox"/> Microwave	# of Cars 1
<input checked="" type="checkbox"/> Central AC <input type="checkbox"/> Individual AC	Bath Wainscot	Tile-Good	<input checked="" type="checkbox"/> Porch/Balcony 0/1	<input checked="" type="checkbox"/> Dishwasher	<input checked="" type="checkbox"/> Assigned <input checked="" type="checkbox"/> Owned
<input checked="" type="checkbox"/> Other (describe) None	Doors	RP/Solid Core-Good	<input type="checkbox"/> Other None	<input checked="" type="checkbox"/> Washer/Dryer	Parking Space # 88
Finished area above grade contains: 6 Rooms 2 Bedrooms 2.0 Bath(s) 1,524 Square Feet of Gross Living Area Above Grade					
Are the heating and cooling for the individual units separately metered? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe and comment on compatibility to other projects in the market area.					

Additional features (special energy efficient items, etc.)

The floor plan in the subject home is functional and attractive and should meet with good market acceptance in the future.

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.).

C3;Kitchen-updated-six to ten years ago;Bathrooms-updated-six to ten years ago;The subject property reflects good maintenance and is in good condition. The heat, electricity and water were turned on and operable at the time of inspection. Effective age 8 years, remaining economic life 52 years. A CO detector was on site at the time of inspection. No repairs required. Please see interior photos.

Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property?

☐ Yes ☒ No

If Yes, describe

The purchaser/client are hereby advised that this appraisal report does not serve as a warranty regarding the condition of the subject property but is performed to estimate fair market value.

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)?

☒ Yes ☐ No

If No, describe

I ☒ did ☐ did not research the sale or transfer history of the subject property and comparable sales. If not, explain

Data researched included: NWmls, County records and MetroScan.

My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data source(s) County records / MetroScan / NWmls

My research ☒ did ☐ did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.

Data source(s) County records / MetroScan / NWmls

Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3
Date of Prior Sale/Transfer				
Price of Prior Sale/Transfer				
Data Source(s)	Metroscan/NWmls/County	Metroscan/NWmls/County	Metroscan/NWmls/County	Metroscan/NWmls/County
Effective Date of Data Source(s)	03/27/2017	03/27/2017	03/27/2017	03/27/2017

Analysis of prior sale or transfer history of the subject property and comparable sales.

The appraiser has performed no services for the subject property within three years of the inspection date for the current assignment. Per NWmls data and county records, there have been no transfers of the subject property within the last 3 years. Per county records and NWmls data sale 4 sold as a gutted shell on 08/14/15 for \$750,000, per NWmls sale 4 has been fully finished with high quality materials since it's prior sale; the increase in value is consistent with the investment in upgrades and rising values within the subject neighborhood.

Individual Condominium Unit Appraisal Report

Loan #8501323035
File # 17032709

There are 9 comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ 1,000,000 to \$ 2,500,000 .

There are 46 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 1,000,000 to \$ 2,500,000 .

FEATURE		SUBJECT		COMPARABLE SALE # 1			COMPARABLE SALE # 2			COMPARABLE SALE # 3			
Address and Unit #		2021 1st Ave Apt D16 D16, Seattle, WA 98121		88 Virginia St 7, Seattle, WA 98101			737 Olive Way 3702, Seattle, WA 98101			2125 1st Ave 2305, Seattle, WA 98121			
Project Name and Phase		Market Place North N/A		Market Place North N/A			Olive 8 N/A			Continental Place N/A			
Proximity to Subject				0.01 miles S			0.46 miles E			0.11 miles NW			
Sale Price		\$		\$ 1,314,800			\$ 1,435,000			\$ 1,250,000			
Sale Price/Gross Liv. Area		\$ sq. ft.		\$ 873.62 sq. ft.			\$ 904.79 sq. ft.			\$ 856.75 sq. ft.			
Data Source(s)				NWmls#1017601 ;DOM 0			NWmls#1011005;DOM 81			NWmls# 1007455;DOM 4			
Verification Source(s)				K.C.R.,Metrschn,Ext Obsrv			K.C.R.,Metrschn,Ext Obsrv			K.C.R.,Metrschn,Ext Obsrv			
VALUE ADJUSTMENTS		DESCRIPTION		DESCRIPTION + (-) \$ Adjustment			DESCRIPTION + (-) \$ Adjustment			DESCRIPTION + (-) \$ Adjustment			
Sales or Financing Concessions				ArmLth Cash;0			ArmLth Conv;0			ArmLth Conv;0			
Date of Sale/Time				s08/16;c08/16			s12/16;c10/16			s10/16;c08/16			
Location		N;Res;		N;Res;			N;Res;			N;Res;			
Leasehold/Fee Simple		Fee Simple		Fee Simple			Fee Simple			Fee Simple			
HOA Mo. Assessment		1,660		1,229			0 940			0 1,439			
Common Elements and Rec. Facilities		Lobby, Garage Open Areas		Lobby, Garage Similar			0 Similar			0 Similar			
Floor Location		16		7			0 36			0 23			
View		B;Mtn;Wtr		B;Lim.;Wtr/Mtn +100,000			B;Mtn;Wtr			B;Mtn;Wtr			
Design (Style)		HR2L;Multi-Lev		HR2L;Multi-Lev			0 HR1L;Flat			0 HR1L;Flat			
Quality of Construction		Q3		Q3			Q3			Q3			
Actual Age		35		35			8			0 36			
Condition		C3		C3			C3			C3			
Above Grade		Total Bdrms. Baths		Total Bdrms. Baths			Total Bdrms. Baths			Total Bdrms. Baths			
Room Count		6 2 2.0		6 2 2.1			-12,500			6 2 2.0			
Gross Living Area		1,524 sq. ft.		1,505 sq. ft.			+1,900			1,586 sq. ft.			
Basement & Finished Rooms Below Grade		0sf		0sf			0sf			0sf			
Functional Utility		Good		Good			Good			Good			
Heating/Cooling		FA Elec/AC		FA Elec/AC			FA Elec/AC			FA Elec/AC			
Energy Efficient Items		Good		Good			Good			Good			
Garage/Carport		1g;Owned		1g;Owned			2g;Owned			-50,000			
Porch/Patio/Deck		0/0/1		Similar			0 Similar			0 Similar			
Net Adjustment (Total)				<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 89,400			<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ -56,200			<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 6,500			
Adjusted Sale Price of Comparables				Net Adj. 6.8 % Gross Adj. 8.7 % \$ 1,404,200			Net Adj. 3.9 % Gross Adj. 3.9 % \$ 1,378,800			Net Adj. 0.5 % Gross Adj. 0.5 % \$ 1,256,500			
Summary of Sales Comparison Approach										Comparable adjusted values are rounded. Due to the lack of recent sales and very limited inventory, the appraiser was forced to expand search parameters to include closing date, style and a slightly wider than typical list price, price/sf, living area and year built range. The expansion of search parameters is not felt to produce adverse effect as it is the typical course of action the average purchaser would have to pursue when searching for a similar quality unit with comparable salient features. Comparable's chosen bracket the subject for living area and are considered the best available substitutes from which to estimate the subject's fair market value. The use of slightly older closing dates is not considered to produce adverse effect as unit values located from within the subject's market area have remained stable to increasing over the past year. Living area was adjusted at \$100.00/sf. No adjustments for style, year built or fireplaces were considered warranted. No adjustment for floor level was considered warranted, it is considered that the primary difference between floor levels within the subject's neighborhood is the difference in view amenity. Please see additional comments . . .			
Indicated Value by Sales Comparison Approach \$ 1,375,000													
INCOME APPROACH TO VALUE (not required by Fannie Mae)													
Estimated Monthly Market Rent \$ X Gross Rent Multiplier = \$ Indicated Value by Income Approach													
Summary of Income Approach (including support for market rent and GRM) The income approach was not applicable, the typical purchaser would not consider the income approach.													
Indicated Value by: Sales Comparison Approach \$ 1,375,000 Income Approach (if developed) \$													
Most reliance was placed on the sales comparison approach. The cost approach is not relevant to this assignment but was developed at the lender's request. The income approach was not applicable, as the typical purchaser would not consider this approach. Please see additional comments . . .													
This appraisal is made <input checked="" type="checkbox"/> "as is", <input type="checkbox"/> subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or <input type="checkbox"/> subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair: The subject is appraised in "as is" condition. No repairs required. No personal property was included in this valuation.													
Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 1,375,000 ,as of 03/31/2017 , which is the date of inspection and the effective date of this appraisal.													

Freddie Mac Form 465 March 2005

UAD Version 9/2011 Page 3 of 6

Fannie Mae Form 1073 March 2005

Form 1073UAD - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Individual Condominium Unit Appraisal Report

Loan #8501323035
File # 17032709

This report form is designed to report an appraisal of a unit in a condominium project or a condominium unit in a planned unit development (PUD). This report form is not designed to report an appraisal of a manufactured home or a unit in a cooperative project.

This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. Modifications, additions, or deletions to the intended use, intended user, definition of market value, or assumptions and limiting conditions are not permitted. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment. Modifications or deletions to the certifications are also not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization, are permitted.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the interior and exterior areas of the subject unit, (2) inspect and analyze the condominium project, (3) inspect the neighborhood, (4) inspect each of the comparable sales from at least the street, (5) research, verify, and analyze data from reliable public and/or private sources, and (6) report his or her analysis, opinions, and conclusions in this appraisal report.

INTENDED USE: The intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction.

INTENDED USER: The intended user of this appraisal report is the lender/client.

MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.
2. The appraiser has provided a sketch in this appraisal report to show the approximate dimensions of the improvements. The sketch is included only to assist the reader in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.
5. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing this appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.
6. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.

Individual Condominium Unit Appraisal Report

Loan #8501323035
File # 17032709

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
2. I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.
3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.
5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.
9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.
11. I have knowledge and experience in appraising this type of property in this market area.
12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).
19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.
20. I identified the lender/client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.

Individual Condominium Unit Appraisal Report

Loan #8501323035
File # 17032709

21. The lender/client may disclose or distribute this appraisal report to: the borrower; another lender at the request of the borrower; the mortgagee or its successors and assigns; mortgage insurers; government sponsored enterprises; other secondary market participants; data collection or reporting services; professional appraisal organizations; any department, agency, or instrumentality of the United States; and any state, the District of Columbia, or other jurisdictions; without having to obtain the appraiser's or supervisory appraiser's (if applicable) consent. Such consent must be obtained before this appraisal report may be disclosed or distributed to any other party (including, but not limited to, the public through advertising, public relations, news, sales, or other media).
22. I am aware that any disclosure or distribution of this appraisal report by me or the lender/client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.
23. The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties.
24. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.
25. Any intentional or negligent misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq., or similar state laws.

SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER

Signature 

Name Patrick Simmons

Company Name Pacific Heritage Appraisal, Inc.

Company Address 12505 Roosevelt Way NE
Seattle, WA 98125-3936

Telephone Number 206.971.0821

Email Address office@pacheritage.com

Date of Signature and Report 04/05/2017

Effective Date of Appraisal 03/31/2017

State Certification # 1701455

or State License #

or Other (describe) State #

State WA

Expiration Date of Certification or License 03/17/2018

ADDRESS OF PROPERTY APPRAISED

2021 1st Ave Apt D16
D16, Seattle, WA 98121

APPRAISED VALUE OF SUBJECT PROPERTY \$ 1,375,000

LENDER/CLIENT

Name Solidifi

Company Name Umpqua Bank

Company Address 6610 SW Cardinal Lane , Suite 300, Tigard,
OR 97224

Email Address

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature

Name

Company Name

Company Address

Telephone Number

Email Address

Date of Signature

State Certification #

or State License #

State

Expiration Date of Certification or License

SUBJECT PROPERTY

- ☐ Did not inspect subject property
- ☐ Did inspect exterior of subject property from street
Date of Inspection
- ☐ Did inspect interior and exterior of subject property
Date of Inspection

COMPARABLE SALES

- ☐ Did not inspect exterior of comparable sales from street
- ☐ Did inspect exterior of comparable sales from street
Date of Inspection

Individual Condominium Unit Appraisal Report

Loan #8501323035
File # 17032709

SALES COMPARISON APPROACH	FEATURE		SUBJECT		COMPARABLE SALE # 4			COMPARABLE SALE # 5			COMPARABLE SALE # 6		
	Address and Unit #		2021 1st Ave Apt D16 D16, Seattle, WA 98121		2021 1st Ave C10, Seattle, WA 98121			2021 1st Ave E8, Seattle, WA 98121			2021 1st Ave E18, Seattle, WA 98121		
	Project Name and Phase		Market Place North N/A		Market Place North N/A			Market Place North N/A			Market Place North N/A		
	Proximity to Subject				0.01 miles S			0.01 miles S			0.01 miles S		
	Sale Price		\$		\$ 1,250,000			\$ 1,220,000			\$ 1,893,000		
	Sale Price/Gross Liv. Area		\$ sq. ft.		\$ 873.52 sq. ft.			\$ 852.55 sq. ft.			\$ 1070.10 sq. ft.		
	Data Source(s)				NWmls#893889 ;DOM 17			NWmls#940279 ;DOM 37			NWmls#947882 ;DOM 317		
	Verification Source(s)				K.C.R.,Metrscl,Ext Obsrv			K.C.R.,Metrscl,Ext Obsrv			K.C.R.,Metrscl,Ext Obsrv		
	VALUE ADJUSTMENTS		DESCRIPTION		DESCRIPTION + (-) \$ Adjustment			DESCRIPTION + (-) \$ Adjustment			DESCRIPTION + (-) \$ Adjustment		
	Sales or Financing Concessions				ArmLth Conv;0			ArmLth Conv;0			Listing		
	Date of Sale/Time				s04/16;c02/16			s07/16;c06/16			Active		
	Location		N;Res;		N;Res;			N;Res;			N;Res;		
	Leasehold/Fee Simple		Fee Simple		Fee Simple			Fee Simple			Fee Simple		
	HOA Mo. Assessment		1,660		1,126			1,043			1,366		
	Common Elements and Rec. Facilities		Lobby, Garage Open Areas		Lobby, Garage Similar			Lobby, Garage Similar			Lobby, Garage Similar		
	Floor Location		16		10			8			18		
	View		B;Mtn;Wtr		B;MtnInf;Wtr +75,000			B;MtnInf;Wtr +75,000			B;Mtn;Wtr		
	Design (Style)		HR2L;Multi-Lev		HR2L;Multi-Lev			HR2L;Multi-Lev			HR2L;Multi-Lev		
	Quality of Construction		Q3		Q3			Q3			Q3		
	Actual Age		35		35			35			35		
	Condition		C3		C3			C3			C3		
	Above Grade		Total Bdrms. Baths		Total Bdrms. Baths			Total Bdrms. Baths			Total Bdrms. Baths		
	Room Count		6 2 2.0		6 2 2.0			6 2 2.0			6 2 2.0		
	Gross Living Area		1,524 sq. ft.		1,431 sq. ft.			1,431 sq. ft.			1,769 sq. ft.		
	Basement & Finished Rooms Below Grade		0sf		0sf			0sf			0sf		
	Functional Utility		Good		Good			Good			Good		
	Heating/Cooling		FA Elec/AC		FA Elec/AC			FA Elec/AC			FA Elec/AC		
	Energy Efficient Items		Good		Good			Good			Good		
	Garage/Carport		1g;Owned		1g;Owned			1g;Owned			1g;Owned		
	Porch/Patio/Deck		0/0/1		Similar			0 Similar			0 Similar		
											List/Sale ratio		
Net Adjustment (Total)				+ - \$ 84,300			+ - \$ 84,300			+ - \$ -119,150			
Adjusted Sale Price of Comparables				Net Adj. 6.7 % Gross Adj. 6.7 % \$ 1,334,300			Net Adj. 6.9 % Gross Adj. 6.9 % \$ 1,304,300			Net Adj. 6.3 % Gross Adj. 6.3 % \$ 1,773,850			
SALE / TRANSFER HISTORY	Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).												
	ITEM		SUBJECT		COMPARABLE SALE # 4			COMPARABLE SALE # 5			COMPARABLE SALE # 6		
	Date of Prior Sale/Transfer				08/14/2015								
	Price of Prior Sale/Transfer				\$750,000								
	Data Source(s)		Metroscan/NWmls/County		Metroscan/NWmls/County			Metroscan/NWmls/County			Metroscan/NWmls/County		
	Effective Date of Data Source(s)		03/27/2017		03/27/2017			03/27/2017			03/27/2017		
	Analysis of prior sale or transfer history of the subject property and comparable sales See bottom of page 2.												
ANALYSIS / COMMENTS	Analysis/Comments												

Individual Condominium Unit Appraisal Report

Loan #8501323035
File # 17032709

SALES COMPARISON APPROACH	FEATURE		SUBJECT		COMPARABLE SALE # 7			COMPARABLE SALE # 8			COMPARABLE SALE # 9					
	Address and Unit #		2021 1st Ave Apt D16 D16, Seattle, WA 98121		2000 1st Ave 2100, Seattle, WA 98121											
	Project Name and Phase		Market Place North N/A		One Pacific Tower N/A											
	Proximity to Subject				0.03 miles NE											
	Sale Price		\$		\$ 1,595,000			\$			\$					
	Sale Price/Gross Liv. Area		\$ sq. ft.		\$ 1047.28 sq. ft.			\$ sq. ft.			\$ sq. ft.					
	Data Source(s)				NWmls#1099433;DOM 2											
	Verification Source(s)				Observation											
	VALUE ADJUSTMENTS		DESCRIPTION		DESCRIPTION		+(-) \$ Adjustment		DESCRIPTION		+(-) \$ Adjustment		DESCRIPTION		+(-) \$ Adjustment	
	Sales or Financing Concessions				Listing											
	Date of Sale/Time				Active											
	Location		N;Res;		N;Res;											
	Leasehold/Fee Simple		Fee Simple		Fee Simple											
	HOA Mo. Assessment		1,660		1,572		0									
	Common Elements and Rec. Facilities		Lobby, Garage Open Areas		Lobby, Garage Similar		0									
	Floor Location		16		21		0									
	View		B;Mtn;Wtr		B;Mtn;Wtr											
	Design (Style)		HR2L;Multi-Lev		HR1L;Flat		0									
	Quality of Construction		Q3		Q3											
	Actual Age		35		23		0									
	Condition		C3		C3											
	Above Grade		Total	Bdrms.	Baths	Total	Bdrms.	Baths	Total	Bdrms.	Baths	Total	Bdrms.	Baths		
	Room Count		6	2	2.0	6	2	2.0								
	Gross Living Area		1,524 sq. ft.		1,523 sq. ft.		+100		sq. ft.		sq. ft.		sq. ft.			
	Basement & Finished Rooms Below Grade		0sf		0sf											
	Functional Utility		Good		Good											
	Heating/Cooling		FA Elec/AC		FA Elec/AC											
	Energy Efficient Items		Good		Good											
	Garage/Carport		1g;Owned		2g;Owned		-50,000									
	Porch/Patio/Deck		0/0/1		Similar		0									
					List/Sale ratio		-79,750									
Net Adjustment (Total)				<input type="checkbox"/> + <input checked="" type="checkbox"/> -		\$ -129,650		<input type="checkbox"/> + <input type="checkbox"/> -		\$		<input type="checkbox"/> + <input type="checkbox"/> -		\$		
Adjusted Sale Price of Comparables				Net Adj. 8.1 %				Net Adj. %				Net Adj. %				
				Gross Adj. 8.1 %		\$ 1,465,350		Gross Adj. %		\$		Gross Adj. %		\$		
SALE / TRANSFER HISTORY	Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).															
	ITEM		SUBJECT		COMPARABLE SALE # 7			COMPARABLE SALE # 8			COMPARABLE SALE # 9					
	Date of Prior Sale/Transfer															
	Price of Prior Sale/Transfer															
	Data Source(s)		Metroscan/NWmls/County		Metroscan/NWmls/County											
	Effective Date of Data Source(s)		03/27/2017		03/27/2017											
ANALYSIS / COMMENTS	Analysis of prior sale or transfer history of the subject property and comparable sales See Page 2															

Supplemental Addendum

File No. 17032709

Borrower	Bohrer, Richard A.				
Property Address	2021 1st Ave Apt D16				
City	Seattle	County	King	State	WA Zip Code 98121
Lender/Client	Umpqua Bank				

SCOPE

This appraisal was ordered in compliance with Dodd Frank, Appraisal Independence "AIR" and Mortgage Letter 2009-28.

The intended users of the appraisal report are the lender/client.

SUBJECT ADDRESS

The subject address provided is automatically inserted by the appraisal software to match United States Post Office data in order to be accepted by the Uniform Collateral Data Portal (UCDP).

Realist / Metroskan address: 2021 1st Ave #D16 Seattle, WA 98121
USPS address: 2021 1st Ave Apt D16, Seattle, WA 98121
This report: 2021 1st Ave Apt D16 D16, Seattle, WA 98121

NEIGHBORHOOD DESCRIPTION

This report is considered a summary appraisal report and conforms with USPAP.

The subject is bounded by Denny Way to the North, I-5 to the East, Madison St to the South and Alaskan Way to the West.

The competitive market area extends beyond these narrowly defined neighborhood parameters.

The low, high and predominant single family housing data was taken from recent NWmls information.

MARKET CONDITIONS IN THE NEIGHBORHOOD / HISTORICAL DATA ANALYSIS

Currently there is low market inventory and strong buyer demand. Professionally marketed homes are typically selling in under 3 months and often with multiple offers. Interest rates remain affordable in the 3 - 5% range. Seller paid concessions in excess of 6% are not common or necessary in this market.

Unit's in the subject's price range are readily marketable, exposure and marketing times average in the 0-3 month range at present. This assumes professional or typical market exposure, and this would assume that the home is priced accurately for a typical sale period for competing homes in the market area.

Per NWmls data, there have been 763 total sales located within the subject's zip code. Values have fluctuated, but have remained relatively stable to increasing over the course of the year. The median sale price 9 to 12 months ago was \$562,000, 6 to 9 months ago was \$802,000, 3 to 6 months ago was \$568,000 and the median sale price over the past 3 months is \$600,000.

FNMA form 1004MC indicates values for comparable units located within the subject's market area have fluctuated, but remained relatively stable to increasing over the course of the year. Values for the current quarter are up over the previous quarter and up over the first quarter of the year analyzed. No time adjustments are considered warranted.

See FNMA form 1004MC for current market data for comparable properties.

• URAR: Improvements - Physical Deficiencies or Adverse Conditions

The subject is not located in a Federally declared disaster area. The appraiser noted no damage to the subject property or improvements as a result of any Federally declared natural disasters that have occurred in parts of Washington State in 2015, 2016 or 2017. I.E. Severe storms, flooding, landslides and mudslides. The property is free from all damage from the above mentioned natural disasters and the disasters have had no affect on the subject's marketability or value.

PREDOMINANT VALUE

The subject is a very well maintained, updated, view unit located in a highly marketable project. The subject's value is above the median value for recent sales of all units located within its zip code. The subject's value is not an over improvement for the area. Marketability is not considered to be negatively affected by the neighborhood median value being lower than the subject's estimated value due to an adequate number of comparable properties in the area that are at or above the subject's value which constitutes a market segment.

TRENDING INFORMATION

I have considered relevant competitive listings and/or contract offerings in the performance of this appraisal and in the trending information reported in this section. If a trend is indicated, I have attached an addendum providing relevant competitive listing/contract offering data.

• Condo: Unit Description - Additional Features

Very well maintained and updated unit with high quality materials. Excellent view amenity. See interior photos provided.

The sketch included in this report is provided to assist the reader in visualizing the subject's improvements and to estimate the subject's gross living area. The dimensions are approximate. The total square footage listed may differ from county records and or builders specifications due to the methods applied in measuring the structure. Per County Records, the subject unit is listed at 1688 sf, it appears the deck square footage was included in the living area as listed in County, the subject unit's actual living area is as sketched and gridded in the report. For consistency, the approximate deck size of 150sf will be deducted from all comparables used from within the subject project.

• Condo: Sales Comparison - Summary of Sales Comparison Approach

Sales 1, 4 and 5 are slightly older sales, all were included as they are the most recent sales of comparable units located from within the subject project. Sales 1, 4 and 5 were all adjusted for the subject's better view amenity, sale 1 has an inferior Western view and sales 4 and 5 have inferior Southern views. The view adjustments were derived from NWmls and County Assessor's data; view quality and percentage of unit value, as well as, typical market response to less obstructed view amenities were considered when making the adjustments.

Active 6 is located from within the subject complex and has a similar view amenity, it has been on the market for a total of 317 days and for 28 days at its current adjusted list price as gridded.

Active 7 is a similar quality unit with a similar view amenity located across the street from the subject project, it has been on the market for 2 days. Active 7 had a prior listing number last year, #932455.

Supplemental Addendum

File No. 17032709

Borrower	Bohrer, Richard A.				
Property Address	2021 1st Ave Apt D16				
City	Seattle	County	King	State	WA Zip Code 98121
Lender/Client	Umpqua Bank				

Per FNMA 1004MC form, the average list price to sale price ratio has ranged from 97.77% to 98.91% over the past year. The appraiser applied a 5% adjustment to the active listings in order to bring them into line with a conservative list to sale price ratio.

The appraiser verified sale concession data for all comparables used.

The comparables chosen would likely attract the same buyers as the subject property. Equitable consideration was given to all comparables used and appropriate adjustments were made for all known differences. Adjustments made reflect typical market reactions, not actual cost.

FINAL RECONCILIATION

The sales comparison approach is considered to be the best indicator of market value for the subject property for it more accurately correlates the buyer-seller relationship for similar type housing in the subject's neighborhood marketing area. The purpose of the market analysis is to provide an illustration of buyer behavior for a typical purchaser shopping for a home similar to the subject in the same market area. Adjustments made to the comparable sales are calculated to approximate the typical purchaser's reaction to a variety of salient features.

The subject unit features an excellent view amenity and extensive updates with high quality materials. The subject is in excellent condition and is located in a highly marketable project. All comparables provided are considered to be fair and reasonable indicators of the low and upper end of the value range for the subject unit. Adjusted sales used indicates an approximate value range of \$1,257,000 to \$1,404,000 for comparable units in the area. The comparable units located from within the subject project were given the most weight in the final reconciliation process. The appraiser favored the upper end of the value range based primarily on the subject's excellent view and updates, as well as, the rising values for comparable units located from within the immediate market area. Please see market charts. The appraiser favored a conservative approach and did not apply a time adjustment to the closed sales. Current market conditions characterized by very limited inventory, short marketing times and sales closing, often with multiple offers placed, are important factors and were also taken into consideration in the final reconciliation process.

It is estimated that the most probable price the subject property would bring in a competitive and open market under all conditions requisite for an arms length transaction is \$1,375,000. "Probable price" is defined as cash value or in terms of financial arrangements equivalent to cash.

APPRAISAL ASSISTANCE

Assistance on this appraisal assignment was provided by Jennifer Snorsky Phiefer (license: #1001904, expiration date: 08/02/2018). Assistance included the collection and organization of data, data analysis and data entry, and the co-inspection of the property. The Supervisory Appraiser inspected the subject property, observed all of the comparables and wrote the report.

UAD DISCLAIMER

The Uniform Appraisal Dataset (UAD) mandates classification of property characteristics (for the subject and comparables) using a standard response and rating system. The UAD is not flexible and employs a "best fit methodology" (from limited choices) as opposed to user defined terms. In some cases, the appraiser's rating from the UAD list may be different from another appraiser's opinion of the same attribute. The appraiser completed the report to comply with the UAD while considering the observed characteristics of the subject and comparables (from a distance) and factored those into the value reconciliation.

Loan #8501323035
File No. 17032709

Charts						
Borrower	Bohrer, Richard A.					
Property Address	2021 1st Ave Apt D16					
City	Seattle	County	King	State	WA	Zip Code 98121
Lender/Client	Umpqua Bank					



**Median Sale Price
All Condominiums**

Zip Code

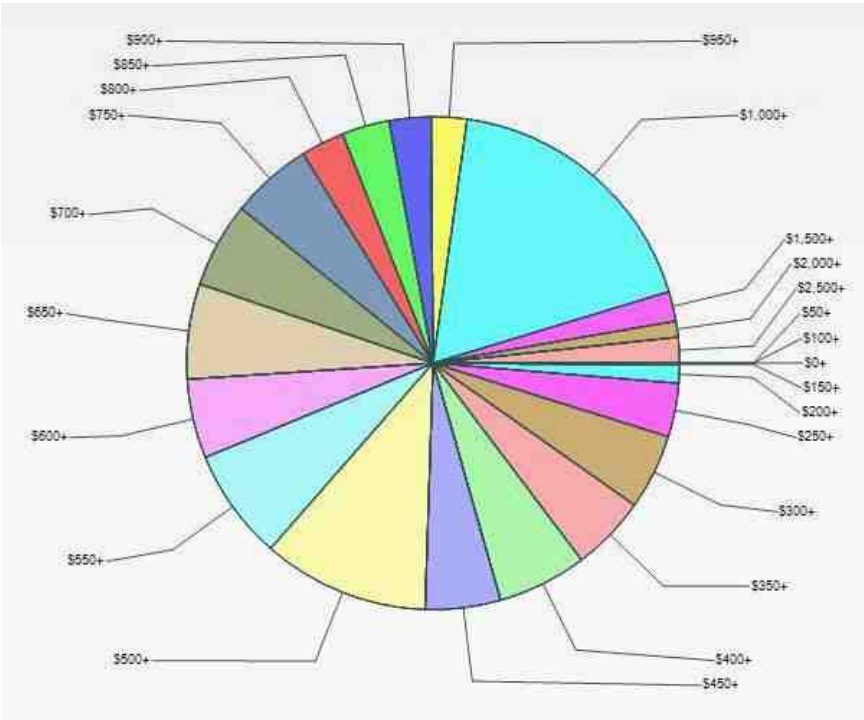
Result: 6.8% Increase
Year over Year



**Median Sale Price
Similar Condominiums**

Zip Code

Result: 11% Increase
Year over Year



**Sales By Price Range
Previous 12 months**

Zip Code

The subject is a well maintained, updated, view unit located in a highly marketable project. The subject's value is above the median value for recent sales of all units located within its zip code. The subject's value is not an over improvement for the area.

Charts

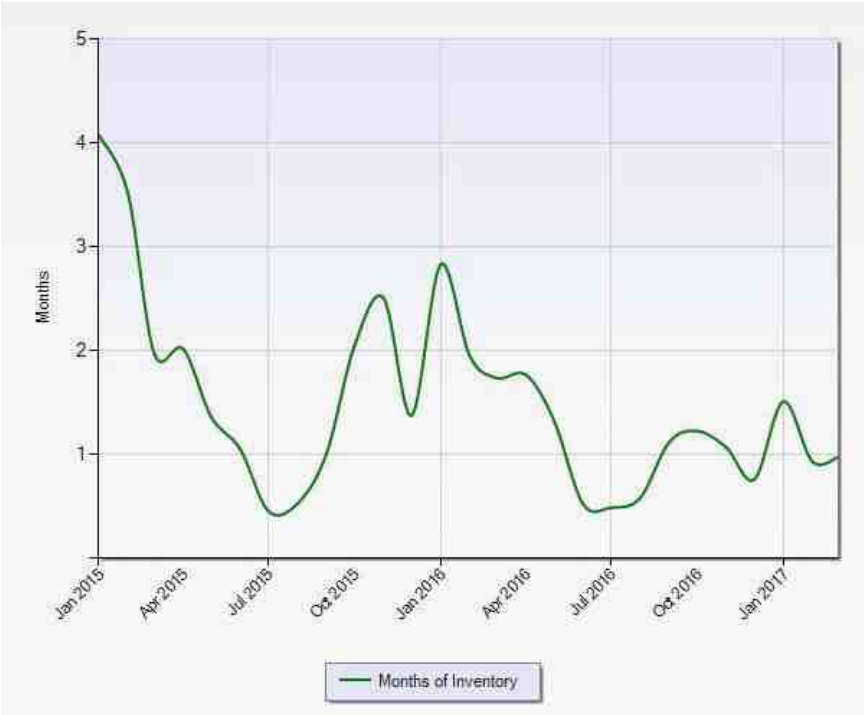
Borrower	Bohrer, Richard A.					
Property Address	2021 1st Ave Apt D16					
City	Seattle	County	King	State	WA	Zip Code 98121
Lender/Client	Umpqua Bank					



of Active Listings
Previous 12 months

Zip Code

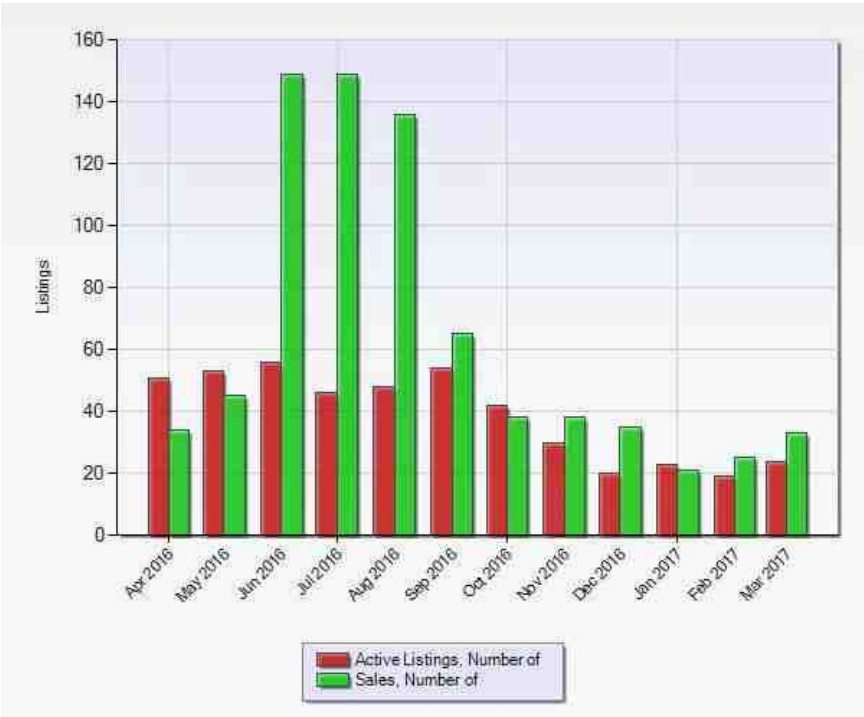
Low inventory YOY, declining over
the past quarter.



Months of Inventory
Previous 24 months

From within approx 1 mile from
subject's address

Approximately 2 months or less of
inventory over the past 2 years.



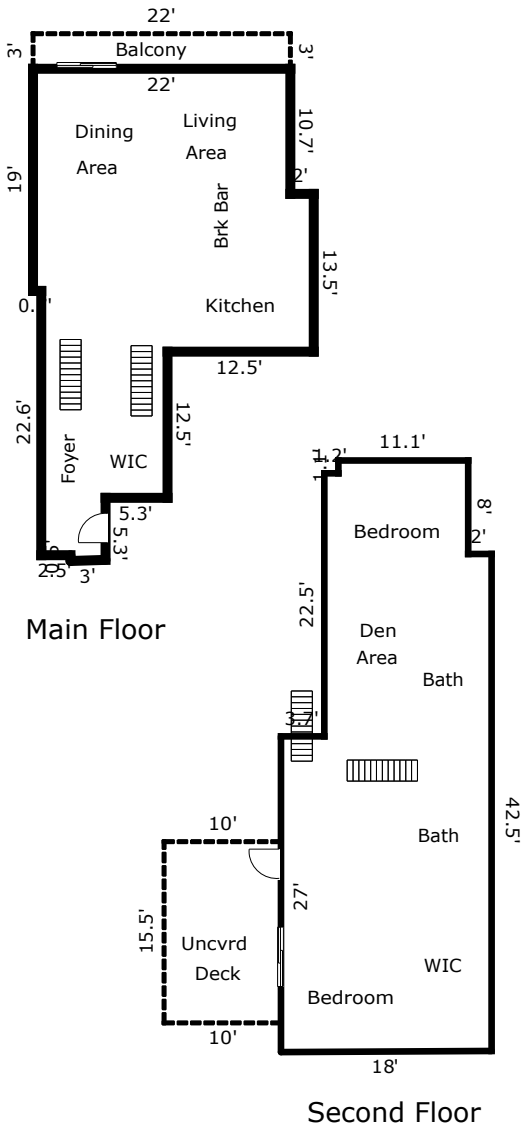
Active vs. Sold
Previous 12 months

Zip Code

Limited supply with high demand
YOY.

Building Sketch

Borrower	Bohrer, Richard A.					
Property Address	2021 1st Ave Apt D16					
City	Seattle	County	King	State	WA	Zip Code 98121
Lender/Client	Umpqua Bank					



TOTAL Sketch by a la mode, inc.

Area Calculations Summary

Living Area		Calculation Details	
First Floor	719.06 Sq ft	22×10.7	= 235.4
		13.5×12.5	= 168.75
		11.5×8.3	= 95.45
		10.8×17.7	= 191.16
		5.5×4.9	= 26.95
		3×0.4	= 1.2
		$0.5 \times 3 \times 0.1$	= 0.15
Second Floor	805.26 Sq ft	11.1×1.1	= 12.21
		12.3×6.9	= 84.87
		14.3×15.6	= 223.08
		18×26.9	= 484.2
		$0.5 \times 18 \times 0.1$	= 0.9
Total Living Area (Rounded):		1524 Sq ft	
Non-living Area			
Balcony	66 Sq ft	22×3	= 66
un-cvrd deck	155 Sq ft	15.5×10	= 155

UNIFORM APPRAISAL DATASET (UAD) DEFINITIONS ADDENDUM

(Source: Fannie Mae UAD Appendix D: UAD Field-Specific Standardization Requirements)

Condition Ratings and Definitions

C1

The improvements have been recently constructed and have not been previously occupied. The entire structure and all components are new and the dwelling features no physical depreciation.

Note: Newly constructed improvements that feature recycled or previously used materials and/or components can be considered new dwellings provided that the dwelling is placed on a 100 percent new foundation and the recycled materials and the recycled components have been rehabilitated/remanufactured into like-new condition. Improvements that have not been previously occupied are not considered “new” if they have any significant physical depreciation (that is, newly constructed dwellings that have been vacant for an extended period of time without adequate maintenance or upkeep).

C2

The improvements feature no deferred maintenance, little or no physical depreciation, and require no repairs. Virtually all building components are new or have been recently repaired, refinished, or rehabilitated. All outdated components and finishes have been updated and/or replaced with components that meet current standards. Dwellings in this category are either almost new or have been recently completely renovated and are similar in condition to new construction.

Note: The improvements represent a relatively new property that is well maintained with no deferred maintenance and little or no physical depreciation, or an older property that has been recently completely renovated.

C3

The improvements are well maintained and feature limited physical depreciation due to normal wear and tear. Some components, but not every major building component, may be updated or recently rehabilitated. The structure has been well maintained.

Note: The improvement is in its first-cycle of replacing short-lived building components (appliances, floor coverings, HVAC, etc.) and is being well maintained. Its estimated effective age is less than its actual age. It also may reflect a property in which the majority of short-lived building components have been replaced but not to the level of a complete renovation.

C4

The improvements feature some minor deferred maintenance and physical deterioration due to normal wear and tear. The dwelling has been adequately maintained and requires only minimal repairs to building components/mechanical systems and cosmetic repairs. All major building components have been adequately maintained and are functionally adequate.

Note: The estimated effective age may be close to or equal to its actual age. It reflects a property in which some of the short-lived building components have been replaced, and some short-lived building components are at or near the end of their physical life expectancy; however, they still function adequately. Most minor repairs have been addressed on an ongoing basis resulting in an adequately maintained property.

C5

The improvements feature obvious deferred maintenance and are in need of some significant repairs. Some building components need repairs, rehabilitation, or updating. The functional utility and overall livability is somewhat diminished due to condition, but the dwelling remains useable and functional as a residence.

Note: Some significant repairs are needed to the improvements due to the lack of adequate maintenance. It reflects a property in which many of its short-lived building components are at the end of or have exceeded their physical life expectancy but remain functional.

C6

The improvements have substantial damage or deferred maintenance with deficiencies or defects that are severe enough to affect the safety, soundness, or structural integrity of the improvements. The improvements are in need of substantial repairs and rehabilitation, including many or most major components.

Note: Substantial repairs are needed to the improvements due to the lack of adequate maintenance or property damage. It reflects a property with conditions severe enough to affect the safety, soundness, or structural integrity of the improvements.

Quality Ratings and Definitions

Q1

Dwellings with this quality rating are usually unique structures that are individually designed by an architect for a specified user. Such residences typically are constructed from detailed architectural plans and specifications and feature an exceptionally high level of workmanship and exceptionally high-grade materials throughout the interior and exterior of the structure. The design features exceptionally high-quality exterior refinements and ornamentation, and exceptionally high-quality interior refinements. The workmanship, materials, and finishes throughout the dwelling are of exceptionally high quality.

Q2

Dwellings with this quality rating are often custom designed for construction on an individual property owner’s site. However, dwellings in this quality grade are also found in high-quality tract developments featuring residence constructed from individual plans or from highly modified or upgraded plans. The design features detailed, high quality exterior ornamentation, high-quality interior refinements, and detail. The workmanship, materials, and finishes throughout the dwelling are generally of high or very high quality.

UNIFORM APPRAISAL DATASET (UAD) DEFINITIONS ADDENDUM

(Source: Fannie Mae UAD Appendix D: UAD Field-Specific Standardization Requirements)

Quality Ratings and Definitions (continued)

Q3

Dwellings with this quality rating are residences of higher quality built from individual or readily available designer plans in above-standard residential tract developments or on an individual property owner’s site. The design includes significant exterior ornamentation and interiors that are well finished. The workmanship exceeds acceptable standards and many materials and finishes throughout the dwelling have been upgraded from “stock” standards.

Q4

Dwellings with this quality rating meet or exceed the requirements of applicable building codes. Standard or modified standard building plans are utilized and the design includes adequate fenestration and some exterior ornamentation and interior refinements. Materials, workmanship, finish, and equipment are of stock or builder grade and may feature some upgrades.

Q5

Dwellings with this quality rating feature economy of construction and basic functionality as main considerations. Such dwellings feature a plain design using readily available or basic floor plans featuring minimal fenestration and basic finishes with minimal exterior ornamentation and limited interior detail. These dwellings meet minimum building codes and are constructed with inexpensive, stock materials with limited refinements and upgrades.

Q6

Dwellings with this quality rating are of basic quality and lower cost; some may not be suitable for year-round occupancy. Such dwellings are often built with simple plans or without plans, often utilizing the lowest quality building materials. Such dwellings are often built or expanded by persons who are professionally unskilled or possess only minimal construction skills. Electrical, plumbing, and other mechanical systems and equipment may be minimal or non-existent. Older dwellings may feature one or more substandard or non-conforming additions to the original structure

Definitions of Not Updated, Updated, and Remodeled

Not Updated

Little or no updating or modernization. This description includes, but is not limited to, new homes. Residential properties of fifteen years of age or less often reflect an original condition with no updating, if no major components have been replaced or updated. Those over fifteen years of age are also considered not updated if the appliances, fixtures, and finishes are predominantly dated. An area that is 'Not Updated' may still be well maintained and fully functional, and this rating does not necessarily imply deferred maintenance or physical/functional deterioration.

Updated

The area of the home has been modified to meet current market expectations. These modifications are limited in terms of both scope and cost. An updated area of the home should have an improved look and feel, or functional utility. Changes that constitute updates include refurbishment and/or replacing components to meet existing market expectations. Updates do not include significant alterations to the existing structure.

Remodeled

Significant finish and/or structural changes have been made that increase utility and appeal through complete replacement and/or expansion. A remodeled area reflects fundamental changes that include multiple alterations. These alterations may include some or all of the following: replacement of a major component (cabinet(s), bathtub, or bathroom tile), relocation of plumbing/gas fixtures/appliances, significant structural alterations (relocating walls, and/or the addition of) square footage). This would include a complete gutting and rebuild.

Explanation of Bathroom Count

Three-quarter baths are counted as a full bath in all cases. Quarter baths (baths that feature only a toilet) are not included in the bathroom count. The number of full and half baths is reported by separating the two values using a period, where the full bath count is represented to the left of the period and the half bath count is represented to the right of the period.

Example:
3.2 indicates three full baths and two half baths.

UNIFORM APPRAISAL DATASET (UAD) DEFINITIONS ADDENDUM

(Source: Fannie Mae UAD Appendix D: UAD Field-Specific Standardization Requirements)

Abbreviations Used in Data Standardization Text

Abbreviation	Full Name	Fields Where This Abbreviation May Appear
ac	Acres	Area, Site
AdjPrk	Adjacent to Park	Location
AdjPwr	Adjacent to Power Lines	Location
A	Adverse	Location & View
ArmLth	Arms Length Sale	Sale or Financing Concessions
ba	Bathroom(s)	Basement & Finished Rooms Below Grade
br	Bedroom	Basement & Finished Rooms Below Grade
B	Beneficial	Location & View
Cash	Cash	Sale or Financing Concessions
CtySky	City View Skyline View	View
CtyStr	City Street View	View
Comm	Commercial Influence	Location
c	Contracted Date	Date of Sale/Time
Conv	Conventional	Sale or Financing Concessions
CrtOrd	Court Ordered Sale	Sale or Financing Concessions
DOM	Days On Market	Data Sources
e	Expiration Date	Date of Sale/Time
Estate	Estate Sale	Sale or Financing Concessions
FHA	Federal Housing Authority	Sale or Financing Concessions
GlfCse	Golf Course	Location
Glfvw	Golf Course View	View
Ind	Industrial	Location & View
in	Interior Only Stairs	Basement & Finished Rooms Below Grade
Lndfl	Landfill	Location
LtdSght	Limited Sight	View
Listing	Listing	Sale or Financing Concessions
Mtn	Mountain View	View
N	Neutral	Location & View
NonArm	Non-Arms Length Sale	Sale or Financing Concessions
BsyRd	Busy Road	Location
o	Other	Basement & Finished Rooms Below Grade
Prk	Park View	View
Pstrl	Pastoral View	View
PwrLn	Power Lines	View
PubTrn	Public Transportation	Location
rr	Recreational (Rec) Room	Basement & Finished Rooms Below Grade
Relo	Relocation Sale	Sale or Financing Concessions
REO	REO Sale	Sale or Financing Concessions
Res	Residential	Location & View
RH	USDA - Rural Housing	Sale or Financing Concessions
s	Settlement Date	Date of Sale/Time
Short	Short Sale	Sale or Financing Concessions
sf	Square Feet	Area, Site, Basement
sqm	Square Meters	Area, Site
Unk	Unknown	Date of Sale/Time
VA	Veterans Administration	Sale or Financing Concessions
w	Withdrawn Date	Date of Sale/Time
wo	Walk Out Basement	Basement & Finished Rooms Below Grade
wu	Walk Up Basement	Basement & Finished Rooms Below Grade
WtrFr	Water Frontage	Location
Wtr	Water View	View
Woods	Woods View	View


Other Appraiser-Defined Abbreviations

Abbreviation	Full Name	Fields Where This Abbreviation May Appear
PK	Park	Neighborhood Description - Land Use
FA	Forced Air	Improvements, Sales Grid
Rad-Gas	Radiant Gas	Improvements, Sales Grid
BB-Elect	Baseboard Electric	Improvements, Sales Grid
FA Elect	Forced Air Electric	Improvements, Sales Grid
DP	Double Pane Windows	Improvements, Sales Grid

STATE OF WASHINGTON

DEPARTMENT OF LICENSING – BUSINESS AND PROFESSIONS DIVISION

THIS CERTIFIES THAT THE PERSON NAMED HEREON IS AUTHORIZED, AS PROVIDED BY LAW, AS A



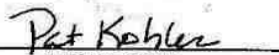
CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER

PATRICK R H SIMMONS
1037 NE 100TH ST
SEATTLE WA 98125-7517

Cert/Lic No.
1701455

Issued Date
04/04/2002

Expiration Date
03/17/2018


Pat Kohler, Director

PL-630-159 (R/6/13)

From: [Rick Bohrer](#)
To: [City Clerk Filing](#); [Lee, Engel](#); [Lo, Jenny Q](#)
Cc: rick.bohrer@gmail.com
Subject: Attention: Waterfront LID Appeal
Date: Friday, March 05, 2021 3:07:51 PM
Attachments: [bohrer certificate of service.pdf](#)
[bohrer appeal 5160650560 revised.pdf](#)

CAUTION: External Email

Please find attached a revised/clarified appeal and certificate of service.

Thank you,
-Rick Bohrer
206-914-5235

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copy of the attached CLARIFICATION OF SUBMISSION OF APPEAL to each person listed below in the matter of the FINAL FINDINGS AND RECOMMENDATION OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE ON THE FINAL ASSESSMENT ROLL FOR THE WATERFRONT LOCAL IMPROVEMENT DISTRICT (LID #6751), Council File 321888, in the manner indicated.

Check the box next to the manner used to send copy:

Submission by Email:

☒ cityclerkfiling@seattle.gov
Subject line- Attention: Waterfront LID Appeal

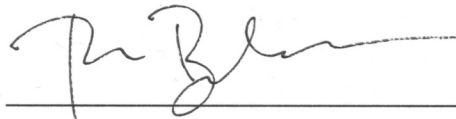
☒ Engel.Lee@seattle.gov and Jenny.Lo@seattle.gov
Subject line- Attention: Waterfront LID Appeal

Submission by Mail:

- ☐ City of Seattle Office of the City Clerk; Attention: Waterfront LID Appeal
P.O. Box 94728; Seattle, WA 98124-4728
- ☐ Seattle City Attorney's Office; Attention: Waterfront LID Appeal
701 Fifth Avenue, Suite 2050
Seattle, WA 98104-7097

Mar 5, 2021

Date



Signature

To: City of Seattle Office of the City Clerk
Attention: Waterfront LID Appeal, CWF-0295
P.O. Box 94728; Seattle, WA 98124-4728

From: Rick Bohrer
2021 1st Ave, APT D-16
Seattle, WA 98121

Date: Tuesday, February 16, 2021 (revised and clarified Thursday March 4, 2021)

APPEAL – Waterfront Local Improvement District (LID #6751)

I am submitting this appeal of the LID assessed against:

Parcel number:	5160650560 ("The Property")
Property description:	Unit D-16 in Market Place North Condominium
LID assessment:	\$19,015 or \$11.26 per square foot
Ref:*	Page 32, line B-193-056

* see Appendix-B: refers to locations in document (1) in "Reference Documents"

This appeal elaborates on the claims made in the original appeal submitted by email on February 3, 2020 at 10:24am, sent to LIDHearingExaminer@seattle.gov, from rick.bohrer@gmail.com. The Hearing Examiner writes that

"Without additional supporting evidence, the general property valuation information is not adequate to demonstrate an error in the special assessment for this property"
(document 2 in Appendix-B, page 78, case CWF-0295).

The following arguments provide evidence of, and reference to, supporting information that the LID assessment against The Property is improperly and inappropriately high and should be reduced.

SUMMARY OF OBJECTIONS

The \$19,015 LID (document 1 in Appendix-B, page 32, line B-193-056) assessed against The Property is in error. It is higher, on a dollar per square foot (\$/SF) basis, than comparable properties in the same building and even on the same floor.

BASIS OF APPEAL

A comparison of The Property with other properties in the same building, and on the same floor, show that the LID assessment against The Property is in error. The other properties compared are shown to be of equal or greater square footage, have an equal or superior view, and have a comparable or greater market value, yet have a lower LID assessment on a dollar per square foot basis.

SUMMARY OF RELIEF SOUGHT

I respectfully request that the LID assessment against The Property be **reduced to \$13,234**, which is \$7.84 per square foot based on a size of 1,688 square feet. This dollar per square foot amount was applied to comparable properties in the same building and on the same floor as The Property.

DISCUSSION AND DETAILS

The LID assessed The Property of \$11.26/SF is in error. It is improperly and inappropriately high, both when compared to other units in the same building, and when compared to units in a nearby buildings. In the objector file for case CWF-0295 (document 3 in Appendix-A, page 10), the objector writes:

“There are units in my building that are larger and with better views and higher appraised values than my unit, yet their LID assessments are significantly less than the assessment for my unit”.

In response to this, the Hearing Examiner writes:

*“Without additional supporting evidence, the general property valuation information is not adequate to demonstrate an error in the special assessment for this property”
(document 2 in Appendix-B, page 78, case CWF-0295).*

The following discussion provides evidence of, and reference to, supporting information that the LID assessment against The Property is in error, is improperly and inappropriately high, and should be reduced.

For reference, The Property is on floor 14/16 and the top floor – one floor above – is 18/20 (yes, the floor names are peculiar). There are only four (4) units on the top floor (18/20), and seven (7) units on the floor on which The Property resides (14/16). All of these properties have excellent views (per KCR), and those on the uppermost floor are considered to have superior views by virtue of being on a higher floor.

The following comparison and specific details are based on a comparison of LID assessments for the top two floors of the building in which The Property resides (Market Place North Phase 1 Condominium) on the basis of both square footage (SF) and market value. Information is taken from Waterfront Local Improvement District (LID #6751) Final Assessment Roll Call (document 1 in Appendix-B). The table in Appendix-A identifies the units being compared and provides references to supporting documents.

Referring to the table in Appendix-A, the following reasons describe why the LID assessment against The Property (5160650560) is in error, is improper and inappropriate:

1. Two units on the top floor (5160650660 and 5160650740) are assessed at \$11.26/SF. Both of these units are substantially larger, have superior views by virtue of being on a higher floor, and have a much higher market value.
2. The remaining two top floor units (5160650860 and 5160650850) are assessed only \$8.08/SF. One of these units is the same size as The Property, the other is substantially larger. Both have superior views by virtue of being on a higher floor. These units have a lower market value ONLY due their low tax-value from being held by the same owners for decades. Both are top floor units, have several attributes that improve upon those of The Property, and if listed for sale today would demand a higher market value than The Property.
3. The unit to the south of The Property (5160650490), on the same floor, is assessed only \$7.84/sf. Yet this unit is far larger (3,300 sf), has the same or superior view, and a much higher market value.
4. All units on floor 14/16 – EXCEPT for The Property – are assessed a LID of only \$7.94/SF or \$8.32/SF. Additionally, among the units on the same floor, The Property is not the largest, does not have the best view, nor does it have the highest market value. The Property is the only unit on floor 14/16 being assessed \$11.26/SF despite having no unique characteristics.

It is improper and inappropriate that The Property be assessed a higher dollar per square foot than ALL other comparable units in the building, a rate that only larger, higher valued, units with superior views are assessed.

In the objector file for case CWF-0295 (document 3 in Appendix-A, page 10), the objector writes:

“Buildings such as the Pomeroy (2319 1st Ave) received enormous benefit and increased value from the removal of the Alaskan Way viaduct. Massive reductions in noise levels were achieved along with vastly improved views. By comparison, my building received very very little reduction in noise and improvement of view (noise and traffic was buffered and hidden by the wall behind Victor Steinbrueck park and the Market Place businesses). Yet there are units in the Pomeroy that are larger and with better views and

higher appraised values than my unit, yet their LID assessment is half of the assessment for my unit”.

In response to this, the Hearing Examiner writes:

*“Without additional supporting evidence, the general property valuation information is not adequate to demonstrate an error in the special assessment for this property”
(document 2 in Appendix-B, page 78, case CWF-0295).*

The following discussion provides evidence of, and reference to, supporting information regarding LID assessments and market valuations in The Pomeroy, and the benefit received by units in The Pomeroy due to removal of the Alaskan Way Viaduct.

Appendix-C compares two units in The Pomeroy (2319 1st Avenue), a nearby building on the same street. In both cases, the amount assessed against these units is an order of magnitude smaller than that assessed against The Property on a dollar per square foot basis (\$1.37/SF vs \$11.26/SF). In addition, as can be seen in the maps in Appendices A and C, The Pomeroy received enormous benefit and increased value from the removal of the Alaskan Way viaduct. Massive reductions in noise levels were achieved along with vastly improved views. By comparison, the building in which The Property resides (2021 1st Ave) received very very little reduction in noise and improvement of view: noise and traffic was buffered and hidden by the wall behind Victor Steinbrueck park and the Market Place businesses, and removal of the viaduct provided little benefit compared to that enjoyed by units in The Pomeroy. While it might be argued that units in the Pomeroy receive less of a special benefit due to the buildings' location (only 3 blocks north of Market Place North), the benefit received from removal of the viaduct is enormous and outweighs any small impact due to the location difference of just 3 blocks.

The prior discussions and evidence show that the LID assessment against The Property is matched on a dollar per square foot basis only by larger properties with superior views and higher market values. There is no justification or logic to support such a large assessment. The evidence also illustrates the gross differences in assessments of comparable units in The Pomeroy, a building just 3 blocks away that received enormous benefit from removal of the Alaskan Way Viaduct. Separately, and even more so in combination, this evidence shows that the LID assessment against The Property is in error.

I respectfully request that my LID assessment be **reduced to \$13,234**, which is \$7.84/SF based on a size of 1,688 square feet. The \$7.84/SF value was applied to two other properties in the same building and on the same floor, as shown in the table in Appendix-A.

Thank you for your consideration,
-Rick Bohrer

APPENDIX – A : comparison of units on top two floors of Market Place North Phase 1 Condominium

Parcel # ¹	Unit #	Floor*	Market Value ¹	Size ¹ (sq. ft.)	LID ¹ Total	Ref**	LID as \$/sq.ft.	Last Sold	View Quality
5160650490	C-14 Danelo	14/16	\$2,640,000	3,300	\$25,860	Pg: 32 Ln: B-193-049	\$7.84	08/07/1998	Excellent
5160650560	D-16 Bohrer	14/16	\$1,941,200	1,688	\$19,015	Pg: 32 Ln: B-193-056	\$11.26	01/14/2008	Excellent
5160650640	E-14 Lorentz		\$1,343,850	1,581	\$13,164	Pg: 32 Ln: B-193-064	\$8.32	09/10/2007	Excellent
5160650650	E-16 McLuckie	14/16	\$1,343,850	1,581	\$13,164	Pg: 32 Ln: B-193-065	\$8.32	04/09/2014	Excellent
5160650730	F-14 Milkowski	14/16	\$1,779,050	2,093	\$17,427	Pg: 32 Ln: B-193-073	\$8.32	10/18/2011	Excellent
5160650830	G-14 Crowe	14/16	\$1,345,600	1,682	\$13,181	Pg: 33 Ln: B-193-083	\$7.84	10/03/1997	Excellent
5160650840	G-16 Jensen	14/16	\$1,075,250	1,265	\$10,533	Pg: 33 Ln: B-193-084	\$8.32	07/24/2007	Excellent
5160650660	E-18 Buchanan	18/20	\$2,206,850	1,919	\$21,617	Pg: 32 Ln: B-193-066	\$11.26	01/09/2018	Excellent
5160650740	F-18 ILU LLC.	18/20	\$2,178,100	1,894	\$21,336	Pg: 32 Ln: B-193-074	\$11.26	06/15/2004	Excellent
5160650850	G-18 Ihrig+Knox	18/20	\$1,387,650	1,682	\$13,593	Pg: 33 Ln: B-193-085	\$8.08	08/27/1996	Excellent
5160650860	G-20 Gerberding	18/20	\$1,485,000	1,800	\$14,546	Pg: 33 Ln: B-193-086	\$8.08	06/18/1993	Excellent

Superscripts in column headings apply to all values in column.

Superscripts in non-heading table cells refer to documents listed in Appendix-B.

* floor 14/16 is a single floor and provides access to all “14” and “16” units. Floor 18/20 is a single floor and provides access to all “18” and “20” units.

** Ref column provides page and line number references to document (1) listed in Appendix-B.



APPENDIX – B

Reference Documents:

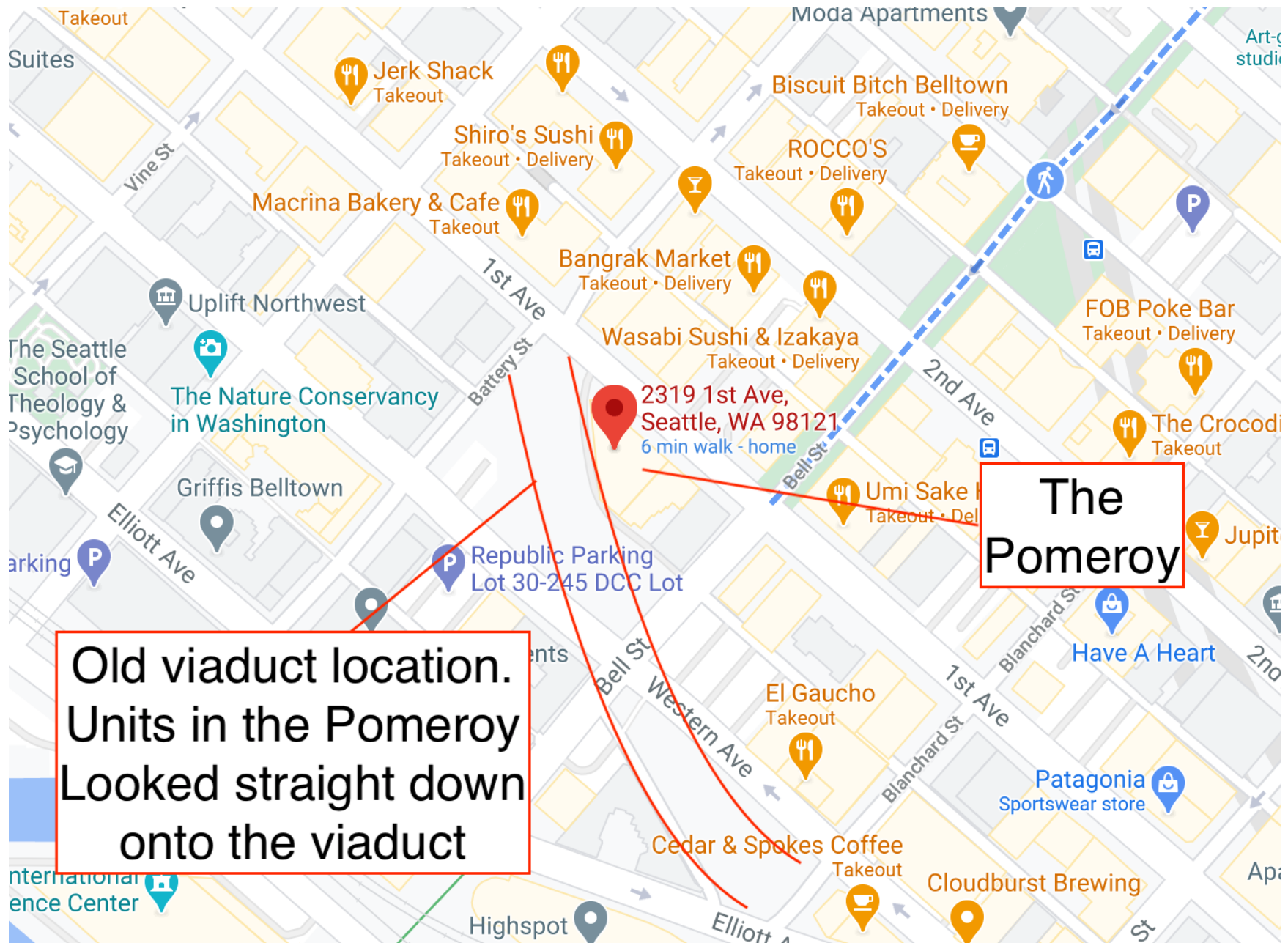
1. Waterfront Local Improvement District (LID #6751) Final Assessment Roll CORRECTION.
Note that this document has inconsistent page numbers.
http://clerk.seattle.gov/~CFS/CF_321491.pdf
2. Final Findings and Recommendation of the Hearing Examiner for the City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District (LID #6751).
http://clerk.seattle.gov/~CFS/CF_321888.pdf
3. Objector files for case CWF-0295, accessible at the following location:
<https://www.seattle.gov/hearing-examiner/waterfront-lid-hearing>

Appendix – C : The Pomeroy, 2319 1st Avenue

Parcel # ¹	Unit #	Floor	Market Value ¹	Size ¹ (sq. ft.)	LID ¹ Total	Ref*	LID as \$/sq.ft.	View Quality
6839900520	804 Blasi+Hellar	8	\$1,866,200	2,666	\$3,656	Pg: 26 Ln: B-115-052	\$1.37	Excellent
6839900510	803 Ferrin	8	\$1,328,600	1,898	\$2,603	Pg: 26 Ln: B-115-051	\$1.37	Excellent

Superscripts in column headings apply to all values in column.

* Ref column provides page and line number references to document (1) listed in Appendix-B.



2:47 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0318
Date: Tuesday, September 22, 2020 2:20:46 PM
Attachments: [CWF-0318.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0318.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0318
A – Master List of Evidence
B – B-256 and B-257 Alexis Hotel
C – Discounting for CWF-0318
CWF-0318 Appeal Notice for Alexis Hotel

Kimball Mullins | Perkins Coie LLP

SENIOR PARALEGAL
1201 Third Avenue Suite 4900
Seattle, WA 98101-3099
D. +1.206.359.3562
F. +1.206.359.4562
E. KPMullins@perkinscoie.com

Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0318

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON ALEXIS
HOTEL’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
1974600025 and 1974600035

32
33 ALEXIS HOTEL files this appeal pursuant to RCW 35.44.070, Seattle Municipal
34 Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office of the
35 City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
36 City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
37 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
38
39
40

41 **I. Alexis Hotel / Appellant**

42 The taxpayer filing this appeal is:

43
44 ALEXIS HOTEL
45
46
47

1 1007 1st Ave.
2 Seattle, WA 98104
3

4 **II. Alexis Hotel's Representatives**

5 ALEXIS HOTEL'S representatives in this matter are:
6
7

8 Clark R. Nichols, WSBA No. 8662
9 CNichols@perkinscoie.com
10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20
21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27
28

29 **III. Statement of Alexis Hotel's Interest**

30 ALEXIS HOTEL owns the property that is subject to the proposed final assessment
31 described in Section IV. The Alexis Hotel is a hotel comprising the two King County parcel
32 numbers listed in the caption, although it is operated as a single hotel and has appealed the
33 City's proposed final assessment and the Hearing Examiner's recommendation under the
34 single above-captioned case number.
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40 The basis of the proposed assessment is a Final Special Benefit/Proportionate
41 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
42 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
43 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
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1 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
2 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4 to exclude charges for other improvement projects in the Central Waterfront, and
5 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
6 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
7 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
8 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
9 because construction was not complete on the LID Improvements or the WSDOT
10 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
11 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
12 facts. On February 4, 2020, Alexis Hotel timely filed an objection to the assessment, which
13 was based on the Final Study.
14

15 **IV. Matter Under Appeal**

16 ALEXIS HOTEL appeals the Hearing Examiner’s recommendation to remand
17 Alexis Hotel’s objection to the City of Seattle’s Waterfront Local Improvement District No.
18 6751 proposed final assessment dated December 30, 2019 against the following property:
19

20 King County Parcel Nos. 1974600025 and 1974600035
21 Site Address: 1007 1st Ave., Seattle, Washington
22 Proposed Final LID Assessment for Parcel: \$339,318 (parcel -0025),
23 \$429,829 (parcel -0035)
24

25 See Examiner’s Recommendation at 61-62, 81-82. To avoid repetition, Alexis Hotel
26 incorporates the evidence and arguments raised before the Hearing Examiner into this
27 appeal. In particular, Alexis Hotel points the City Council to Alexis Hotel’s initial Appeal
28 Petition, *Frye* motion, Closing Brief submitted at the close of its case-in-chief (dated
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1 4/16/2020), and supplemental Closing Statement submitted at the close of the City's case-in-
2 chief (dated 7/7/2020).¹
3

4 As discussed more fully below, Alexis Hotel specifically appeals the following
5 Findings and Recommendations in the Hearing Examiner's September 8, 2020
6 Recommendation: Pages 61-62, 81-82, Sections II.6, II.7, II.12, II.14, II.16, II.17, II.18,
7 II.19, II.20, II.21, II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33,
8 IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a),
9 IV.B.11(a)(i), IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3,
10 IV.C.4, IV.C.5, IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Alexis Hotel also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Alexis Hotel's appeal that were supported
20 by law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the
21 basic requirements of a LID assessment study, and the Examiner's Recommendation ignores
22 the many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$866,000 (parcel -0025) and \$1,097,000
34 (parcel -0035), assuming the LID Improvements were in place and providing benefit in
35 October 2019. However, the LID Improvements will not be completed until the end of
36 2024 if the City meets its current schedule, and many of WSDOT’s alternative
37 improvements will not be built. The present value of future improvements deliverable in
38 five years is significantly lower than the current value of improvements that already exist.
39 Further, ABS’s own materials show that benefits may not accrue for at least five years
40 after they are completed, in 2029. If the hypothesized special benefits are discounted to
41 present value, the assessments materially exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
9

10
11 **Legal Requirement:** Must comply with appraisal standards
12

13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
18
19

20 **Legal Requirement:** Actual and measurable special benefit
21

22 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
23 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
24 on a host of "micro-judgments" that are not supported by any documentation, nor capable
25 of replication or quality assurance/quality control. The assessments are undocumented,
26 unreliable, and not supported by empirical studies, data, or reports.
27
28

29 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
30 supported by empirical evidence
31

32 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
33 value of parks and other public amenities and on whom ABS purported to rely, testified
34 that ABS had completely misapplied his work and dramatically overstated both the
35 distance to which economic benefits might extend from the LID Improvements and the
36 extent of any anticipated benefit within the potentially benefited area.
37
38

39 **Legal Requirement:** Actual special benefit—Must take into account potential
40 disamenities
41

42 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
43 construction, as well as other potential disamenities associated with public places.
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1 **Legal Requirement:** Cannot prematurely commit to build

2
3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
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9

10
11 In addition to these general objections, there are property-specific issues raised by
12 Alexis Hotel as to which the Examiner also erred, discussed in the course of the appeal
13 statement below.
14

15
16
17 **V. Standard of Review**

18
19 “When considering the assessment roll, the city council sits ‘as a board of
20 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
21 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
22 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
23 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
24
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26
27 The proposed assessments are presumed correct, “unless overcome by clear, cogent
28 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
29 than the heightened presumption of correctness on judicial appeal because “applying these
30 elevated standards at the municipal hearing would afford unwarranted deference to a report
31 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
32 presumption is not evidence and its efficacy is lost when the other party adduces credible
33 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
34 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
35 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
36 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
4

5 **VI. Grounds for Appeal**

6 ALEXIS HOTEL appeals the Hearing Examiner's Findings and Recommendations
7 on the following grounds.
8

9 **Alexis Hotel Not Required to Provide A Special Benefit Study**

10 1. Contrary to the Examiner's findings and recommendations, there is no
11 requirement that experts or property owners provide an alternative special benefit
12 calculation under these circumstances—to do so would also require the same improper
13 speculation the City's expert engaged in, given the timing and information provided. *See*,
14 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
15 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
16 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
17 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
18 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
19 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
20 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
21 provided expert opinion showing that improvements actually diminished value of the
22 property). In fact, no independent evidence is required at all if, for example, objectors show
23 that the assessment was grounded on a fundamentally wrong basis due to an error in the
24 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
25 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
26 a property owner could simply point out that the square footage assumed in the City's
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1 appraisal was incorrect. For these reasons, Alexis Hotel appeals the following portions of
2 the Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2,
3 IV.C.8, and IV.C.11.
4

5
6
7 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

8
9 2. RCW 35.43.040 provides cities and towns authority for ordering local
10 improvements and for levying and collecting special assessments "on property specially
11 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
12 upon all the property in accordance with the special benefits conferred thereon." RCW
13 35.44.010.
14
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17
18 3. No analysis of general benefits. Special assessments have been "held valid
19 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
20 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
21 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
22 they are for the construction of local improvements that are appurtenant to specific land and
23 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
24
25

26
27 4. Alexis Hotel's property is not specially benefited by the LID Improvements.
28 The primary purpose and effect of the LID Improvements are to benefit "members of the
29 whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public
30 library is for the benefit of the members of the whole community individually and
31 collectively who may be served by it"). Mr. Macaulay's own chapter of the LID Manual
32 states clearly that appraisers should "[c]onsider general benefits as well as special benefits"
33 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that "general benefits probably accrue
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46 ² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
47 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil

1 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Alexis Hotel’s expert
2 confirmed that if an appraiser “identifies both general and special benefits, these benefits
3 should be clearly distinguished and explained, and only special benefits should be included
4 in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
6 183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
7 including those arising from construction necessary to meet basic design standards. *See*
8 Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
9 construction costs related to meeting design standards which may be general benefits as
10 distinct from construction costs emanating from requirements of the LID project”). To the
11 extent Alexis Hotel’s property may benefit from the LID improvements, the benefit is
12 general and incidental, and failure to consider general benefits was a fatal flaw in the City’s
13 methodology. For these reasons, Alexis Hotel appeals the following portions of the
14 Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and
15 IV.C.4.

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31 5. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Alexis Hotel’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268
34 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18
35 feet held invalid where owners would have benefitted equally from increase of only 9 feet);
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41 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
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45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Alexis Hotel has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 intersection for new water main for hydrant held invalid because land was already afforded
2 functional hydrant at nearby street). Here, Alexis Hotel representative Thomas Waithe
3 provided testimony through declaration that the LID Improvements are not necessary to the
4 operation of the hotel, which already has sufficient access to the waterfront, downtown
5 amenities, and other features of the City that attract its guests and users. *See* Hrg. Exhibit
6 113 (Waithe Decl.) at ¶ 19, 22-23 (dated 4/15/2020). The fact that there is no case law
7 differentiating between binary improvements and parks does not change the law prohibiting
8 assessments on properties already adequately served by existing amenities. *See* Examiner's
9 Recommendation at IV.C.3 (reasoning that "no case law is provided to support the
10 differentiation between a hardscape benefit and the more ephemeral benefits of park"). Nor
11 does the Examiner's reasoning excuse the City's failure to account for existing amenities as
12 part of the special benefit calculation. As Dr. Crompton testified, existing view amenities
13 may in fact diminish the incremental effect of new park improvements on the value of
14 properties, much like turning on a weak light in an already brightly illuminated room. *See*
15 Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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17 6. To the extent benefits can be considered "special" as opposed to general, they
18 are nominal or nonexistent for many properties even in the Central Waterfront, which
19 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
20 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
21 change due to expansion of sewer service *near* owners' parcel which were already
22 connected). Here, ultimately, the primary reasons users choose a particular hotel is not
23 proximity to the waterfront. Instead, like most of the downtown hotels, the Alexis Hotel
24 caters primarily to business travelers attending conventions and meetings. *See, e.g.,* Waithe
25 Decl. at ¶ 12. For this reason, Mr. Waithe explained that the Alexis Hotel does not expect

1 the LID Improvements to increase impact on demand for rooms or room rates. *Id.* Even if
2 the City could assess for a view change (and it has promised not to assess for viaduct
3 removal), the fair market value of ALEXIS HOTEL'S property has not changed because the
4 LID Improvements have not improved the property's waterfront view or access to the
5 waterfront, nor will they when the City anticipates completion in 2024. For these reasons,
6 Alexis Hotel appeals the following portions of the Examiner's Recommendation: Sections
7 IV.C.3, IV.B.9, and IV.C.3.
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15 7. No analysis of special detriments. The Final Study fails to properly account
16 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
17 owners for removal and cleanup of underground storage tanks discovered during the
18 improvement project). Alex Hotel property value may in fact be negatively impacted by the
19 LID Improvements due to loss of parking, increased traffic and noise, and increased
20 potential for crime, homelessness and sanitation issues. Meanwhile, views already protected
21 by air space would not be enhanced by the addition of the LID Improvements. Mr. Waithe
22 testified that the assessment is an immediate expense for the Alexis Hotel that comes with
23 no immediate increase in revenue, thereby decreasing property values. *See Waithe Decl.* at ¶
24 20-23. Although Mr. Macaulay claims he analyzed impacts on the City's planned
25 elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how
26 lost parking might be a detriment, and no property-specific parking analysis in any of his
27 materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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41 8. Likewise, there was no analysis of the risks associated with disamenities such
42 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
43 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
44 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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1 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
2 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
3 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
4 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
5 the maintenance agreement. *Id.* at 13:4-14:2.
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10 9. There was also no consideration of negative impacts from another four-plus
11 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
12 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
13 law allowing him to dismiss these actual, non-speculative impacts. Because future special
14 benefits calculations are inherently speculative, Washington's eminent domain statute
15 specifically allows condemnees to postpone special benefits assessments until improvements
16 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
17 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
18 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
19 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
20 Greenway, the Greenway district "significantly" lagged in value). For these reasons, Alexis
21 Hotel appeals the following portions of the Examiner's Recommendation: Sections II.25,
22 IV.B.8, and IV.B.9.
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36 10. Special benefit estimate is speculative. When calculating a special benefit,
37 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
38 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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5 11. Assuming without conceding that one day, the City’s planned LID
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7 Improvements might increase the value of neighboring properties to some extent, that
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9 potential benefit is many years away and speculative. While appraisers tolerate some degree
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11 of estimation and judgment, Alexis Hotel’s expert testified that Mr. Macaulay’s Final Study
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13 is far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
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15 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
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17 the level of precision implied in the Final Study due to the size of the LID and use of
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19 hypotheticals).
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21 12. Although LIDs are sometimes finalized prior to completion of improvements,
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23 this is typically just six month or a year prior, and the assessments are otherwise supported
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25 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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27 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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29 will not be realized for four or five years. In the meantime, there is permitting risk,
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31 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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33 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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35 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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37 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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39 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
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41 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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43 market value would be as of the date the project would be finally constructed” because
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45 “[t]here could be a lot of elements in the market that did occur between now and then that
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47 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if

1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

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5 13. The record is clear that while no one can know what “special benefit” might
6 accrue to these properties in four years (if any), we do know that there are no actual benefits
7 now. The LID improvements provide no immediate special benefit to property owners
8 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
10 sewer system for future users). For example, notwithstanding the questionable hypothesis
11 that hotels will benefit from an expected increase in tourism (higher room rates or
12 occupancy) when the improvements are complete, it is undisputed that tourists are not
13 coming in larger numbers and paying higher room rates now because of something
14 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23.

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17 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
18 for the LID Improvements, and it is unlawful to move to final assessments without such
19 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
20 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
21 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
22 dollars on projects still early in the design process. *See* Washington Attorney General
23 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
24 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
25 of programs and included “only so much of the overall costs” that took place within and
26 benefitted the assessed properties).

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29 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
30 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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1 anticipated to be delivered five years later. Even before COVID, it was speculative to
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3 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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5 after an already extraordinarily long expansion period. *See, e.g.* 3/3/2020 (A. Gibbons) Hrg.
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7 Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my
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9 analysis in October 2019, who would have thought that this COVID issue would happen?”
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11 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was
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13 that the market was going to continue to go up”—in fact, it did not for Alexis Hotel’s
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15 property. *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that downtown hotel
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17 values had already dropped an estimated 10-15% from their October 2019 levels, and
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19 occupancy rates were at zero or in single digits. *See* Gordon Decl. (dated 4/21/2020) at ¶ 9.
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21 Hotels without guests will derive no benefit, special or otherwise, from the planned LID
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23 Improvements. And even assuming hotels recover prior to 2024, there is no basis for
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25 assuming that values hypothesized in October 2019 will remain relevant; they are already
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27 irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although
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29 COVID does not change actual values as of October 2019 (*see* Examiner’s
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31 Recommendation at 109), the pandemic has impacted *current* values and rendered the
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33 hypothetical October 2019 Final Study valuations outdated.

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35 16. As another example of how future events could affect the accuracy and
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37 reliability of the City’s 2019 proposed assessment, Alexis Hotel recently requested the
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39 Hearing Examiner re-open the record to allow the City to explain whether the assessments
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41 against property owners within the LID are, in fact, being used by the City to fund the
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43 emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the City
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46 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
47 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor->

1 plans to use LID funding to pay for the expedited, emergency repairs and replacement.⁵ If
2 true, the City would be improperly imposing costs on property owners within the LID for
3 improvements that are required to maintain the safety of Pier 58 and to remove a threat to
4 critical salmon habitat and City infrastructure—this does not provide any special benefit to
5 LID property owners.
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10 17. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Alexis Hotel’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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36 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
37 58 (Waterfront Park) Emergency Demolition Project, *available at*
38 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=)
39 [ry=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); see also Aug. 13, 2020 Ltr. from H.
40 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
41 *available at*
42 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
43 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).
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45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), *available at* [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
2 he could not point to a single one where the assessment roll was finalized five years in
3 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
4 he has never recommended final special assessments based on designs less than 30 percent
5 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
6 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
7 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
8 at 66:17-25. He performed no independent due diligence to determine the reliability of the
9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
10 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
11 agreed that if any of his assumptions are incorrect, his opinion of market value would need
12 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
13 68:11-18.

14 19. The City has cited no authority—and Alexis Hotel is aware of none—that
15 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
16 assess taxes for “actual” special benefits that will not accrue for another five years (if all
17 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
18 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
19 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
20 reasons, Alexis Hotel appeals the following portions of the Examiner’s Recommendation:
21 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
22 IV.C.14, and IV.C.18.

23 20. Failure to discount special benefit estimates to account for risks and present
24 value. Due to the inherent uncertainty, Alexis Hotel’s expert opine that the Final Study

1 should have accounted for risks associated with delivery of the improvements (including
2 permitting risk, construction risk, general economic risk) and any special damages
3 associated with interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9,
4 59:20-60:20. In addition, as is typical appraisal practice, Mr. Macaulay should have
5 discounted the anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-
6 55:1; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers
7 routinely consider the impact of future conditions [through] discounted cash flow
8 analysis.”).

16 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
17 future condition not in place at the date of valuation and can discount for the time value of
18 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
19 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
20 Discounting would also have been consistent with his approach for analyzing special
21 benefits to vacant land. He testified that the difference between similarly situated vacant
22 sites slated for development and already developed sites was that the labor, capital and risks
23 associated with development had not yet been borne for those vacant sites. Therefore, the
24 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
25 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
26 fully permitted, has not completed environmental review, and has not reached full design is
27 presently worth significantly less.

40 22. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
41 present value, an appraiser would consider discount rates for land development to account
42 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
43 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer

1 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
2 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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4 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
5 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
6 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
7 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
8 ignoring momentarily all of the other methodological and other flaws discussed here and in
9 Alexis Hotel's case-in-chief, and assuming that the LID Improvements provide special
10 benefits as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment
11 materially exceeds special benefits when reduced to present value. Further, to the extent the
12 City is arguing that because they are permitted to assess 100% of the special benefit, the
13 special benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit,
14 the City is again wrong. After applying proper discounting, the City's proposed special
15 benefit assessment is far more than 39.2% of the total estimated special benefit, and in fact
16 exceeds 100% of the total estimated special benefit.
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30 24. But even the assumption that the LID improvements would deliver benefits
31 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
32 on. Rather, those studies demonstrate that a discount period of five years is conservative.
33 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
34 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
35 indicates that during the construction period, the Greenway district "significantly" lagged in
36 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
37 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
38 30-31 (discussing New York City High Line and San Francisco Embarcadero
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1 improvements). Given the lengthy delay, any prediction of future special benefits is
2 speculative, especially during the construction phase where values are likely to decline.
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4 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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6 Improvements take a similarly long period of time after they are complete to start producing
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8 tangible property value benefits, each additional year of delay results in further discount to
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10 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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15 25. Applying the same discounting methods described above and in Mr. Gibbons
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17 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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19 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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21 before applying the 39.2% percentage assessment. *Id.* For Alexis Hotel, this means at most
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23 the 100% assessment should be no more than \$81,577.20 (parcel -0025) and \$103,337.40
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25 (parcel -0035). Anything more would permit the City to assess Alexis Hotel based on a
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27 hypothetical assumption that these improvements are in place and providing benefit, and
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29 ignore the risks, construction disamenity, and time value of money that normal appraisal
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31 principles would take into account. *Id.*, ¶ 20. Proportionality would counsel that the
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33 assessment should be only 39.2% of that assessment cap, or \$31,978.26 (parcel -0025) and
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35 \$40,508.26 (parcel -0035).
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37 26. Attachment C includes two Excel spreadsheets applying these discounting
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39 methods to Alexis Hotel's assessment. It is undisputed that special benefits will not actually
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41 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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43 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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45 present value would reduce Alexis Hotel's assessment to \$263,885 (for both parcels),
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47 exclusive of any other flaws in the City's proposed assessment. The second spreadsheet

1 shows even more drastic reductions after taking into account: (1) Alexis Hotel’s experts’
2 estimated “Before” value based on actual data from Alexis Hotel; (2) a rough discount for
3 property value loss due to COVID-19; and (3) discounting to present value for 5 years (*i.e.*,
4 from 2024 when the City anticipates completing the LID Improvements) and 10 years (*i.e.*,
5 from 2029 to account for the time it takes for the improvements to capture property value).
6
7 After such reductions, Alexis Hotel’s assessment would be just \$195,410 (for the 5-year
8 discount) or \$53692 (for the 10-year discount). Neither of these spreadsheets address other
9 issues raised by Alexis Hotel’s appeal, but are intended to help demonstrate how unfair and
10 inflated the City’s proposed hypothetical assessment is. The Hearing Examiner’s
11 Recommendation simply dismisses Alexis Hotel’s discounting argument without legal or
12 factual analysis; that failure is error.
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14

15 **Appraisal and Assessment Calculation Methods Are Flawed**

16 27. The “general rule is that each lot, piece, or parcel of land should be assessed
17 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
18 Wn.2d at 97.
19

20 28. It is proper to sustain a challenge to an assessment, even without the appraisal
21 testimony from the owner, where the objector’s expert establishes that the assessment was
22 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
23 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
24

25 29. The City’s appraiser purports to utilize the income method of valuation but
26 relied on inaccurate revenue and market data, as discussed further below.
27

28 30. The City’s appraiser purports to utilize the comparable sales method of
29 valuation, but no City witness attempted “to characterize any one, or all of them, as
30 comparable to [Alexis Hotel’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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1 “several serious flaws” in ABS’s LID analysis in that case, including that the appraiser
2 “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
3 characterize any one, or all of them, as comparable to any particular property within the LID”).
4
5 And no City witness could explain how specific adjustments were made to these sales to
6
7 account for value increases due to the hypothesized Before and After Improvements. For this
8
9 reason, Alexis Hotel appeals Section II.23 of the Examiner’s Recommendation.
10

11 31. Special assessment improperly includes value lift from the Before
12 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
13
14 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
15
16 Improvements, which WSDOT had independently committed to fund. However, Mr.
17
18 Macaulay did not calculate the actual market value of LID properties in October 2019, and
19
20 did not separately analyze the hypothetical increase to property values attributable to
21
22 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
23
24 current value and then separately calculate a hypothetical “With WSDOT” Before value);
25
26 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
27
28 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
29
30 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
31
32 documented basis or support, Mr. Macaulay simply “ma[de] a judgment a call” on what
33
34 occupancy and rates would have been for the commercial properties assuming all of the
35
36 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
37
38 outright omission precludes any independent evaluation of the true market “Before” values.
39
40 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
41
42 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
43
44 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
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1 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
2 other road, pedestrian and landscaping improvements WSDOT had already committed to
3 make.
4

5
6 32. However, because Mr. Macaulay testified that he did include some WSDOT-
7 related value-lift in the “Before” values, it follows that part of the special assessment
8 improperly is based on value attributable to the WSDOT Improvements. As shown by
9 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
10 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
11 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
12 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
13 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
14 to properly exclude the value of Before Improvements from the assessments. For these
15 reasons, Alexis Hotel appeals the following portions of the Examiner’s Recommendation:
16 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)
17
18

19 33. Special benefits were assigned rather than measured. Mr. Macaulay
20 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
21 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
22 Shorette) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 3/3/2020 (A. Gibbons)
23 Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay
24 used to analyze the commercial properties, Alexis Hotel’s experts concluded that Mr.
25 Macaulay based adjustments on hypothesized very small increases to property revenue and
26 very small reductions to cap rates to “calculate” an “After” value due to the coming 2024
27 LID Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments
28 were based on “professional judgment” that are neither shown nor replicable.
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1 34. For these reasons, Alexis Hotel appeals the following portions of the
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3 Examiner's Recommendation: Sections II.19 and IV.B.11(a)(iii).

4 35. Special benefit falls within margin of error. The Final Special Benefit Study
5
6 applies an estimated value enhancement of less than 4%, which is generally within the
7
8 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
9
10 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
11
12 Alexis Hotel's experts explained that if two appraisers independently arrive at values within
13
14 5% of one another, this difference is considered reasonable as it falls within the standard
15
16 margin of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9;
17
18 3/11/2020 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special
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20 benefit percentages fall far below that 5% margin, "there is no way of authenticating" such
21
22 incremental changes because "[m]arket forces completely obliterate any tiny little noise
23
24 factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
25
26 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Yet,
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28 Mr. Macaulay assigned or purported to measure a difference in cap rates for Alexis Hotel's
29
30 property within that margin. Additionally, the fact that "Before" values are also based on a
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32 hypothetical that adds some unstated incremental value to actual 2019 values exacerbates
33
34 this issue—the ability for an appraiser to discern the micro-value differences between
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36 hypothetical conditions that are so similar (the WSDOT improvements compared to the LID
37
38 improvements) "verges on being ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
39

40 36. Even if it were possible to accurately tease out such a miniscule hypothetical
41
42 value change due to improvements coming five years later, experts testified that there is no
43
44 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
45
46 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
47

1 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A Gibbons) Hrg. Tr. at
2
3 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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5 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Alexis
6
7 Hotel appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

8
9 37. No analysis of value increase attributable to individual components of the
10 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
11
12 percentage difference between hypothetical Before and After conditions. Throughout his
13
14 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
15
16 descriptions in the Addenda even though he testified that he relied on these to calculate
17
18 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
19
20 someone might be able to determine how he attributed value to After conditions described in
21
22 the Addenda, he answered that that was “not the scope of the assignment” because he was
23
24 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
25
26 that the six components were not actually a continuous project, that he was viewing them
27
28 together because the City asked him to, and that if he were to view them independently,
29
30 there was a low probability that properties in the north would specially benefit from
31
32 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

33
34 38. Not only did he fail to analyze benefits from each of these non-contiguous
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36 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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38 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
39
40 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
41
42 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
43
44 objectives that guided regulators’ assessment of architectural plans for buildings along a
45
46 “signature street” were so vague that they amounted to ad hoc review based on the
47

1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Alexis Hotel appeals the following
11 portions of the Examiner's Recommendation: II.27 and IV.B.4.
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23 39. Special assessment is not supported by comparable studies, data or reports.

24 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
25 that the LID Improvements will lead to meaningfully increased real estate values for Alexis
26 Hotel. Indeed, no City witness was able to explain how ABS Valuation used comparable
27 sales or information from the "over twenty-five studies and reports" to arrive at very precise
28 special benefit increases for the commercial properties including Alexis Hotel's property.
29 For example, although Mr. Macaulay stated that no single report or study was directly on
30 point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020 Hrg. Tr. at
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 146:21-147:8), he could not explain how he made specific adjustments in his parcel-by-
2
3 parcel analysis other than to say that the studies generally provided “some background to
4
5 base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also* 6/26/2020 Hrg Tr. at
6
7 118:7-19 (did not make any specific adjustments to account for similarities and differences
8
9 between these improvements and the comparable parks he looked at).

10
11 40. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
12
13 assignment of incremental increase of 0.5% to 4% to property values within the LID.
14
15 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
16
17 research misinterprets his work in critical ways, including because the LID Improvements
18
19 manifest the characteristics of a parkway (not a park), and his research indicates that most of
20
21 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
22
23 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
24
25 related value increases are in fact smaller; that estimated increases are “best guesses” rather
26
27 than predictions of property value increases in a particular city; and that percentages do not
28
29 account for diminishing returns after taking into account water views, which would be the
30
31 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
32
33 topography grants most properties in downtown a water view.

34
35 41. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
36
37 that this was just one source of information that was not entirely relevant because, among
38
39 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
40
41 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
42
43 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
44
45 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
46
47 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.

1 Crompton concluded that 500 feet via road from “park” improvements is just one or two
2
3 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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5 significantly beyond that which the park study indicated (even if it was legitimate to use the
6
7 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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9 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
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11 impact applicable to “community parks”—which the LID Improvements are not. *Id.* Alexis
12
13 Hotel’s property is not within 500 road network feet from the “park” improvements. *See*
14
15 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.

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17 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
18
19 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
20
21 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
22
23 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
24
25 materials, it was clearly an important—if not *the* most important—source of information for
26
27 estimating special benefits (especially with respect to the condos).⁷ No City witness
28
29 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
30
31 parcel-by-parcel analysis.

32
33 43. The destination parks discussed in the Final Special Benefit Study do not
34
35 provide reliable, comparable, and valid support for the calculation of special assessments
36
37 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
38
39 critique of every case study cited concludes the changes to those “dwarf the difference
40
41

42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
2
3 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
4
5 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
6
7 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
8
9 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
10
11 funded by a LID. And in virtually all of those cases, the park improvements dramatically
12
13 restored unimproved or blighted areas, and properties evaluated were within two or three
14
15 blocks of the park.

16
17 44. ABS’s claimed reliance on three economic studies to support property value
18
19 increase is also flawed. The HR&A study does not inform what value increases are
20
21 expected from the LID Improvements because it projects increases to tourism from *all* of the
22
23 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
24
25 dissimilar parks in other cities,⁸ making the methodological application to the LID
26
27 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
28
29 conclusion that there would be *no new net visitors* from downtown residents as a result of
30
31 the LID Improvements and could not explain how this impacted his condo analysis.
32
33 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
34
35 Property Values” primarily focused on whether the benefits accrue to the larger community
36
37 rather than properties adjacent to the park. And the 2014 New York City Department of
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41 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
42 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
43 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
44 expected tourists visiting the LID park was calculated using data from only from New York City, a
45 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
46 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
47 how hotel visitors actually select hotels to stay in.

1 Transportation study is not based on real estate transactions and market sales and fails to
2 substantiate any link between increased retail sales and property values. Moreover, this
3 study only looked at impact either directly abutting the streetscape improvement, or a couple
4 hundred feet for plaza-like improvements.
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8
9 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
10 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
11 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
12 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
13 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
14 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
15 asked whether he considered that HR&A's estimated LID impact is six times greater than
16 TPL's assessment of Seattle's entire park system, his surmised that it was because the
17 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
18 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
19 assumptions to account for this difference, which may be partly explained by the fact that
20 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
21 approximately 3.44% of King County tourists visit Seattle primarily because of the city
22 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
23 waterfront improvements.
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39 46. Although proximity to the improvements is a key factor in all of these
40 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
41 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
42 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
43 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
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1 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
2
3 Improvements is approximate 20 acres and it is not a community park.⁹

4
5 47. There is no explanation in the Final Study or the supporting materials of how
6
7 the studies or comparable sales were used to derive values for Alexis Hotel's property. For
8
9 these reasons, Alexis Hotel appeals the following portions of the Examiner's
10
11 Recommendation: Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and
12
13 IV.C.5.

14
15 48. Failure to comply with USPAP. Alexis Hotel's assessment also rests on a
16
17 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
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19 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
20
21 recognized) for developing the MAI standards for mass appraisals, testified that the Final
22
23 Study does not meet mass appraisal standards nor allow for independent assessment of the
24
25 accuracy of Mr. Macauley's conclusions.

26
27 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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29 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
30
31 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
32
33 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
34
35 testimony suggests that he incorrectly believed that the only difference between direct
36
37 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
38
39 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
40
41 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
42

43
44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
2
3 Gordon uses in doing his limited restricted report”).

4
5 50. But the difference is not only in reporting—mass appraisal techniques must
6
7 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
8
9 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
10
11 parcel approach:

12 The mass appraisal technique is an appraisal method used to evaluate
13 a group of properties that are subject to similar market forces as of a
14 certain date through the use of market data, statistical analysis and
15 testing. As a result, the mass appraisal technique does not require or
16 involve analysis of each individual property’s specific data.
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18

19 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
20

21 51. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
22
23 universe of properties as a given date using standard methodology, employing common data,
24
25 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
26
27 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
28
29 model” is “a mathematical expression of how supply and demand factors interact in a
30
31 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
32
33 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
34
35 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
36

37 52. Regardless of client direction, Mr. Macaulay is required to comply with
38
39 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
40
41 economically feasible because it would have taken “an incredible amount of time and cost”
42
43 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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1 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
2 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
3

4
5 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
6 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
7 value, fails to calibrate the model structure to determine the contribution of the individual
8 characteristics affecting value, and does not review the mass appraisal results against actual
9 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
10 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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15 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
16 proximity to the elements, the increase in market rent, market vacancy changes,
17 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
18 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
19 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
20 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
21 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
22 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36 relationship between characteristics that affect value, and to calibrate that model to specify how
37 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
38 21). The purpose is to rationally determine what characteristics will create value, and by how much.
39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 were hypothetical, it was not possible to identify matched pair sales and no City witness
2 explained how ABS Valuation made adjustments to “comparable” sales in order to check
3 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
4 him to explain his model structure.
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9 55. For these reasons, Alexis Hotel appeals the following portions of the
10 Examiner’s Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Alexis Hotel
11 renews Objectors’ Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed
12 on April 8, 2020, and appeals the Examiner’s denial of that motion.
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16 56. Finally, Alexis Hotel’s property is not appurtenant—or even in close
17 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
18 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
19 close proximity to the property on which expert testimony was given”). Indeed, Alexis
20 Hotel’s property is not even within 500 road network feet from the core “park”
21 improvements. And, as described above, the special assessment is overstated because the
22 Final Study makes no attempt to determine general benefits, existing amenities for Alexis
23 Hotel’s specific property, or special detriments. In addition, it is speculative due to the fact
24 that, as of October 2019, improvements were not in in place—and, in fact, much of the
25 waterfront is a construction zone following removal of the viaduct and now Pier 58
26 demolition. Under these circumstances, rather than relying on entirely imaginary income
27 and shaky hypotheticals, Mr. Macaulay at the very least should have discounted the special
28 benefit estimates or waited to perform the Study until the improvements were at least close
29 to complete.
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Erroneous Pre-Improvement Valuation

57. The proposed final assessment erroneously overstates the pre-improvement value of Alexis Hotel's property as of October 1, 2019 and, as a result, overstates the special benefit to the Alexis Hotel's property.

58. The City's Final Study was used to compute the proposed final assessment of ALEXIS HOTEL'S property. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final Study does not accurately reflect this data. For example, the City's Study values ALEXIS HOTEL'S property at \$32,691,000 (parcel -0025) and \$41,396,000 (parcel -0035) as of October 1, 2019. However, the King County assessor determined the true and fair value of the property to be \$26,285,600 (parcel -0025) and \$32,901,400 (parcel -0035), valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's valuation is 124.4% (parcel -0025) and 125.8% (parcel -0035) of King County's assessed value. The Final Special Benefit Study does not explain this difference—or any differences—between its pre-improvement valuation and its supposed source for market data. For this reason, Alexis Hotel appeals Section IV.C.11 of the Examiner's Recommendation.

59. Further, the City's analysis was based on unreliable market data. For the hotels, Mr. Macaulay's decision to rely on inaccurate market data notably deviates from standard appraisal practices because more reliable data in the form of STR reports are readily available. Examiner Recommendation at Section IV.C.10; 3/12/2020 (J. Gordon) Hrg. Tr. at 196:5-197:12; 215:9-18. Without the STR reports or actual input from the hotels, Mr. Macaulay's "Before" valuations are drastically overstated in large part because he relies

¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet (providing a "County Link" to the King County Department of Assessment's online "eReal Property" search tool).

1 on publicly available “room rack rates” to estimate hotel income. *See id.* (J. Gordon) at
2 162:3-18; 170:16-171:13; 179:25-180:14; 192:15-22. As the Examiner found, “Mr. Gordon
3 is a specialist expert in appraising hotels and his expert opinion, in addition to the specific
4 information he relied on for that opinion, is superior to the opinion and supporting data of
5 the City in its valuation.” Examiner’s Recommendation at II.16. The Examiner concluded
6 that Mr. Gordon’s valuations were more reliable “due to the specialist nature of Mr.
7 Gordon’s background and the specificity of the valuation data upon which he relied”—
8 namely STR reports or actual revenue data from the hotel. *Id.* at IV.C.10. Therefore, “the
9 valuation of [this] property should be remanded for recalculation by the City appraiser based
10 on the information provided by [this] Objector.” *Id.*

20 60. Alexis Hotel expects an opportunity to respond to the revised assessment
21 once that is provided (*see* Examiner’s Recommendation at V) and appeals the remainder of
22 Section IV.C.10 of the Examiner’s Recommendation rejecting Alexis Hotel’s other bases for
23 reducing the assessment. For example, Alexis Hotel disagrees with the Examiner’s
24 conclusion that one of the reasons Mr. Gordon’s appraisals concludes a lower value for this
25 property is because he was not valuing the properties in the “Before” condition. Examiner’s
26 Recommendation at Section II.16. On April 13, 2020, objectors presented testimony from
27 expert John Gordon regarding the Alexis Hotel property. In addition, objectors presented
28 testimony via declaration from property representative, Thomas Waithe. CWF-233, *et al.*,
29 Ex. 113. The evidence and testimony presented showed that the actual average daily room
30 rate (ADR) for this property in 2019 was \$248. However, Mr. Macaulay incorrectly
31 estimated an ADR of \$360 for this property which is 45% higher than the actual ADR, far
32 exceeds the most optimistic assumptions about future growth in hotel room rates for the
33 Alexis Hotel, and is not a reasonable assumption in valuing a hotel of this type in the
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1 downtown Seattle market. In addition, the Alexis Hotel has significantly reduced operations
2 as a result of the COVID-19 outbreak.
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5 61. Due to these errors alone, Mr. Macaulay artificially raised the property's
6 Before value; Mr. Gordon valued the property at \$62,700,000 (without personal property),
7 which is \$11,397,000 (or about 16%) less than ABS Valuation's estimate. Setting aside that
8 ABS Valuation's inclusion of personal property when valuing hotels is disproportionate and
9 flawed, Mr. Gordon's estimate of value including personal property is \$66,000,000, which is
10 still significantly lower than ABS Valuation's estimate (\$74,087,000). *See* Fourth Decl. of
11 Gordon, at ¶ 5 (dated 7/7/2020).
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19 62. ABS Valuation's overstated Before value resulted in an inflated special
20 benefit estimate and assessment after Mr. Macaulay made micro adjustments to "Before"
21 revenue and capitalization rates to calculate an After value. Mr. Macaulay conceded that
22 using his methods and his spreadsheets, changing the room rate alone would change the
23 special assessment. 6/25/2020 Hrg. Tr. at 42:21-43:15 (explaining that changing the room
24 rate will result in a different assessment and the same is true for every hotel); *see also*
25 6/23/2020 Hrg. Tr. at 111:9-11, 132:12-133:10, 140:20-141:9. And he agreed that if Mr.
26 Gordon's numbers are accurate—and there is no evidence they are not—then ABS would
27 need to redo the appraisal for the Alexis Hotel to determine if adjustments are needed. *Cf.*
28 *id.* 109:17-110:2 (discussing the Hyatt Regency), 137:20-138:13 (discussing Grand Hyatt).
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39 63. Mr. Lukens argues that recent renovations resulted in temporarily decreased
40 occupancy and rates in 2019, and in fact the hotel's occupancy was closer to 80% in 2018
41 and its ADR was \$254 prior to the room renovations. Lukens Decl., ¶ 34 (dated 4/30/2020).
42 This does not explain how ABS estimated an ADR of \$360 for this hotel. Further, Mr.
43 Gordon's valuation in fact used a stabilized occupancy rate of 88% and a stabilized room
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1 rate of \$269, which Mr. Lukens acknowledges is higher than actual rates in order to account
2 for the temporary construction. Gordon Decl., at ¶ 15 (dated 5/7/2020); Lukens Decl. at ¶¶
3 36-37. Mr. Lukens also testifies that March 2017 sale of the Alexis supports ABS
4 Valuation's estimate. Lukens Decl. at ¶ 38. However, Mr. Gordon explains that his value
5 conclusion is less than the 2017 sale price because that sale took place prior to significant
6 increases in the competitive supply that depressed occupancy rates and/or room rates for
7 most downtown hotels. Gordon Decl., at ¶ 16 (dated 5/7/2020). And Mr. Gordon used a
8 slightly lower capitalization rate to reflect the fact that the forecasted net operating income is
9 30% greater than the actual 2018 net operating income for the Alexis. *Id.*; *see also* Fourth
10 Decl. of Gordon, at ¶ 9 (dated 7/7/2020).

21 64. Paul Bird testified that Mr. Gordon's opinion of value is less than the actual
22 sale price in 2017 and adds that it is also lower than the comparable sale price for Hotel
23 1000, sold in 2016. Second Decl. of Bird, at ¶¶ 66-68 (6/26/2020). However, Mr. Gordon
24 explains that ABS Valuation cherry picked some of the highest sale prices in its competitive
25 set resulting in unreasonably high estimates. Fourth Decl. of Gordon, at ¶¶ 6-7 (dated
26 7/7/2020).

33 65. Further, Mr. Lukens—who reviewed ABS's valuation estimates for
34 reasonableness—was not even aware that the Before values were supposed to include the
35 WSDOT Improvements. 6/26/2020 Hrg. Tr. at 165:2-166:22.

39 66. Thus, aside from multiple other reasons why computation of the special
40 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
41 improvement values that do not accurately reflect market data. For these reason, Alexis
42 Hotel appeals the following portions of the Examiner's Recommendation: Sections II.16 and
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Erroneous Computation of Special Benefit

67. “Special benefit” is “the increase in fair market value attributable to the local improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?” *Id.* 165–66.

68. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

69. Spreadsheets show arbitrary changes to revenue and capitalization rates. For the Alexis Hotel, Mr. Macaulay assumed room rates would increase by 1.35% (low) and 1.75% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not possible to accurately conclude that the reason for this level of percentage increase would be due to the LID Improvements, and there appears to be no support for assignment of these percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same percentages (1.35% and 1.75%) to increase other sources of revenue, such as food and beverage, parking, and retail income. He then uses this hypothesized increased revenue to calculate a new net operating income for the commercial properties and capitalizes that to come up with an “After” valuation.

70. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net operating income remains the same as in the hypothetical “Before” condition, but changes the cap rate. For the Alexis, the cap rate goes from 7.25% to 7.10% and 7.03%. Mr. Gordon

1 likewise explained that cap rate changes of this size are not typically measurable, and there
2 appears to be no support for these changes in the Final Study or any of its supporting
3 materials.
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6 71. Mr. Macaulay then averages his four “After” values to arrive at a final special
7 benefit conclusion. For the Alexis Hotel, this is an increase in property value of 2.65% due
8 to the LID Improvements.
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11 72. Mr. Macaulay offered little justification for his micro adjustments to revenue
12 and capitalization rates. When asked precisely what the basis is for his special benefit
13 percentage increases to revenue for each commercial property, he could not point to
14 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
15 is nothing in the report to allow a reader to understand how he came up with these
16 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
17 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
18 the basis for his belief that certain factors—liked increased connectivity—will increase
19 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
20 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
21 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
22 sources equally even though there was no separate analysis done for food and beverage or
23 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Alexis Hotel’s expert’s
24 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
25 error, and that there is no actual, measurable, non-speculative special benefit to Alexis
26 Hotel’s properties.
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29 73. When asked the basis for making such adjustments, Mr. Macaulay pointed to
30 “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7 (“Mr. Lukens helped
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1 significantly in that regard in helping, you know, look at probable adjustments”). However,
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3 Mr. Lukens testified that he did not review the percentage increases. *See* 6/25/2020 Hrg. Tr.
4 at 170:24-172:20.¹² And he did not review any work or data to determine whether the
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6 revenue percentage adjustments in the spreadsheets were reasonable, nor did he ever find
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8 them to be unreasonable or suggest any changes. *Id.* at 172:3-20. Instead, he appeared to be
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10 considering them for the first time on cross examination, testifying that the adjustments
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12 “appear to be a kind of sensitivity analysis” and “appear to be a very minor change.” *Id.* at
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14 170:18-172:13. Likewise, he had no understanding of what factors went into determining
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16 the change in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1. And he did not
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18 know how ABS Valuation reconciled the four scenarios to come to final estimated special
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20 benefit. *Id.* at 174:22-175:4.
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23 74. Mr. Macaulay testified that he used comparable sales as a reasonableness
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25 check for commercial properties. But as explained above, no City witness has explained
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27 how anyone, or all, of the sales are comparable to any particular commercial property within
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29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
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31 in order to make sales “comparable,” he would have had to make adjustments to account for
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33 Before and After conditions, but there is no way to understand how adjustments were made
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35 because he “didn’t do a separate sales comparison approach where we showed adjustments
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39 ¹² As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different
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41 special benefit and capitalization rate increases to the parking and retail parcels associated with the
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43 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
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45 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special
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47 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
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49 parcels). When asked whether this was a matter of coincidence, his answer was that is “just our
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51 estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
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53 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
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55 though it is one block closer to the waterfront.

1 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
2 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
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4 *Id.* at 127:10-128:24.
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6 75. It also bears noting that any “internal review” of the special benefit estimates
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8 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
9 error. Indeed, given all the same information, he seemed to suggest that it would be
10 perfectly reasonable for another experienced appraiser to come up with special benefit
11 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
12 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
13 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
14 margin of error conflicts with the testimony of Alexis Hotel’s experts and reaffirms that
15 there are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the
16 typical margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are
17 still reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
18 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
19 special because it is arbitrarily assigned; and it is too small to realistically be supported by
20 appraisal techniques.
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23 76. No evidence of special benefit. Meanwhile, there is “no actual evidence from
24 any seller or purchaser that the price was higher because of the LID improvements.”
25 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
26 identified any seller or buyer, or any particular property where the existence of the LID
27 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Alexis Hotel
28 has explained that the property has not increased rental rates or revenue due to the
29 forthcoming LID Improvements, because, among other reasons (and apart from COVID),
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1 the improvements ABS believes will generate value do not exist, and will not for a number
2 of years to come. There are no comparable sales because the LID Improvements are not in
3 place, nor will they be until the end of 2024 if completed on schedule.
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6 77. The fair market value of ALEXIS HOTEL'S property has not changed due to
7 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
8 benefited from installation of new water main and fire hydrant where it was already
9 adequately supplied with water and afforded adequate fire protection). And in any event,
10 any value attributable to removal of the viaduct was to be excluded from the assessment
11 calculation.
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14 78. There is no special benefit because LID improvements in fact diminish the
15 value of Alexis Hotel's property by drawing visitors away towards improvements that do not
16 abut the property, increasing competition. *See Kusky*, 85 Wn. App. 493 (testimony of
17 owners' expert that LID actually diminished value of property was sufficient to rebut
18 presumption that assessment was proper).
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21 79. Moreover, the assessment formula is an attempt to distribute costs that do not
22 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
23 "merely a mathematical model that distributes costs").
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26 80. The Special Benefit Study fails to address whether the \$346,000,000
27 estimated LID project cost takes into account the investment that would have occurred in the
28 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
29 invested. This is a critical component of estimating which properties receive a direct benefit
30 from the improvements, versus more incidental benefits further from the park.
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33 81. Assessments are disproportionate. Alexis Hotel also presented evidence
34 showing that the assessments are disproportionate. For example, the City disproportionately
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1 assessed hotels a greater percentage of the cost of the Improvements even though there no
2 evidence that hotel properties will in fact benefit. And even within the hotels, the
3 assessments are disproportionate. Mr. Gordon testified that the differences between the
4 special benefit increases for the Hyatt at Olive 8, the Grand Hyatt, and Hyatt Regency—
5 which are all very close together—made little sense and raised doubts as to
6 proportionality. The Marriott is assessed a 3.2% special assessment, whereas comparable
7 hotels along the waterfront received an estimated 0.97% increase in value. Hrg. Exhibit 108
8 (Rash Decl.), ¶ 11.

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11 82. Mr. Macaulay also included personal property in his valuation of hotels even
12 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
13 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
14 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
15 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
16 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
17 receiving a disproportionately high LID assessment in comparison to other property types,
18 since hotels were the only property type subject to personal property LID assessments.
19 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
20 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
21 notice procedures because hotel property owners only received notice that their real estate
22 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).

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24 83. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
25 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
26 a television at the waterfront Marriott is assigned a greater special benefit than the same
27 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that

1 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
2 unreasonable to assign a value lift to personal property that is replaceable at the same cost
3 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
4 Shorette ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
5 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
7 for this error.
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11 84. The proposed final assessment substantially exceeds the special benefit to the
12 property and is grossly disproportionate to similarly situated properties within the LID. For
13 these reasons, Alexis Hotel appeals the following portions of the Examiner's
14 Recommendation: Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii) and IV.C.10.
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17 **State Environmental Policy Act and Other Environmental Permitting**

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19 85. While this appeal is not challenging the City's environmental review and
20 permitting processes, those processes are relevant in determining the legality of the
21 assessments, and to assessing the delivery risk, the present value of the City's plans, and
22 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
25 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
26 is just beginning. Further, the City has segmented environmental review, and still has a
27 gauntlet of federal, state and tribal review processes to complete before it will be clear what
28 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
29 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
30 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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1 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
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3 committing to reconstruction of Pier 58 and major street improvements without
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5 environmental review, or the City's Final Special Study has improperly included and is
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7 proposing to assess the Alexis Hotel the costs and special benefits of improvements that may
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9 not get built. Either way, it is faulty process.

10 **Due Process Rights**

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12 86. The City's failed to notify ALEXIS HOTEL sufficiently in advance of the
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14 hearing to allow ALEXIS HOTEL to obtain evidence and prepare to properly challenge the
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16 assessments. Because LID assessments involve a deprivation of property, affected owners
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18 have the right to a hearing as to whether the improvement resulted (or will result) in special
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20 benefits to their properties and whether their assessments are proportionate, which
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22 necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia*
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24 *Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761 (2010).
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27 87. The LID statute specifies that cities must mail notices giving the time and
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29 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
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31 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
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33 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
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35 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
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37 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
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39 secure their own appraisal), evaluate proportionality of the proposed assessments, and
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41 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
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43 for anybody to get an appraisal”).

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45 88. The City's Notice of Assessment was sent on December 30, 2019. And the
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47 Final Special Benefit Study has only been available for public review since January 7, 2020.

1 Due to this short time frame, ALEXIS HOTEL requested a prehearing conference and
2 scheduling order that would preserve and protect Alexis Hotel's right to analyze and
3 respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
4 accommodate preliminary motions (e.g., with respect to the interplay between SEPA and the
5 City's assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
6 erroneously denied that request. For this reason, Alexis Hotel appeals the following portions
7 of the Examiner's Recommendation: I.B.
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15 **VII. Relief Requested**

16 ALEXIS HOTEL respectfully requests that the City Council:

- 17 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
18 assessment dated December 30, 2019; or
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 - 21 2. Revise Alexis Hotel's Waterfront Local Improvement District No. 6751 proposed
22 final assessment to \$0 (zero), or such amount as Alexis Hotel establishes at the
23 hearing in this matter; or
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 - 26 3. Grant the Examiner's recommended remand but with instructions recalculate and
27 reduce Alexis Hotel's assessment using recognized appraisal techniques consistent
28 with USPAP and:
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- i. Excluding any property value increase attributable to viaduct removal
and other planned WSDOT Improvements;
 - ii. Excluding any value attributable to personal property;
 - iii. Taking into account the effects of the COVID-19 pandemic on the
value of Alexis Hotel's property and other relevant developments
since October 2019;

- 1 iv. Accounting for and excluding (1) any special benefits from existing
2 or planned improvements that already provide similar benefits to
3 Alexis Hotel's property, and (2) any special detriments from
4 construction and other anticipated LID-related disamenities;
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6 v. Accounting for and including only those actual benefits anticipated to
7 accrue to Alexis Hotel's property based on its location relative to Pier
8 58, Overlook Walk, and the Promenade, and specific elements of the
9 LID Improvements;
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11 vi. Discounting anticipated special benefits to present value, based on
12 reliable estimates regarding when special benefits will start accruing
13 following completion of the LID Improvements; and
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15 vii. Accounting for such other issues specific to Alexis Hotel's property
16 relevant to calculation of such assessment; and
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18 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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PERKINS COIE LLP

5 By:



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Kimpton Alexis Hotel	
Map Nos.	B-256, B-257
Tax Parcel Nos.	197460-0025, -0035
Property key:	4492 and 4493
Address	1007 1st Avenue
Zoning:	DMC-170
Proximity to park	300± feet to park (via Madison), 2-minute walk
Ten-year sales history:	4/3/2017 \$71,625,000 \$591,942 per room
Ownership	HPT JHG-2 Properties Trust
26,629 SF site on the west side of 1st Avenue, east side of Post Alley, north side of Madison Street and south side of Spring Street. APN 197460-0025 contains 13,318 SF of land on the southwest corner of 1st Avenue and Spring Street, is improved with a 60-room hotel (62,760 SF built in 1901 and 36,954 SF built in 1906). APN 197460-0035 is a 13,311 SF site on the northwest corner of 1st Avenue and Madison Street, improved with 61-room hotel (47,900 SF) with 18,100 SF of retail space and 13,200 SF of basement-level parking (65 stalls), built in 1904.	
Description:	

INCOME ANALYSIS Before		Year Built	1901-1906				
		Rooms	121				
		Parking	65				
Revenues							
Occupancy rate: 80.0%							
Occupied rooms: 35,332							
Revenues							
Room revenue	35,332	occupied rooms @	\$360.00	per occupied room		\$12,719,520	
Food & beverage revenue	35,332	occupied rooms @	\$35.00	per occupied room		\$1,236,620	
Parking & other income	23,725	available stalls @	\$43.00	per day per stall		\$1,020,175	
Total revenues						\$14,976,315	
Less: Departmental expenses							
Rooms	35,332	occupied rooms @	30.0%	of room revenue		(\$3,815,856)	
Food & beverage	35,332	occupied rooms @	79.0%	of food & beverage revenue		(\$976,930)	
Parking & other	35,332	occupied rooms @	50.0%	of parking & other income		(\$510,088)	
Total departmental expenses						(\$5,302,873)	
Total departmental net income						\$9,673,442	
	GBA	NRA					
Retail rental income	18,100	18,100		SF NRA @	\$32.00	per SF =	\$759,200
Other rental income	0	0	0	stalls @	\$0.00	per month	\$0
Other rental income	0	0		SF NRA @	\$0.00	per SF =	\$0
Total Bldg Area & Gross Income	178,914	178,914		SF NRA @	\$57.30	/SF =	\$10,252,642
Less: Undistributed expenses							
Admin, marketing, utilities, maintenance, insurance @			\$20,000	per available room		(\$2,420,000)	
Franchise fees @	7.5%	of room revenue				(\$953,964)	
Management fee @	3.0%	of total revenue				(\$449,289)	
Real estate taxes						(\$458,978)	
Replacement reserve @	4.0%	of total revenue				(\$599,053)	
Total undistributed expenses						(\$4,881,284)	
Total operating expenses	65.5%	of total revenue				(\$10,184,157)	
Net operating income						\$5,371,358	
Indicated Value							
					Capitalized @	7.25%	
					Indicated value	\$74,087,692	
					(R)	\$74,088,000	
					Per SF NRA	\$414.10	
					Per room	\$612,298	
Land Value							
Total land value		26,629	SF @	\$1,300.00	per SF =	\$34,618,000	
Allocation to 197460-0025		13,318	SF @	\$1,300.00	per SF =	\$17,313,000	
Allocation to 197460-0035		13,311	SF @	\$1,300.00	per SF =	\$17,304,000	
Residual Improvements							
		178,914	SF NRA @	\$220.61	per SF =	\$39,470,000	
Allocation to 197460-0025	38.96%	99,714	SF NRA @	\$154.22	per SF =	\$15,378,000	
Allocation to 197460-0035	61.04%	79,200	SF NRA @	\$304.19	per SF =	\$24,092,000	
Special Benefit Summary							
					Total		

Kimpton Alexis Hotel
Scenario A - Rate and Vacancy Changes

INCOME ANALYSIS After		Year Built		1901-1906			
Revenues							
						Occupancy rate:	80.00%
						Occupied rooms:	35,332
							1.35%
							1.55%
Room revenue						\$364.86	\$366.30
Food & beverage revenue						\$35.47	\$35.61
Parking & other income						\$43.58	\$43.75
Total revenues							\$15,178,495
Less: Departmental expenses							
Rooms						30.0%	of room revenue
Food & beverage						79.0%	of food & beverage revenue
Parking & other						50.0%	of parking & other income
Total departmental expenses							
Total departmental net income							
						GBA	NRA
						18,100	18,100
						0	0
						0	0
						0	0
						178,914	178,914
						SF NRA @	\$58.08
						\$58.47	
						\$10,391,052	\$10,461,200
Less: Undistributed expenses							
Admin, marketing, utilities, maintenance, insurance @						\$20,000	per available room
Franchise fees @						7.5%	of room revenue
Management fee @						3.0%	of total revenue
Real estate taxes							
Replacement reserve @						4.0%	of total revenue
Total undistributed expenses							
Total operating expenses							
Net operating income							
Indicated Values							
						Capitalized @	7.25%
							7.25%
						\$75,623,961	\$76,396,352
						(R) \$75,624,000	\$76,396,000
						Per SF NRA	\$422.68
						Per SF room	\$624,992
						% change	2.07%
Land Value							
Total land value						26,629	SF @
Allocation to 197460-0025						13,318	SF @
Allocation to 197460-0035						13,311	SF @
Residual Improvements							
						\$40,089,000	\$40,861,000
Allocation to 197460-0025						38.96%	38.99%
Allocation to 197460-0035						61.04%	61.01%

Kimpton Alexis Hotel
Scenario B - OAR Changes

INCOME ANALYSIS After		Year Built 1901-1906					
Potential Gross Income							
Revenues							
Room revenue	35,332	occupied rooms @	\$360.00	per occupied room		\$12,719,520	
Food & beverage revenue	35,332	occupied rooms @	\$35.00	per occupied room		\$1,236,620	
Parking & other income	23,725	available stalls @	\$43.00	per day per stall		\$1,020,175	
Total revenues						\$14,976,315	
Less: Departmental expenses							
Rooms	30.0%	of room revenue				(\$3,815,856)	
Food & beverage	79.0%	of food & beverage revenue				(\$976,930)	
Parking & other	50.0%	of parking & other income				(\$510,088)	
Total departmental expenses						(\$5,302,873)	
Total departmental net income						\$9,673,442	
	GBA	NRA					
Retail rental income	18,100	18,100		SF NRA @	\$32.00	per SF =	\$579,200
Other rental income	0	0	0	stalls @	\$0.00	per month	\$0
Other rental income	0	0		SF NRA @	\$0.00	per SF =	\$0
Total Bldg Area & Gross Income	178,914	178,914		SF NRA @	\$57.30	/SF =	\$10,252,642
Less: Undistributed expenses							
Admin, marketing, utilities, maintenance, insurance @				\$20,000	per available room		(\$2,420,000)
Franchise fees @		7.5%	of room revenue				(\$953,964)
Management fee @		3.0%	of total revenue				(\$449,289)
Real estate taxes							(\$458,978)
Replacement reserve @	\$0.04	of total revenue					(\$599,053)
Total undistributed expenses							(\$4,881,284)
Total operating expenses							(\$10,184,157)
Net operating income							\$5,371,358
Indicated Values						Low	High
						Capitalized @ 7.10%	7.03%
						Indicated Value	\$75,652,925
							\$76,406,225
						(R)	\$75,653,000
							\$76,406,000
						Per SF NRA	\$422.85
						Per room	\$625,231
						% change	2.11%
							3.13%
Land Value							
						\$40,118,000	\$40,871,000
Allocation to 197460-0025		26,629	SF @	\$1,334.45	per SF =	\$35,535,000	\$35,535,000
Allocation to 197460-0025		13,318	SF @	\$1,334.45	per SF =	\$17,772,000	\$17,772,000
Allocation to 197460-0035		13,311	SF @	\$1,334.45	per SF =	\$17,763,000	\$17,763,000
Residual Improvements						\$40,118,000	\$40,871,000
Allocation to 197460-0025		38.96%	99,714	SF NRA @	\$156.76	\$159.70	\$15,631,000
Allocation to 197460-0035		61.04%	79,200	SF NRA @	\$309.18	\$314.99	\$24,947,000

		<u>B-256</u>	<u>B-257</u>	<u>Totals</u>
Per Parcel Summary	Without LID	\$32,691,000	\$41,396,000	\$74,087,000
	With LID	\$33,557,000	\$42,493,000	\$76,050,000
	Special benefit	\$866,000	\$1,097,000	\$1,963,000
	% difference	2.65%	2.65%	2.65%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0318	Alexis Hotel	1007 1st Avenue	1974600025; 1974600035

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$1,963,000	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$263,885

Model Input					
Appeal #	Property	Address	Assessor's #		
CWF-0318	Alexis Hotel	1007 1st Avenue	1974600025; 1974600035		
BEFORE		Appraiser	Value		
A	Final City Before Value	City		\$74,087,000	
B	Actual Value per Taxpayer - January 2020	Taxpayer		\$62,700,000	
C	COVID 19 Discount and value		-12.5%		
D					
(B*(1+C) unless no value for B, then A*(1+C))		Corrected FMV for Assessment		\$54,862,500	
SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%
CORRECTION OF ASSESSMENT				5-yr delay	10-yr delay
H	City LID special benefit for subject		\$1,963,000		
H/A	As Percentage of Final City Before Value		2.650%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$1,453,630		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$498,496	\$136,970
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$195,410	\$53,692
DISTANCE FROM PARK IMPROVEMENTS				5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		N/A	N/A	N/A

FILED

3:20 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0318
Date: Tuesday, February 16, 2021 3:14:35 PM
Attachments: [Alexis Amended LID Appeal before City Council CWF 0318.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
Alexis Amended LID Appeal before City Council CWF 0318.pdf

Kimball Mullins | Perkins Coie LLP

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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19
20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0318

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON ALEXIS
HOTEL’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1974600025 and 1974600035

30
31 Alexis Hotel files this amended appeal pursuant to RCW 35.44.070, Seattle
32
33 Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle Resolution
34 31979, the notice of the Seattle Office of the City Clerk dated December 30, 2019, the notice
35
36 of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing Examiner’s
37
38 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”)
39
40 and the Hearing Examiner’s Findings and Recommendation issued February 1, 2021.
41
42
43

44 **I. Taxpayer / Appellant**

45 The Taxpayer filing this amended appeal is:
46
47

1 ALEXIS HOTEL
2 1007 1st Ave.
3 Seattle, WA 98104
4
5

6 **II. Taxpayer's Representatives**
7

8 Alexis Hotel's representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Perkins Coie LLP
13 10885 N.E. Fourth Street, Ste 700
14 Bellevue, Washington 98004
15 Telephone: 425.635.1400
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17
18

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26523
RMahon@perkinscoie.com
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000
19

20 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**
21

22 Alexis Hotel's owns the property that is subject to the proposed final assessment
23 described in Section IV.
24

25 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
26 include additional arguments relevant to the revised Final Recommendations of the Hearing
27 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
28 objection to the assessment, which was based on the Final Study. Taxpayer further timely
29 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
30 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
31 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
32 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
33 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
34 as authorized by the Hearing Examiner, including without limitation all records pertaining to
35 the November 2020 through February 2021 remand hearing ordered by Council.
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1 **IV. Amended Arguments on Appeal**

2 Alexis Hotel supplements its appeal of the Hearing Examiner's recommendation to
3 deny Taxpayer's objection to the City of Seattle's Waterfront Local Improvement District
4 No. 6751 proposed final assessment dated December 30, 2019 against the following
5 property:
6
7
8
9

10 King County Parcel Nos. 1974600025 and 1974600035
11 Site Address: 1007 1st Ave., Seattle, Washington
12 Proposed Final LID Assessment: \$729,964
13

14 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
15 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
16 amended appeal.
17
18
19

20 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
21 **Discounted to Present Value and Assessments Adjusted as Appropriate**
22

23 On remand, the City's appraiser acknowledged that special benefits to parcels can be
24 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
25 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
26 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
27 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
28 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
29 accepted that recommendation. The City's appraiser further acknowledged that benefit
30 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
31 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
32 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
33 value."). Nevertheless, the appraiser refused to more generally discount his benefit
34 calculations to present value because the general benefits are not anticipated from the LID
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1 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
2 perhaps not until 2029. The appraiser's and Examiner's recommendation to reduce the
3 theatre's assessment to zero is reasonable. His refusal to make other discounts to his special
4 benefit calculation, and related assessments, to account for the delay between the assessment
5 and realization of any special benefits to Taxpayer's property is unreasonable, contrary to
6 standard appraisal practice, and renders the other proposed Waterfront LID special
7 assessments, and the Examiner's Recommendations, arbitrary and capricious and based on
8 "fundamentally wrong methods."
9

10 All special benefit taxes assessed by a municipality must be based on "actual,
11 physical and material [special benefits that are] not merely speculative or conjectural."
12

13 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
14

15 Additionally, the assessments may not materially exceed the actual special benefit conferred
16 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
17 to meet any of these legal requirements is fatal to the assessment. Taxpayer's September 22,
18 2020 appeal challenged the City appraiser's valuation because, among other flaws, it did not
19 discount benefits the City estimated would accrue to the properties from improvements to be
20 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
21 appraiser's inconsistent approach, selectively applying discounting to one (that we know of)
22 property while treating all or most others (including Taxpayer's) differently, and
23 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
24 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
25 for some properties because the benefits are too distant, while assessing other properties as
26 though distant benefits have already been secured. As Taxpayer identified in its September
27 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
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1 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
2
3 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
4
5 reject the improper calculation of the benefit or remand and require the appraiser to discount
6
7 the benefits to net present value.
8

9 **B. The City's Appraiser's Disregard of Hotel STR Report Performance**
10 **Data is Another Example of How His Analysis is Unreliable, Not**
11 **Admissible under Frye or ER 702, and His Proposed Special**
12 **Assessments are not based on Actual, Measurable and Special Value**
13 **Increases from the anticipated LID Improvements.**
14

15 The City's appraiser was provided actual performance data for the remanded hotels,
16
17 including their average daily room rates, from which he had been instructed to "recalculate"
18
19 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
20
21 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
22
23 would be "too low." Instead, he divined an alternative value from "comparable sales", and
24
25 then worked backwards to calculate small adjustments to his average daily room rate
26
27 assumptions, substituting them in his "income spreadsheets," and thereby correlating his
28
29 income analysis to his preconceived value estimate. His remand analysis demonstrates that
30
31 his whole "income approach to valuation", used for both hotels and other commercial
32
33 properties, is contrived speculation on speculation. The City's appraiser disregarded these
34
35 hotels' actual net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J.
36
37 Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on
38
39 Remand for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436). Taxpayer's
40
41 appraiser submitted an appraisal with room rates much closer to the actual performance of
42
43 the hotel and should be incorporated. *See* Declaration of John D. Gordon in City Council's
44
45 LID Remand, Exh. A (Jan. 8, 2021).
46
47

1 For example, compare the room rate and valuation for the appraisals in the table
2
3 below, where the actual average daily room rate for was \$248. The Taxpayer testified that
4
5 the City Appraiser's assumed room rate was too high - it not only had not been achieved, but
6
7 even pre-Covid, was not reasonably achievable.
8
9

Alexis Hotel - CWF-0318	City Appraisal	Alexis Appraisal Amount
Hotel Value	\$73,547,000	\$66,000,000
Less Personal Property	\$3,300,000	\$3,300,000
Real Estate Value	\$70,247,000	\$62,700,000
Benefit Ratio	2.65%	2.65%
Special Benefit	\$1,863,000	\$1,663,000
Levy Ratio	39.18%	39.18%
LID Levy	\$729,964	\$651,600
Average Room Rate	\$358	\$269
Daily RevPAR	\$286	\$237

25
26
27 To correct the "before value" alone, the City Council should instead adopt
28
29 Taxpayer's valuation, which was developed using actual data, and otherwise applying the
30
31 City appraiser's assessment formula:
32
33

Alexis Hotel - CWF-0318	KM Appraisal Amount
Hotel Value	\$66,000,000
Less Personal Property	\$3,300,000
Real Estate Value	\$62,700,000
Benefit Ratio	2.65%
Special Benefit	\$1,663,000
Levy Ratio	39.18%
LID Levy	\$651,600

1 The City's appraiser only slightly reduced his original values in ways that are still
2 entirely inconsistent with historical performance data. The City's appraisal and analysis is
3 speculative and should be rejected. The City Council should at least adopt Taxpayer's
4 "before values" and resultant LID assessments.
5
6
7

8
9 **C. In Light of Covid's Continuing Impact on Taxpayer and other**
10 **Downtown Property Owners and other Material Changes Since October**
11 **2019, the LID Should be Cancelled, or at Least Assessments**
12 **Recalculated, to take Into Account Property Value Reductions**
13

14 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
15 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
16 other relevant developments since October 2019." When Washington's first COVID
17 restrictions were imposed in March and April 2020, there was an assumption that they
18 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
19 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
20 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
21 gotten much worse. The City has already imposed higher minimum wages and taxes on
22 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
23 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
24 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
25 years from completion, as a best case. In current circumstances, a downtown tax to fund
26 new, non-essential park improvements against financially strapped taxpayers, and likely
27 passed through to financially strapped tenants and customers would be unfair to taxpayers
28 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
29 rethinks its budget priorities for the next few years, and its potentially funding sources,
30 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
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1 property owners) have a chance to recover, and that any assessment take into account the
2
3 changed circumstances since this appeal process started on February 4, 2020 to avoid
4
5 unnecessarily and perhaps permanently killing downtown properties and businesses in the
6
7 name of bettering them.
8

9 **V. Relief Requested**

10
11 Particularly in light of the Committee's decision not to take further comment from
12
13 appellants, Taxpayer respectfully request that each Committee member carefully review the
14
15 full record transmitted to Council before voting on Taxpayer's appeal.
16

17 Alexis Hotel respectfully reiterates its request from the September 22, 2020 appeal
18
19 that the City Council:
20

21 Alexis Hotel respectfully requests that the City Council:
22

- 23 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
24
25 assessment dated December 30, 2019; or
26
- 27 2. Revise Alexis Hotel's Waterfront Local Improvement District No. 6751 proposed
28
29 final assessment to \$0 (zero), or such amount as Alexis Hotel establishes at the
30
31 hearing in this matter; or
32
- 33 3. Grant the Examiner's recommended remand but with instructions recalculate and
34
35 reduce Alexis Hotel's assessment using recognized appraisal techniques consistent
36
37 with USPAP and:
38
 - 39 i. Excluding any property value increase attributable to viaduct removal
40
41 and other planned WSDOT Improvements;
42
 - 43 ii. Calculating the property's "before value" in reliance on actual data
44
45 and John Gordon's calculations as outlined in Section B above, and
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47 recalculating any special assessment accordingly;

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- iii. Taking into account the effects of the COVID-19 pandemic on the value of Alexis Hotel's property and other relevant developments since October 2019;
 - iv. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to Alexis Hotel's property, and (2) any special detriments from construction and other anticipated LID-related disamenities;
 - v. Accounting for and including only those actual benefits anticipated to accrue to Alexis Hotel's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - vi. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vii. Accounting for such other issues specific to Alexis Hotel's property relevant to calculation of such assessment; and
4. Grant such further relief as the City Council deems just and proper.

1
2 DATED: February 16, 2021
3
4

PERKINS COIE LLP

5 By:

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7 RLutz@perkinscoie.com
8 Perkins Coie LLP
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18 Telephone: 206.359.8000
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22 Attorneys for Alexis Hotel
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4:38 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Pam Miller](#)
To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:28:09 PM
Attachments: [53985749-v1 Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

CAUTION: External Email

Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 135, 136, 168, 218, 219, 220, 333, 353

Attached for filing is a Notice of Appeal for the above Appellants.

Thanks,
Pam

Pam Miller
Legal Practice Assistant

Tel: 509.241.1536
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Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020

CITY OF SEATTLE
OFFICE OF THE CITY CLERK

In Re Seattle Waterfront LID, Local
Improvement District No. 6751

Case Nos. CWF-133, 134, 135, 136,
168, 218, 219, 220, 333, 353

NOTICE OF APPEAL

This Notice of Appeal is submitted on behalf of the Appellants in the case numbers listed above. Appellants do not object to the Hearing Examiner's recommendation, which is that their cases should be remanded for a revaluation. The purpose of the appeal is to protect the Appellants' rights to appeal if the Public Assets and Native Communities Committee's recommendation is that the City Council reject or significantly modify the Hearing Examiner's Recommendation of a remand, or if upon remand the City appraiser's revaluation is objectionable. This appeal is filed to ensure the Appellants' appeal rights are preserved if they wish to appeal in the future.

This appeal pertains to the Hearing Examiner's Findings and Recommendation dated September 8, 2020 (the "**Recommendation**"), and filed with the City of Seattle Office of the City Clerk.

OBJECTIONS

For each of the Appellants, the Recommendation states that "Consistent with the Findings above, the Hearing Examiner recommends that the City Council remand the following matters to the City appraiser for analysis consistent with the findings herein concerning valuation

NOTICE OF APPEAL - 1

1 of the subject properties (but for that limited purpose only), and opportunity for comment and
2 response by the respective Objector.” Recommendation, p. 122. The referenced “findings” refer
3 to Finding No. 16 on page 9-10 of the Recommendation, which states:

4 16. Eleven objecting hotel properties⁶ retained John Gordon, MAI, of Kidder
5 Mathews to perform Restricted Appraisals of their properties and provide
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12 of Alaskan Way and Elliot Way – thus in this respect Kidder Mathews’
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14 account before LID conditions. However, Mr. Gordon’s testimony
15 concerning valuation was supported by an appraisal review conducted
16 according to USPAP standards, STAR reports, and specific property
17 valuation information. Mr. Gordon is a specialist expert in appraising hotels
18 and his expert opinion, in addition to the specific information he relied on for
19 that opinion, is superior to the opinion and supporting data of the City in its
20 valuation.

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22 Thompson Hotel/Sequel Apartments (CWF-168), Alexis Hotel (CWF-318), Seattle Hilton
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24 Renaissance Hotel (CWF-418), Hyatt at Olive 8 (CWF-429), and Grand Hyatt Hotel (CWF-
25 436).

26 Finding No. 16 refers to the expert opinion of John Gordon, who presented testimony and
evidence on behalf of the appealing parties, as listed below.

The Recommendation states the following regarding Appellants’ cases:

CWF-0133 (CWF-0134, CWF-0135, CWF-0136, CWF-0168, CWF-0218, CWF-
0219, CWF-0220, CWF-0333, CWF-0353) (multiple parcel numbers) – Case
number CWF-0133 is part of a group of Objectors represented by Foster Pepper
PLLC that also includes CWF-0134, CWF-0135, CWF-0136, CWF-0168, CWF-
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findings concerning this issue can be found in Finding 16 above, and section C.10

1 below in the Legal Analysis section. The objections for CWF-0135, CWF-0218,
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valuation of the City.

3 The Objectors failed to meet the burden of proof required to demonstrate that the
4 properties will not receive a special benefit. However, CWF-0133, CWF-0134,
5 CWF-0136, CWF-0168, and CWF-0353 should be remanded to the City for
6 reconsideration of the property-specific information provided in the hearing for
valuation purposes with an opportunity for response by Objectors.
Recommendation CWF-0133: remand

7
8 Finding C-10 on page 117-118 of the Recommendation also made a finding as to the
9 value of Mr. Gordon's opinions over those of the City appraiser:

- 10 10. As indicated above, John Gordon, expert witness for a group of hotels,
11 provided testimony and evidence for hotel valuations that were of higher
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background and the specificity of the valuation data upon which he relied.

13 The City argues that a reason for difference in valuations presented by the
14 City and Kidder Mathews is that the subject property hotel owners had not
15 provided ABS with the specific information it did to Kidder Mathews, and
16 that an opportunity for that had been provided. If any opportunity had been
17 provided to submit specific hotel property information, that opportunity was
18 passive – there was no indication in the record that a specific notice or
19 solicitation to property owners had been provided by the City.¹² The City
20 does not identify any legal requirement for the hotel owners to have provided
21 their data at an earlier time. In addition, the information in the STAR reports
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specific information. Further, the hoteliers have exercised their right to
23 object to the valuation as part of the special assessment hearing, and it is
within their rights to present property-specific data during the hearing – it is a
24 major purpose of the hearing. None of the hotel properties presented credible
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recalculation by the City appraiser based on the information provided by
these Objectors.

24 ¹² It is notable that the City's own expert Mark Lukens stated: "In my experience, it is highly
25 unlikely that the hotels in the LID boundary would have provided financial and/or performance
26 data if requested by the City and/or ABS Valuation, as hotels consider such information to be
confidential and proprietary, and believe that the release of such information could put them at
a competitive disadvantage." Declaration of Mark Lukens dated April 30, 2020 at 3.

The evidence and documents to be used in this appeal are:

- a. The Restricted Appraisals included with Appellants' objections filed Feb. 3, 2020.
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- c. Declaration of John Gordon filed July 7, 2020.
- d. Gordon Testimony:
 - i. Transcript Feb. 18, 2020, pages 170, 171, 210-212, 217-218, 225, 245.
 - ii. Transcript Feb. 19, 2020, pages 53-75
- e. CWF-133, Ex. 7, 16, 17, 18, 19, 20.
- f. Ex. C-17, p. 197.
- g. Robert Macaulay testimony:
 - i. Transcript June 23, 2020, p. 107/line 7; p. 134/line 25.
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As the Hearing Examiner found on page 10 of the Recommendation, the opinions of John Gordon are "superior" to the City appraisal. Gordon's values and the resulting assessment amounts should be finally adopted as shown in CWF-133, Ex. 16.

RELIEF REQUESTED

Appellants request the right to appeal the recommendation made by the Public Assets and Native Communities Committee if that recommendation is for the City Council to reject or significantly modify the Hearing Examiner's Recommendation, or if upon remand the City appraiser's revaluation is objectionable.

1 DATED this 22 day of September, 2020.

2
3 FOSTER GARVEY PC

4 
5
6 Todd Reuter, WSBA #20859
7 618 W. Riverside Ave, Suite 300
8 Spokane, Washington 99201
9 Telephone: (509) 777-1600
10 E-mail: todd.reuter@foster.com

11
12 Attorneys for CWF-133, 134, 135, 136, 168, 218,
13 219, 220, 333, 353
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NOTICE OF APPEAL - 5

FG:53932733.1

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

FILED

5:05 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Pam Miller](#)
To: [City Clerk Filing](#)
Cc: [Todd Reuter](#)
Subject: Attention: Waterfront LID Appeal
Date: Tuesday, September 22, 2020 4:47:29 PM
Attachments: [53985749-v3_Seattle Waterfront LID Notice of Appeal \(filed\).PDF](#)

CAUTION: External Email

Seattle Central Waterfront Improvement Program
Local Improvement District
Assessment Hearing
Hearing Examiner Recommendation dated September 8, 2020
Appellants: Case Nos. CWF-133, 134, 136, 168, 353

Attached for filing is an **AMENDED** Notice of Appeal for the above Appellants.

Thanks,
Pam

Pam Miller
Legal Practice Assistant

Tel: 509.241.1536
Pam.Miller@foster.com

Foster Garvey PC
618 West Riverside Ave #300
Spokane, WA 99201
foster.com

SEATTLE ▪ PORTLAND ▪ NEW YORK ▪ WASHINGTON, D.C. ▪ SPOKANE ▪ BEIJING

This email is for the sole use of the intended recipient(s). It contains information that may be confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender immediately by reply email and destroy all copies of this message. Any disclosure, copying, distribution, or use of this information by anyone other than the intended recipient is prohibited.

1 Seattle Central Waterfront Improvement Program
2 Local Improvement District
3 Assessment Hearing
4 Hearing Examiner Recommendation dated September 8, 2020
5

6 CITY OF SEATTLE
7 OFFICE OF THE CITY CLERK

8 In Re Seattle Waterfront LID, Local
9 Improvement District No. 6751

Case Nos. CWF-133, 134, 136, 168,
353

10 AMENDED
11 NOTICE OF APPEAL

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AMENDED NOTICE OF APPEAL - 1

FG:53932733.2

FOSTER GARVEY PC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

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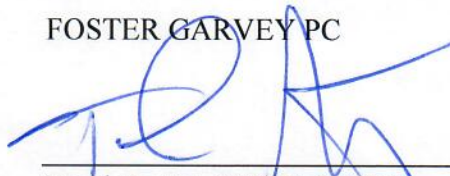
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1 DATED this 22nd day of September, 2020.

2
3 FOSTER GARVEY PC

4 

5 Todd Reuter, WSBA #20859
6 618 W. Riverside Ave, Suite 300
7 Spokane, Washington 99201
8 Telephone: (509) 777-1600
9 E-mail: todd.reuter@foster.com

10 Attorneys for CWF-133, 134, 136, 168, 353

FILED

8:42 am, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Victor Moses](#)
To: [City Clerk Filing](#)
Subject: Attention: Waterfront LID Appeal
Date: Monday, September 21, 2020 9:56:43 PM
Attachments: [CWF-0375 Appeal.pdf](#)
[John Crompton Report.pdf](#)
[Shorett - Cllet Provided Information.pdf](#)

CAUTION: External Email

Attached are our Notice of Appeal and associated Exhibits
Waterfront LID No. 6751
Hearing Examiner Case No. CWF-0375
Property Owners: Victor C. and Mary K. Moses
Parcel Number: 2538830850
Address: 1521 Second Avenue, Apt. 2304, Seattle, WA 98101

Please confirm that your office has received this email and if there is anything else you need or anyone else I need to provide with this information in order to perfect my appeal.

Thank you,
Victor Moses

From: [Victor Moses](#)
To: [City Clerk Filing](#)
Subject: Attention: Waterfront LID Appeal, CWF0375
Date: Tuesday, February 16, 2021 4:27:34 PM
Attachments: [CWF-0375 Appeal Submission.zip](#)

CAUTION: External Email

Attached is the amended appeal for CWF-0375. The files have been compressed because of their size. If there are any difficulties in reading tem please contact me via email or phone.

Victor Moses
206-660-8728

Notice of Appeal of Final Waterfront LID Assessment Recommendation.
Final Waterfront LID No. 6751
Hearing Examiner Case No. CWF-0375
Parcel Owners: Victor C. and Mary K. Moses
King County Parcel No. 2538830850
Address: 1521 Second Avenue, Apt. 2304, Seattle, WA 98101

We, Victor C. and Mary K. Moses, owners of the condominium property located at 1521 2nd Avenue, Apt 2304, Seattle WA, 98101 (Parcel No. 2538830850), objected to the Final Assessment for our parcel and, pursuant to SMC 20.04.090.C, now submit this appeal of the Recommendations of the Hearing Examiner regarding Waterfront LID No. 6751 Case No. CWF-0375.

Because the City has not provided "metered index numbers", they can't be referenced in this appeal. Page numbers from the City's case file, which is referred to in this appeal as Exhibit B, are generally used instead. However, many of the items submitted in the course of my objection are not in the City's case file. These include (but are not limited to) a transcript of my oral presentation on March 12, all of the exhibits submitted as part of that presentation and a transcript of Peter Shorett's report and associated testimony. We request the Council secure and provide appellants a complete unified record, so that the appeals can be supplemented with that information. Failing to do so limits the ability of an appellant to receive efficient and fair consideration by the Council or its delegate. In addition, because this is a consolidated record, some items are in other objector's case files. Where I have not been able to readily identify a reference I have attached the appropriate file. Some references may just not be included.

I have not attached Exhibit A, the recommendations of the Hearing Officer, or Exhibit B, the City's case file for CWF-0375. These are readily available on the Hearing Examiner's web site.

We request and demand a hearing on this appeal.

We appeal from the following portions of the recommendations of the Hearing Officer:

1. Decision, Exhibit A, Page 94 "The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit or that the City appraisal was inaccurate.
Recommendation: denial"

This finding is in error.

The Hearing Examiner cites the April 1, 2020, declaration of Robert Macaulay; "A direct application of Dr. Crompton's research would also have been inappropriate in this context because the LID Improvements contain a mix of park and streetscape amenities and the LID includes both commercial and residential properties. In my professional opinion, it is reasonable to rely on elements of Dr. Crompton's research

when analyzing the potential value lift associated with the park amenities included in the LID Improvements.” Exhibit A, pages 13-14.

Our residence at FifteenTwentyOne is a residential property, so that the LID also contains commercial properties is irrelevant. Macaulay then admits that Crompton is applicable to the park elements.

However, the most generous valuation of any of the improvements, both in terms of level of valuation and range of impact, arises if you to consider the improvements a park (Report of John Crompton, page 4, attached). An assessment using the assumption of a park therefore provides a reasonable cap on the potential special benefit. My analysis showed that there was no special benefit assuming the waterfront was a small park. If you considered it a large park, a qualification that the Waterfront improvements failed to meet, (based on the same work by John Crompton that was cited by Robert Macaulay in his Report) the special benefit was \$8,201 and the resulting assessment was \$3,012. My analysis accurately applied the distances that were misstated by Macaulay. The analysis was reviewed by Peter Shorett, MAIA.

I did not consider the Pike/Pine streetscape “improvement” in my analysis. Examiner further finds at Exhibit A, 11.c. 5, pages 116-117, that “The City successfully rebutted Objector’s argument that the streetscape improvements in Pioneer Square and the Pike/Pine corridor are not part of the LID project and that they do not result in special benefits. The City’s expert witnesses indicated that these street improvements are part of the LID project and that their analysis of special benefits included these improvements.” For FifteenTwentyOne this is negated by the Declaration of Mary Hamel who performed the analysis on behalf of Macaulay and the City. It states that the Pike/Pine streetscape improvements were only a consideration for abutting properties. FifteenTwentyOne abuts neither Pike nor Pine. Even if the streetscape improvements were to be considered, the City of New York study to which she refers only imputes value for commercial properties and provides no basis for any value increases for residential properties. See Exhibit B, pages 13-14.

My analysis stands as far more credible analysis of the potential range of special benefit to my condominium than Mr. Macaulay’s.

The City failed to address or rebut the HR&A report, cited by in Mr. Macaulay’s report that shows local residents will not use the waterfront any more frequently after the LID improvements are completed than they do today. To assume that the improvements will improve residential valuations in the light of that finding is incredulous and unsupportable. See Exhibit B, page 2.

At Exhibit A, II.12, page 8, finds that: “Mr. Shorett’s Appraisal Review and Supplement did not provide evidence about the current value of specific properties and did not calculate or quantify the special benefits that would accrue to the

concerned properties but identified concerns Mr. Shorett had with the Final Special Benefit Study and the credibility of the special benefit calculations therein.” I note that, Robert Macaulay did not calculate a current market value for any of the properties in the LID for which he then asserted a special benefit from the difference between the required improvement and the LID improvements. This issue was raised by many objectors. In addition he did not perform any appraisal of properties outside the LID boundary in order to conclude they had no special benefit. It is clear from the Hearing Examiner’s acceptance of Robert Macaulay’s determination of the LID boundaries that an appraiser can reach a reasonable conclusion that a property has no special benefit without performing an appraisal. The Hearing Examiner then arbitrarily holds appraisers representing objectors to a higher standard of judgement than he holds the City’s appraiser.

The Hearing Examiner failed to recognize and the City failed to address or rebut the testimony, arguments and evidence from several experts (whose testimony should have given the same weight Mr. Macaulay’s) concerning the lack of special benefit. The testimony of a qualified expert that in his professional opinion there is no special benefit for a property should transfer the burden of proof back to the City.

2. Decision, Exhibit A, Page 113 “Objectors presented no credible evidence that the City’s appraiser failed to consider detriments that would result from the LID Improvements, or that the risk of these alleged detriments would have a net negative impact on their property values. Finally, in the hearing, the City offered specific evidence that the “negative impact” Objectors perceived with regard to pedestrian traffic and noise does not measurably affect property value in urban areas like Seattle.”

This is in error. In particular, Macaulay admitted in cross examination that he did not consider changes in traffic flow that would constrict access to the parking garages in FifteenTwentyOne. See Exhibit B, page 4.

3. The Hearing Examiner failed to address or make any recommendation on the argument that the City failed to comply with RCW 35.43.050. The city does not dispute that the legislative body failed to make any finding as to the benefit of the improvements as a whole to all of the property within the LID. Nor does the city dispute that it failed to ascertain the cost and expense of each continuous unit and impose the assessment rates on the basis of the cost and expense of each unit as required by law. Instead the city asserts, without any legal basis or citation, that this claim cannot be considered or addressed in the context of this hearing. The city’s position is unsupported in law and makes no sense. The violation of RCW 35.43.050 did not exist until the city attempted to impose a final assessment that did not comport with that law. This hearing process is precisely the time and manner to make this challenge under the law. Further, the nature of the violation of this statute is inextricably tied up in the ability for property owners to challenge the final assessments. For example, many properties are included in the LID at all because of proximity to Pike/Pine streetscape improvements or Pioneer Square Streetscape

improvements and despite their substantial distance from the Promenade and Overlook Walk. Separating the analysis of these elements could (and likely would) show that the assessments for properties near these streetscape projects exceed the cost of these projects, and that they are illegally being forced to subsidize projects that bring them no special benefit. The purpose of this law is fully implicated in the challenge to the special benefits assessments.

The city asks the Hearing Officer to ignore an obvious violation of state law in the final assessment roll that goes to the very heart of the assessments themselves. The city's failure to abide by RCW 35.43.050 renders its final benefit study invalid as a matter of law. See Exhibit B, page 4.

4. Decision, Finding 9, Exhibit A, Page 115 "Testimony from Mr. Macaulay and the Final Special Benefit Study demonstrated that ABS did not apply a percentage to arrive at the "with LID" or "after LID" values. Instead, ABS calculated the value lift for each property in dollar terms. A percentage did result from this process, and this was shown in the spreadsheets in the Final Special Benefit Study to demonstrate the calculated increase in value as a percentage, not as a pre-applied formulaic percentage. Mr. Gibbons's (and other Objector representatives') belief that ABS applied a special benefit percentage formula seems to have been based on an understanding of the ABS process prior to receiving additional information from ABS on its processes that were revealed during the deposition and hearing process."

This finding is in error. Robert Macaulay made no claims of limitation on his reliance on Crompton in his Report. He attempts to minimize it in testimony only after his misuse of the work is exposed and perjures himself by claiming that (a) the percentages he predetermined by location were really just "typos" and (b) the result for each condominium unit was a calculation of the pre and post valuations. It is a practical impossibility that across every condominium in the LID, every residential property in each of those condominiums would have identical percentages. The Special Benefit was calculated by applying the percentage, not vice versa. Robert Macaulay simply lied under oath. See Exhibit B, Pages 21-22.

5. Decision, Exhibit A, Page 116 "Regardless, the burden was not on the City to prove its case in this regard. Instead, Objectors had the burden of proof to demonstrate through evidence that properties will not be benefitted by the LID Improvements. In this case, Objectors simply adopted an accusatory tone and asserted that they are already benefitted by access; they provided no evidence analyzing a contrast between their current circumstances and the proposed improvements. Therefore, Objectors failed to meet their burden with regard to this issue."

This finding is in error. Dr. Crompton provided expert testimony that the Overlook walk was not a park. However, it does provided a new access route between the Market and the waterfront. I carefully calculated walking distances from FifteenTwentyOne to the waterfront with and without the Overlook walk. These

measurements showed that use of Overlook walk significantly increased walking distances from FifteenTwentyOne to the waterfront and therefore provided no benefit over the existing access routes. See Client Provided Information in the Report of Peter Shorett March 12, 2020, pages 14-20, attached.

As a result of these errors the proposed special assessment for our property should be invalidated/vacated.

Respectfully Submitted

A handwritten signature in cursive script, reading "Victor C. Moses".

Victor C. Moses

September 21, 2020

Notice of Appeal of Final Waterfront LID Assessment Recommendation
Waterfront LID No. 6751

Hearing Examiner Case No. CWF-0375

Parcel Owners: Victor C. and Mary K. Moses

King County Parcel No. 2538830850

Address: 1521 Second Avenue, Apt. 2304, Seattle, WA 98101

We, Victor C. and Mary K. Moses, owners of a west facing condominium property located at 1521 2nd Avenue, Apt 2304, Seattle WA, 98101 (Parcel No. 2538830850), objected to the proposed Final Assessment for our property on February 3, 2020. The Hearing Examiner's Findings and Recommendations issued September 8, 2020 ("Examiner's Recommendation") recommended that our objection be denied. We filed a timely appeal to that recommendation on September 21, 2020.

Subsequently, the hearing examiner issued a revised Findings and Recommendations of the Hearing Examiner dated February 1, 2021, which also recommends that our objection be denied. We file this amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office of the City Clerk dated December 30, 2019.

Our original appeal dated September 21, 2021 requested that the Council secure and provide appellants a complete unified record, so that the appeals could be supplemented with that information. We noted that failing to do so limited the ability of an appellant to receive efficient and fair consideration by the Council or its delegate. Since this request was not granted we hereby request that before rendering a decision on this appeal each Council member be polled individually to attest that they have reviewed the video of my March 10, 2020 presentation at hearing and the associated exhibits 1, 3 and 4 to that presentation. The video is available on the Hearing Examiners website (<https://seattlechannel.org/hearingexaminer?videoid=x112101>). The exhibits to the presentation are attached as Exhibits A, B and C of this Appeal. All of the Exhibits to this Appeal are contained in the record for LID No, 6751, however without a unified record to easily identify them by reference, they are attached.

We appeal the following Findings and Recommendations in the Hearing Examiner's September 8, 2020 and February 1, 2021 Findings and Recommendations.

1. Specific Case Finding CWF-0375
2. Sections II.6, II.7, II.12, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11, IV.C.12, IV.C.14, IV.C.15, IV.C.18

We also appeal the Hearing Examiner's failure to make findings of fact or recommendations on material issues raised during our appeal that were supported by law, expert testimony, and fact. The Final Study fails in many ways to satisfy the basic requirements of a LID assessment study,

and the Examiner's Recommendation ignores those deficiencies in the Final Study. In fact, the only instances in which the Examiner recommended anything other than denial of objectors' appeals were where the City's appraiser confessed error. The appraiser's proposed assessments, and the Examiner's Recommendations, impose arbitrary and capricious Waterfront LID special assessments based on "fundamentally wrong methods."

Since the Waterfront LID Hearing is based on a consolidated record, we hereby include the objections and argument contained in the appeal of taxpayer RRRR Investments LLC with regard to CWF-0430 and CWF-0431, dated September 22, 2020. It is attached as Exhibit D. Both of the properties in this appeal are also west facing residences in the condominium building located at 1521 2nd Avenue and any objection or argument on their behalf is similarly applicable to the appeal of the assessment on our residence. We supplement the appeal noted above with our own arguments, which are listed below, on selected portions of the Finding and Recommendations of the Hearing Officer:

1. Specific Case Finding CWF-0375

- (a) Hearing Examiner notes that "The objection raises issues not within the jurisdiction of the Hearing Examiner to address in the context of a special assessment hearing."

Inexplicably the Hearing Examiner fails to even acknowledge the specifics of this objection; the calculation of the proposed final assessments determined by ABS Valuation in its Final Report fail to comply with RCW 35.43.050 (attached as Exhibit E)

The city does not dispute that the City Council failed to make any finding as to the benefit of the improvements as a whole to all of the property within the LID. Nor does the City dispute that it failed to ascertain the cost and expense of each continuous unit and impose the assessment rates on the basis of the cost and expense of each unit as required by law. Instead the city seems to assert, without basis, that this claim cannot be considered or addressed in the context of this Hearing. The violation of RCW 35.43.050 did not exist until the city attempted to impose a final assessment that did not comport with that statute. This hearing process is precisely the time and manner to make this challenge.

Further, the nature of the violation of this statute is inextricably tied up in the ability for property owners to challenge their assessments. Many properties are only included in the LID because of proximity to Pike/Pine streetscape improvements or Pioneer Square Streetscape improvements despite their substantial distance from the Promenade, Pier 58 and the Overlook Walk. Separating the analysis of these elements could (and likely would) show that the assessments for properties near these streetscape projects far exceed both the special benefit cost of those projects and therefore are illegally being forced to subsidize projects that bring them no special benefit.

ABS is obligated to prepare its report in compliance with applicable law and it negligently failed to do so. The Hearing Examiner ignores this obvious and admitted

violation of state law in the calculation of the final assessment roll. Failure to comply with RCW 35.43.050 renders this Final Report invalid.

- (b) The Hearing Examiner states that “The City appraiser used a sales comparison approach to valuation to arrive at its value conclusions.” Robert Macaulay makes that claim, but the empirical evidence from his Final Report screams otherwise. A rational evaluation of the Report and supporting material provided by ABS Valuation will conclude that a percentage increase to hypothetical “without LID” was used to determine special benefits (see the following item 5). Such a conclusion should allow for contradiction by a similar calculation, the accuracy of which has been attested to by a qualified appraiser (see the following item 2).

2. Finding II.12.

The Hearing Examiner states “Mr. Shorett’s Appraisal Review and Supplement did not provide evidence about the current value of specific properties and did not calculate or quantify the special benefits that would accrue to the concerned properties but identified concerns Mr. Shorett had with the Final Special Benefit Study and the credibility of the special benefit calculations therein. Mr. Shorett also prepared a Supplement to his Appraisal Review. Mr. Shorett’s Appraisal Review and Supplement did not provide evidence about the current value of specific properties and did not calculate or quantify the special benefits that would accrue to the concerned properties but identified concerns Mr. Shorett had with the Final Special Benefit Study and the credibility of the special benefit calculations therein.”

The Hearing Examiner ignores that the Appraisal Review and Supplement prepared for CWF-0375 did contain a review attesting to the accuracy of my calculations of the Special Benefit to our property which corrected for Robert Macaulay’s misstatement of John Crompton/s work and did calculate and quantify a maximum value of the Special Benefit that could accrue to our property. The provided analysis showed that there was no special benefit assuming the waterfront was a small park. If you considered it a large park, a qualification that the Waterfront improvements failed to meet, the special benefit was \$8,201 and the resulting assessment was \$3,012. It is contained in the Client Provided Information in the Report of Peter Shorett March 12, 2020 (attached as Exhibit C, page 53).

I note that Robert Macaulay also did not calculate a current market value for any of the properties in the LID for which he then asserted a special benefit to a hypothetical without LID value. This failure has been noted by several objectors. The Hearing Examiner holds Mr. Shorett to a higher standard than he applies to the City’s Appraiser.

3. Finding II.B.31

The Hearing Examiner states “The record demonstrates that ABS is highly experienced and competent at completing mass appraisals...” Mr. Macaulay’s experience is obvious. His competence is not demonstrated anywhere in the record. His selective citations of

Robert Crompton's 2001 Study (Exhibit A, pages 13-20) and the HR&A Study (Exhibit A, page 12), along with his misrepresentation of Dr. Crompton's work are either intentionally misleading or grossly negligent. In either case they are violations of the USPAP Ethics Rule. These failures and Mr. Macaulay's contradictory answers under cross examination contradict a finding of competence.

Mr. Macaulay, by his own admission, has done more mass appraisals than anyone in the state. The Hearing Examiner's simply weighed resumes instead reaching an independent judgement on the credibility of evidence and testimony. As a result the Hearing Examiner failed to recognize (and the City failed to address or rebut) the testimony, arguments and evidence from several experts whose testimony should have been given at least the same weight as Mr. Macaulay's testimony concerning the lack of special benefit.

Robert Macaulay did not perform any appraisal of properties outside the LID boundary in order to conclude they had no special benefit (Dep of R. Macaulay 2/27/2020 P 39-40). The Hearing Examiner's acceptance of Robert Macaulay's determination of the LID boundaries asserts that an appraiser can reach a reasonable conclusion that a property has no special benefit without performing an appraisal. The Hearing Examiner then arbitrarily holds appraisers representing objectors to a higher standard of judgement than he holds the City's appraiser

The testimony of a qualified expert that in his professional opinion there is no special benefit for a property should transfer the burden of proof back to the City.

4. Finding II.B.32

The Hearing Examiner cites the April 1, 2020, declaration of Robert Macaulay; "A direct application of Dr. Crompton's research would also have been inappropriate in this context because the LID Improvements contain a mix of park and streetscape amenities and the LID includes both commercial and residential properties. In my professional opinion, it is reasonable to rely on elements of Dr. Crompton's research when analyzing the potential value lift associated with the park amenities included in the LID Improvements."

Macaulay classifies the improvements as a mix of park and streetscape amenities and admits that "it is reasonable to rely on elements of Crompton when analyzing potential value lift associated with the park amenities."

Our residence at Fifteen Twenty-One is a residential property, so that the LID also contains commercial properties is irrelevant.

Macaulay cites only one study in his Report supporting the value of "streetscape amenities", NYCDOT (Exhibit A. page 26). This study is based on retail sales and limited to establishments abutting the street revisions. It provides no basis for imputing increases to any residential property, nor to any non-abutting property.

The Report of John Crompton (attached as Exhibit F) states that:

- (a) The appropriate designation of the green space in the LID is not a park, but a parkway or greenway (page 4)
- (b) The premium from parks on property values are likely to be much higher and extend to a greater distance, than those from parkways or greenways (page 4).
- (c) The most generous valuation of any of the improvements, both in terms of level of valuation and range of impact, arises if you consider the improvements a park (page 4).
- (d) Clearly the premiums suggested by the Appraiser are much higher than those emanating from the 2004 publication from which he inappropriately infers they are derived (page 10).

An assessment using the assumption of a park therefore provides a reasonable cap on the potential special benefit. My analysis (See item 2 above) showed that there was no special benefit assuming the waterfront was a small park. If you considered it a large park, a qualification that the Waterfront improvements failed to meet, the special benefit was \$8,201 and the resulting assessment was \$3,012. My analysis accurately applied the distances that were misstated by Macaulay. The analysis was reviewed and the accuracy attested by Peter Shorett, MAIA. My analysis stands as far more credible analysis of the potential range of special benefit to my condominium than Mr. Macaulay's

5. IV.B.8.

"Objectors presented no credible evidence that the City's appraiser failed to consider detriments that would result from the LID Improvements, or that the risk of these alleged detriments would have a net negative impact on their property values. Finally, in the hearing, the City offered specific evidence that the "negative impact" Objectors perceived with regard to pedestrian traffic and noise does not measurably affect property value in urban areas like Seattle."

This is in error. In particular, Macaulay admitted in cross examination (Hearing Transcript 6/23/2020 P 171-172) that he did not consider changes in traffic flow that would constrict access to the parking garages in Fifteen Twenty-One that are accessed via News Alley between Pike and Pine streets.

6. IV.b.11(a)iii

The Hearing Examiner states "Testimony from Mr. Macaulay and the Final Special Benefit Study demonstrated that ABS did not apply a percentage to arrive at the "with LID" or "after LID" values. Instead, ABS calculated the value lift for each property in dollar terms. A percentage did result from this process, and this was shown in the spreadsheets in the Final Special Benefit Study to demonstrate the calculated increase in value as a percentage, not as a pre-applied formulaic percentage. Mr. Gibbons's (and other Objector representatives') belief that ABS applied a special benefit percentage formula seems to have been based on an understanding of the ABS process prior to receiving additional information from ABS on its processes that were revealed during the deposition and hearing process."

It is a practical impossibility that, if Robert Macaulay had actually done a separate dollar based evaluation of each property, for each of the 49 condominiums buildings in the LID, every residential property in that building would have exactly that same percentage result. The only reasonable conclusion is the Special Benefit was calculated by applying a percentage by condominium based on its location.

Nothing changed based on information from ABS during the deposition or the hearing process. Robert Macaulay, after asserting that the percentage increases in value noted in his Report were the result of a calculation based on the value lift for each property in dollar terms, when queried in cross examination (Hearing Transcript 6/23//2020 P 132-135) why the same percentage was also shown in his Addendum Volume in the header line for each condominium building with no “without LID” or “with LID” values on which to make the percentage calculation he preposterously claims that those percentages are just “typos”. Robert Macaulay simply lied under oath.

7. IV.C.4 “Regardless, the burden was not on the City to prove its case in this regard. Instead, Objectors had the burden of proof to demonstrate through evidence that properties will not be benefitted by the LID Improvements. In this case, Objectors simply adopted an accusatory tone and asserted that they are already benefitted by access; they provided no evidence analyzing a contrast between their current circumstances and the proposed improvements. Therefore, Objectors failed to meet their burden with regard to this issue.”

This finding is in error. Dr. Crompton provided expert testimony that the Overlook walk was not a park (Hearing Transcript 4/16/2020 P 99-100). However, it does provide a new access route between the Market and the waterfront. I carefully calculated walking distances from 1521 2nd Avenue to the waterfront with and without the Overlook walk. These measurements showed that use of Overlook walk significantly increased those walking distances and therefore provided no actual benefit over the existing (and improved) access routes. (See Exhibit C, page 56).

The proposed special assessment for our property should be invalidated/vacated.

Respectfully Submitted



Victor C. Moses

February 16, 2021

Central Waterfront LID

Objection to Assessment CWF-0375

Victor C. Moses

March 10, 2020

February 3rd Filing Made 4 Objections

- Timing of the Proposed Final Assessment and the date set for Collection
 - Proposed Final Assessments should not be allowed until design specifications are substantially complete , SEPA reviews are complete and reliable cost estimates are available
 - Assessments should not be confirmed until completion of construction
- Properties Improperly Excluded From Assessment
- Disagreement with the Amount of the Proposed Final Assessment
 - Equitable Allocation
 - Calculation of Market Value without LID
 - Determination of the Special Benefit Percentage
- LID Assessment is Improperly calculated under RCW 35.43.050

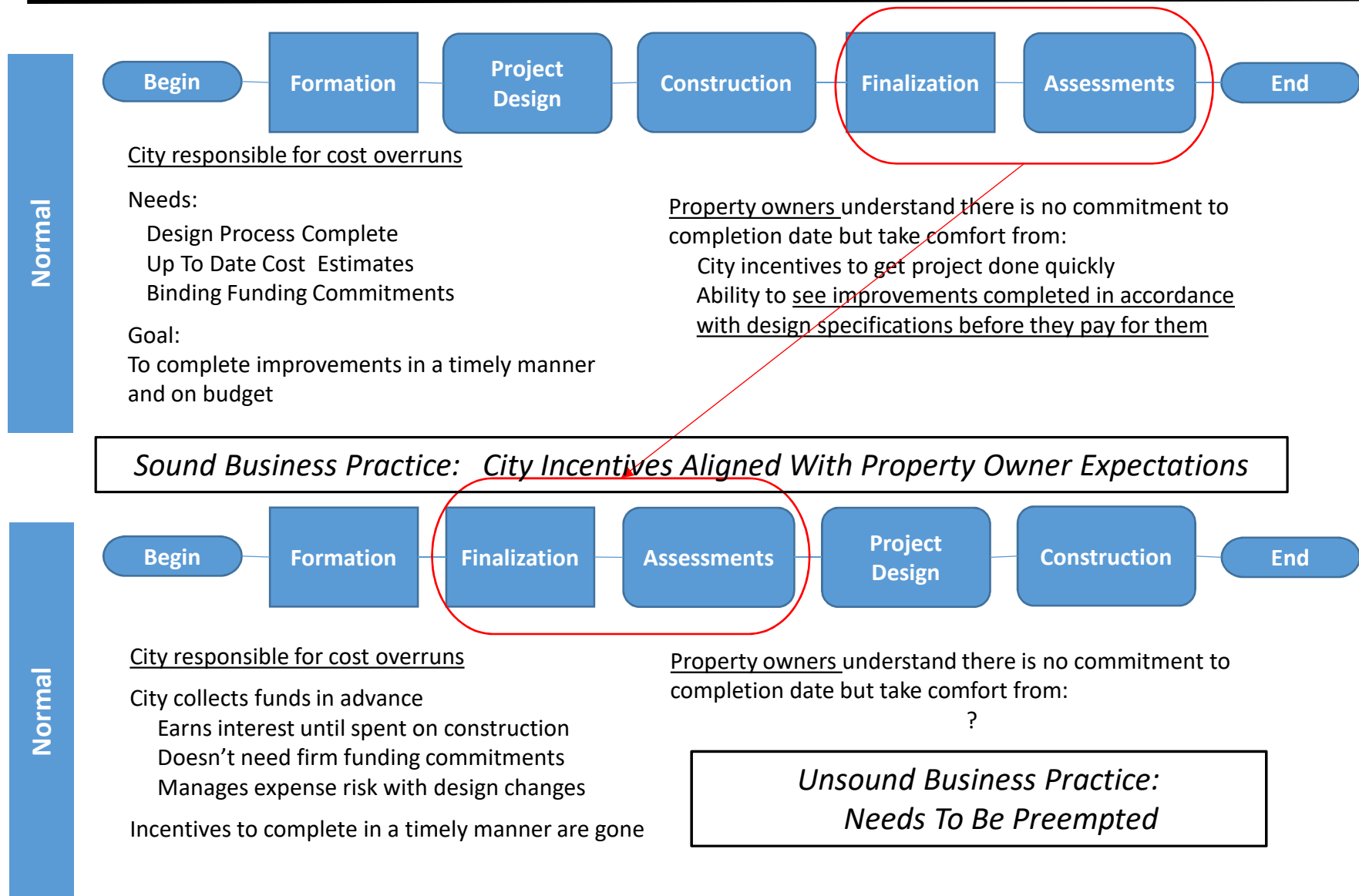
Highlighted Objections Are Withdrawn

Today's Topics

- Timing of Assessment
- Fifteen Twenty-One Condominium Valuation
 - Evidence of Error
 - Stale Data
 - Erratic and Unreliable High Rise Condominiums Valuations
 - Economic Studies
 - HR&A
 - Crompton
 - NYCDOT
- Discontinuous Improvements
- Appraisal Review by Peter Shorett
 - Exhibit 2 Application of Crompton to Residence 2304

Peter Shorett To Testify Later

Timing



Vague Design Specifications

- In order to assure that design specifications are vague the City has acted inappropriately and potentially unlawfully.
 - There are no “plans and specifications” on file with the Clerk’s Office for the LID Improvements, and it is unlawful to move to final assessments without such “plans and specifications.” Ordinance 125760, Section 3; Local and Road Improvement Districts Manual for Washington State 6th Edition, pp. 3, 19, 31, 44 (2009).
 - There has been no State Environmental Policy Act (SEPA) review of the Waterfront LID formation ordinance, and there are incomplete SEPA reviews of the LID Improvements themselves. It is unlawful to move forward with final assessments until all SEPA reviews are complete for both the Waterfront LID and the Waterfront LID Improvements. LID Manual, pp. 3, 6, 17, 24, 26; SMC 25.05.800.Q.
- Requested Remedy:
 - Proposed Final Assessments should not be allowed until:
 - design specifications are substantially complete
 - SEPA reviews are complete
 - Reliable cost estimates are available

Intuitive Valuation Perspective

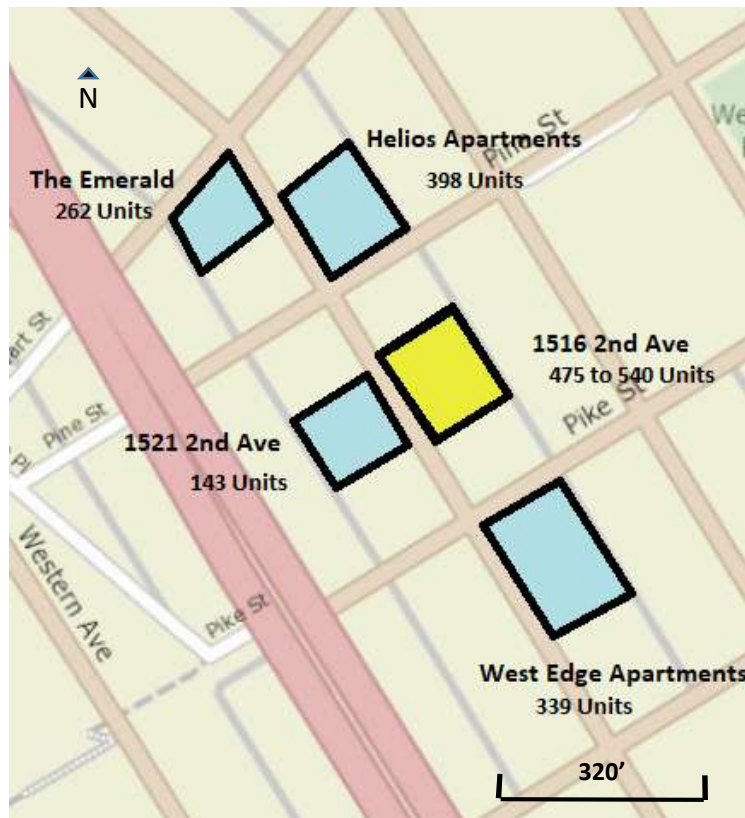
Property Type	Pedestrian Traffic Effect	Improvement Driver	Capacity Based	Capacity Measure	Include Improvements
Hotel	Positive	Overnight Visitors	Yes	Rooms	Yes
Retail/Restaurant	Positive	Foot Traffic	Yes	Floor Space	Yes
Office	Positive	Workers	Yes	Floor Space	Yes
Apartment	Neutral	Tenants	Yes	Units	Yes
Condominium	Negative	Attractiveness Interest in Use Access	No	-	No
Undeveloped/ Underdeveloped Land	Dependent on Highest and Best Use	Potential Use Development Cost Interim Use	Yes	Land Area Zoning Restrictions Other Restrictions	Yes

- All properties except condominiums have ability to earn additional income from any increased business generated by the LID Improvements
- Condominium benefit only accrues from:
 - Impact on attractiveness of the neighborhood
 - Whether amenities are going to be used
 - Ease of access
- All properties are negatively affected by:
 - Noise
 - Increased Crime
 - Constricted ingress/egress

Single Family Residences Should be Lowest Valuation Class...

Evidence of Error

...But They're The Highest?

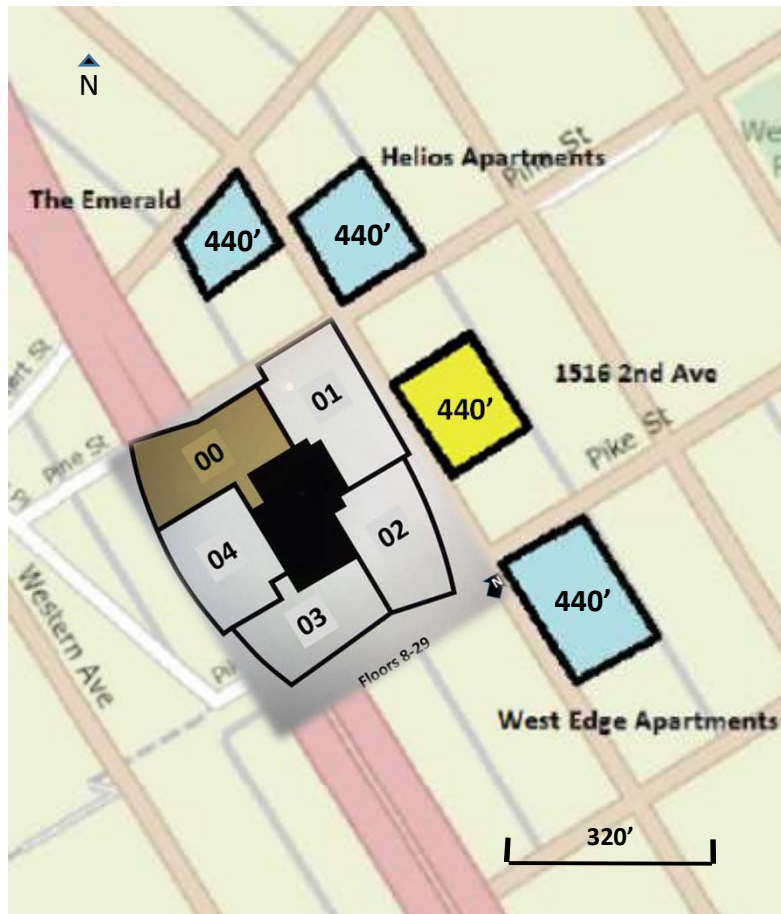


	Fifteen Twenty-One	West Edge	Helios	Emerald	1516 2 nd Ave
Property Type	Condominium	Apartment	Apartment	Condominium	Apartment
Year Built	2008	2016	2015	In Progress	In Permitting
Land Area	16,192	18,709	19,900	8,365	19,440
Residential Units	143	339	398	262	475 - 540
Net Sq Footage	275,335	347,876	306,374	223,814	300,000*
KCA Valuation Land Value	\$16.2m	\$17.8m	\$18.9m	\$7.9m	\$18.5m
LID MV Before	\$350.4m	\$301.0m	\$298.9m	\$181.6m	\$32.0m
Special Benefit %	2.70%	2.06%	1.92%	1.10%	2.50%
Special Benefit	\$9.57m	\$6.20m	\$5.73m	\$2.01m	\$0.80m
Special Benefit Per Sq Foot	\$34.37	\$17.81	\$18.70	\$8.99	\$2..68
Special Benefit Per Unit	\$67K	\$18K	\$14K	\$8K	\$2K

This screams that something is wrong

- Underdeveloped properties get a huge discount, both the Emerald and 1516 2nd will be done will before the LID Improvements
- If everyone in Fifteen Twenty-One just rented their home, the building would be an apartment...
...how can a condominium be assessed at almost twice an apartment when it should be lower?

Stale Data

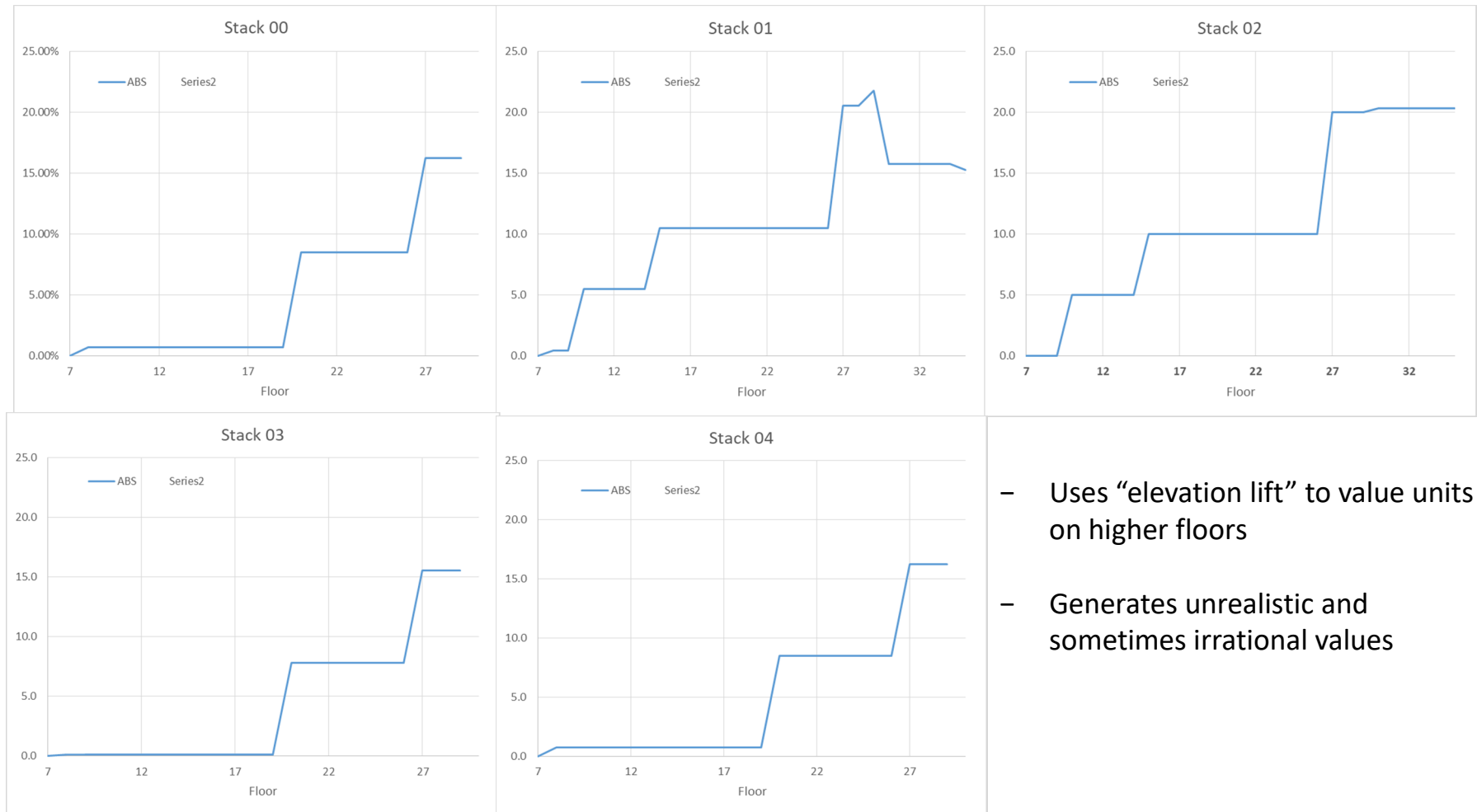


- Appears to use number close to 2018 KCA assessed valuation (2019 tax year) as “Before LID” value in Preliminary Study
- Doesn’t update values in Final Study, even though they’re available
- ABS data is over a year old and misses impact of “completed, in progress and in permitting” construction in the last year
 - City side territorial views drastically reduced
 - 02 stack hardest hit with market value losses of \$400 to \$500K at some levels

Fails USPAP Standard for Continuous Updating

Condominium “Elevation Lift”

FIFTEEN TWENTY-ONE
second avenue



- Uses “elevation lift” to value units on higher floors
- Generates unrealistic and sometimes irrational values

Fails USPAP Standard for Proportionality

Economic Studies (Final Study pp 44-48)

ABS cites three Economic Studies as the underlying basis for their valuation

HR&A: *“Beyond Real Estate Increment: The Value of the Central Seattle Waterfront”*, a study done for Friends of the Waterfront which was published in 2013 and updated in 2019. It is the only Seattle specific study cited.

Crompton: *“The Impact of Parks on Property Values: A Review of the Empirical Evidence”*, published by the National Recreation and Park Association in 2001 (updated in 2014) summarized the findings of a study completed by the Department of Recreation, Park and Tourism Sciences at Texas A & M University.

NYCDOT: *“The Economic Benefits of Sustainable Streets”* published in 2014 by the New York City Department of Transportation looked at the effects of “street projects that improve safety and design and that welcome pedestrians, cyclists and transit riders

HR& A

FIFTEEN TWENTY-ONE
second avenue

Waterfront Seattle is a 26-block transformative open space and roadway improvement project that will reconnect Downtown Seattle, the City, and the region with its waterfront, generating new economic activity and improving the quality of life for the surrounding community and region.

Waterfront Seattle Benefits Study | 2

ECONOMIC & FISCAL IMPACTS | NET NEW VISITATION METHODOLOGY

HR&A then estimated the share of regional vs. out-of-town visitors, and how much time these visitors might spend in the park.

Visitor Type	Share of 8M Projected Visitors	Net New Visitor Days Per Person	Net New Visitor Days
Regional Residents			
Downtown (park adjacent)	<1%	0	0
City Residents (non-adjacent)	8%	.11	69K
Metro Residents (non-city)	37%	.11	327K
<i>Subtotal</i>	<i>45%</i>		<i>396K</i>
Tourists			
Day Visitors	28%	.25	566K
Overnight	27%	.25	539K
<i>Subtotal</i>	<i>55%</i>		<i>1.1M</i>
Total			~1.5M

Note: Distribution of visitors, % regional v. tourists, is based on comps from the High Line and Hudson River Park. Distribution of regional residents is based on population distribution. Distribution of day v. overnight tourists is based on 2016 Longwood Tourism Study for Seattle. Net new visitor days per person is based on precedent research on time spent in open spaces by residents and out-of-town visitors, based on an 8-hour day.

| 84

Study shows no additional use by nearby residents or a best once roughly every 9 years.
No utility implies no value.

“THE PROXIMATE PRINCIPLE: The Impact of Parks, Open Space and Water Features on Residential Property Values and the Property Tax Base”, Second Edition, John L. Crompton, 2004

Executive Summary...page 14

“The diversity of the study contexts makes it feasible to offer a generalizable definitive answer to the *third* question addressed by the empirical studies which concerned the distance over which the proximate impact of park land and open space extends. There was consensus among the studies that it has substantial impact up to 500-600 feet (typically three blocks away from the park). In the case of community-sized parks (say upwards of 40 acres), it tended to extend out to 1,500-2,000 feet, but even in those cases the premium was small after 500-600 feet. Studies have not tried to identify impacts beyond that distance because of the compounding complexity created by other potentially influencing variables which increases as distance from a park increases. However, especially in the case of larger parks, it is likely there are additional economic benefits not captured by capitalization into increased property values beyond this peripheral boundary, since the catchment area from which users come frequently extends beyond it.

Well Known And Respected Resource

Crompton (The Proximate Principal)

- Seminal paper by John Crompton
 - First published in 2001, Second Edition in 2004, Last Updated in 2014
- Summary of over 30 empirical studies on the value of parks
- Synthesized often complex data and reached empirically supportable conclusions
- Provided a simple tool for estimating the increased property taxes generated by a park
- Increased value of nearby properties ultimately captured in tax assessments based on three factors
 - Size of Park
 - Distance from Park
 - Quality of Park

Widely Used by Municipalities Across the US

Crompton (2004, Size and Distance pp14)

Executive Summary...

“The diversity of the study contexts makes it feasible to offer a generalizable definitive answer to the *third* question addressed by the empirical studies which concerned the distance over which the proximate impact of park land and open space extends. There was consensus among the studies that it has substantial impact up to 500-600 feet (typically three blocks away from the park). In the case of community-sized parks (say upwards of 40 acres), it tended to extend out to 1,500-2,000 feet, but even in those cases the premium was small after 500-600 feet. Studies have not tried to identify impacts beyond that distance because of the compounding complexity created by other potentially influencing variables which increases as distance from a park increases. However, especially in the case of larger parks, it is likely there are additional economic benefits not captured by capitalization into increased property values beyond this peripheral boundary, since the catchment area from which users come frequently extends beyond it.

Size and Distance...Simply Explained In One Paragraph

ABS (Size & Distance, Final Study pp 45-46)

Cites Crompton

- 75% of the benefit from a park is captured within 500 feet, or three blocks and the remaining 25% of the benefit is likely dissipated over a 500- to 2,000- foot range, or 4 to 12 city blocks....but makes no mention of park size as a factor
- Notes that neighborhood parks that are primarily used by the surrounding residents result in a higher increase in property value than larger parks that attract active users from outside the neighborhood due to the adverse effects of noise, nuisance and congestion... but never notes applying it his valuations
- Stresses 3 and 12 city blocks throughout the Final Study...which using Seattle's 320' wide blocks translates to 960' to 3,840'...2x what Crompton recommended

Reality:

- It should just have been 1½ blocks...or at best 1½ to 3 blocks for a large park

Crompton (2004 Park Rating, pp 20)

- Grade each park in the system on the five-point scale shown in Exhibit A ranging from “unusual excellence” to “dispirited, blighted.” The grading can be done either by park staff or by a panel of residents familiar with each of the sites. This scale is defined primarily by the emotional response of people in a park’s area of influence. It recognizes that a park’s quality is defined by people’s emotional response to it, rather than only by its physical and tangible qualities.)

Exhibit A Park Quality Scale for Determining Proximate Premiums

Unusual Excellence: A signature park; exceptionally attractive; natural resource based; distinctive landscaping and/or topography; often mentioned in sales advertisements for nearby properties; well maintained; genuine ambiance; engenders a high level of community pride and “passionate attachment.”

Above Average: Natural resource based; has charm and dignity; regarded with affection by the local community; pleasant, well maintained.

Average: Rather nondescript; not really “noticed” by the local community; adequately maintained; no distinguishing features.

Below Average: Sterile; absence of landscaping or trees; athletic fields with noise, lights, congestion; intensive use.

Dispirited, Blighted: Dilapidated, decrepit facilities; broken equipment; unkempt, dirty; unofficial depository for trash; noisy; undesirable groups congregate there; rejected and avoided by the community.

ABS (Park Rating, Final Study pp 46-47)

The following exhibit summarizes Crompton's grading scale for park amenities.

Exhibit A Park Quality Scale for Determining Proximate Premiums

Unusual Excellence: A signature park; exceptionally attractive; natural resource based; distinctive landscaping and/or topography; often mentioned in sales advertisements for nearby properties; well maintained; genuine ambiance; engenders a high level of community pride and "passionate attachment."

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Dispirited, Blighted: Dilapidated, decrepit facilities; broken equipment; unkempt, dirty; unofficial depository for trash; noisy; undesirable groups congregate there; rejected and avoided by the community.

In the case of the Waterfront Seattle project, it is important to consider that there is an existing waterfront amenity; the current waterfront area can be rated as average to above average since it provides a unique public amenity.... With the project elements completed, the area will be upgraded to excellent...

Macaulay Morphs Park Into Park Amenity and Asserts His Judgement...

Crompton & ABS (Park Premium)

Crompton (2004, pp 20):

- The suggested premiums applied to all single family home properties within the 500 foot proximate area for each of the three highest categories shown in Exhibit A are:
 - Unusual excellence: 15%
 - Above average: 10%
 - Average: 5%

Macaulay (Final Study pp 47):

Condominiums within a three-block radius typically experience increases in property value of:

Quality of Park	Distance	Green Premium
Excellent – Average	1 block	16-20%
Excellent	1-3 blocks (500ft)	15%
Above Average	1-3 blocks (500ft)	10%
Average	1-3 blocks (500ft)	5%
Poor	1-3 blocks (500ft)	-5%

With the project elements completed, the area will be upgraded to excellent, which indicates an average 5% increase in condominium values situated within three blocks of the improvements/new amenities.

...And Generates a 5% Condominium Price Increase...

Crompton (2004, Park Maturity pp34)

- Chapter 1: Context of the Issue - Factors Influencing Capitalization

“It may take 30 to 40 years for new parks to mature. In the beginning trees are small and spindly, plantings are scattered and immature, shade is scarce, and the landscaping often is not aesthetically pleasing. Hence, the capitalized premium initially may be relatively small, but if the park is well maintained the premium is likely to increase over time.”

***...While Ignoring Additional Guidance From The Same Paper
And Earlier Work Done in Seattle***

THE ECONOMIC BENEFITS OF SEATTLE'S PARK AND RECREATION SYSTEM



THE TRUST *for* PUBLIC LAND
CONSERVING LAND FOR PEOPLE

Crompton Summary

ABS:

- Two key premises form the foundation for the ABS condominium valuations
 - 75% of the benefit from a park is captured within three blocks and the remaining 25% of the benefit is likely dissipated 4 to 12 city blocks
 - Crompton's park rating ... indicates an average increase in value of 5% for condominiums situated within a three-block radius

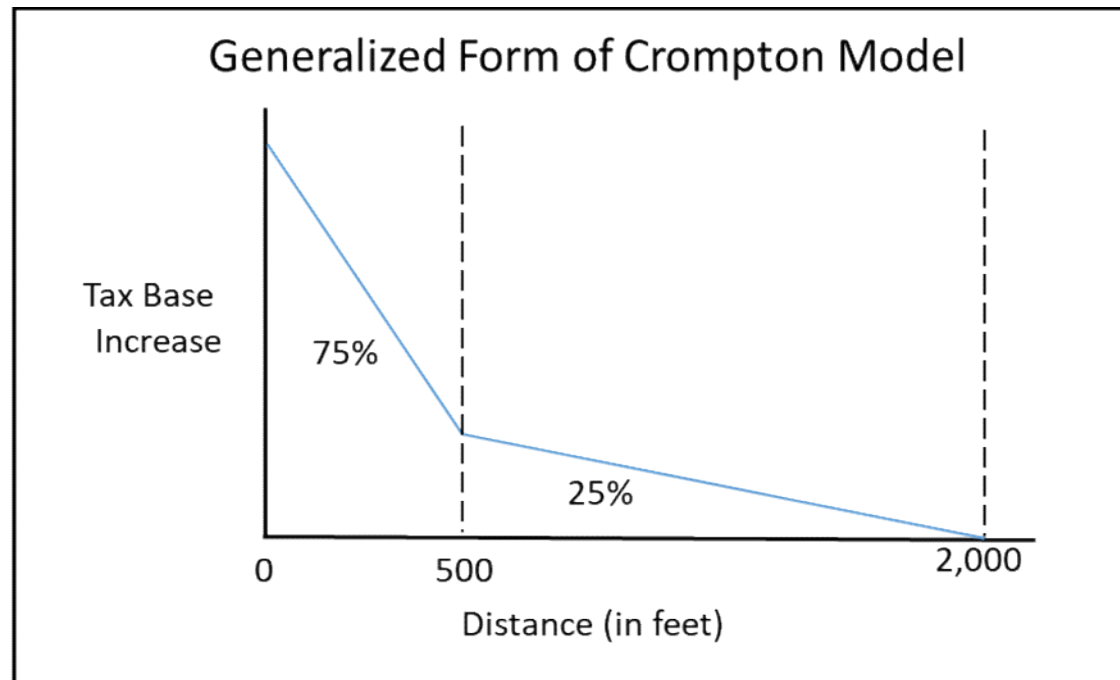
Neither Of The Premises Above Are Accurate!

Reality:

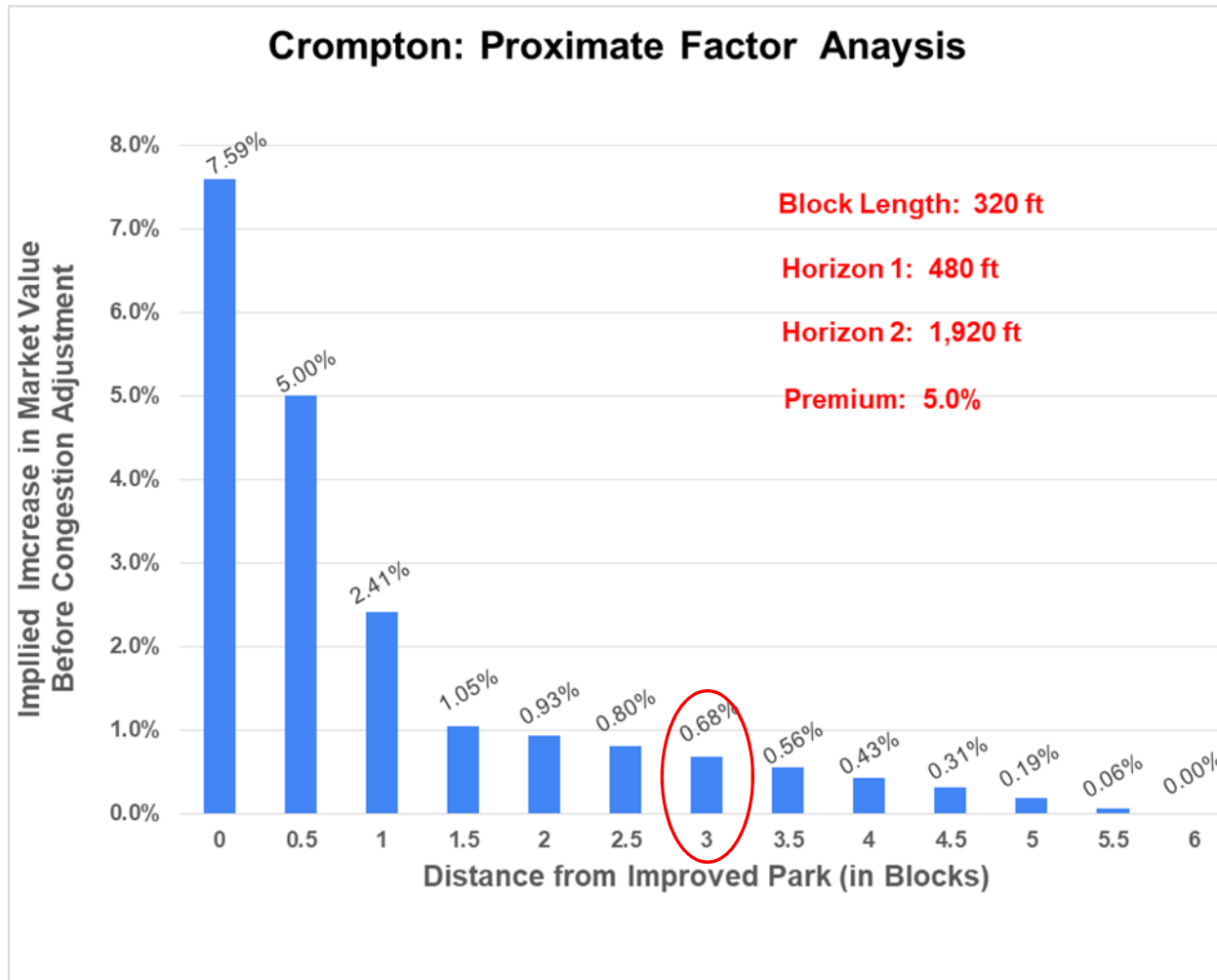
- Crompton's distance standards are 500' and 2,000'
 - Using Seattle's 320' block width translates to 1½ to 3 blocks (480' to 1,980')
 - ABS states 2x what Crompton indicated for a "community sized" park
 - Seattle's 26 acre Central Waterfront Improvements don't even deserve extension beyond 500-600'
- Robert Macaulay set the 5% average increase
 - Arbitrarily selected the input values for the Park Rating
 - Ignored "other factors affecting capitalization" indicated by Crompton
 - Cited average increases aren't applicable.

Crompton Model

The area of proximate impact of a park should be limited to 500 feet or three blocks. The empirical results suggest this is likely to capture almost all the premium from small neighborhood parks and 75% of the premium from relatively large parks. The remaining 25% is likely to be dissipated over properties between 500 and 2000 feet.



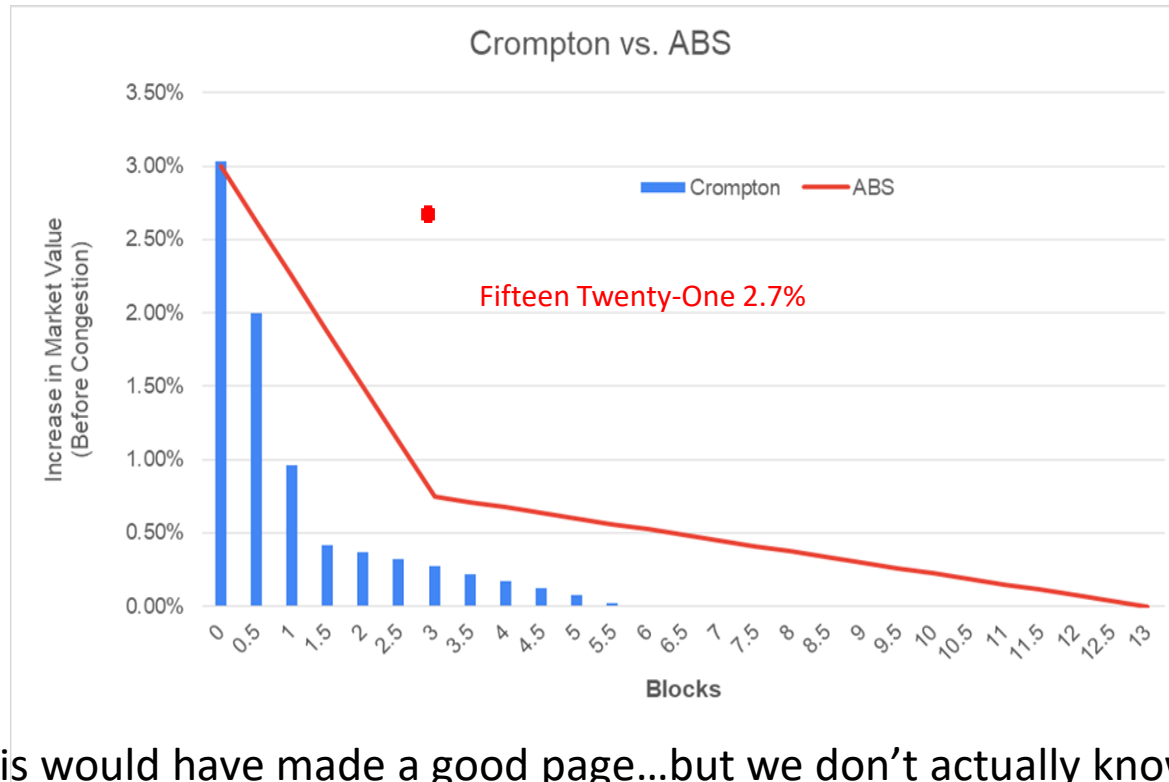
Averages Aren't Applicable



Easily verified

- The average over the first three property layers (480 feet) is 5%
- The amount in the tail is 5%, which is one-third of the total amount in the high zone.

Crompton vs. ABS



- This would have made a good page...but we don't actually know what ABS did
 - There is no analysis
 - There is no model
 - There are no special case files

For Any Condominium, All ABS Provides Is One Number Buried Their Final Study

“...this publication is the summary of a multitude of studies but is focused on street design projects, relying on retail sales as a measure of the impact on surrounding property values. The basic premise of the New York study is that “changes in travel patterns, spending patterns and neighborhood desirability caused by changes in the street environment can impact businesses’ and property owners’ bottom lines, most directly by affecting retail sales but also retail rents, office rents, and commercial property values.” Some additional key observations of the study include:

- Changes to the street have a direct correlation to the “potential customers making trips to that street or change the frequency or spending patterns of their trips.”
- Improving access through parking, bike lanes, bike parking and transit services can increase the customer base.
- “Creating a more comfortable and enjoyable public realm” will encourage potential customers, once already on site, to stay for longer durations and “potentially result in their patronizing local businesses more than they otherwise would.” Features with this goal in mind usually include “functional improvements such as benches, tables and chairs, wayfinding signage and urban design enhancements such as distinctive paving , landscaping, street lighting and public art.”

Applicable To Pike And Pine Street Beautification But Relies on Retail Sales Data
Not Acceptable Evidence For Residential Appraisal

Discontinuous Improvements

- RCW 35.43.050 Authority-Noncontinuous Improvements
 - Combining discontinuous improvements for cost and benefit requires finding by Council of “general good”
 - Lack of such finding requires separation of discontinuous segments for both cost and benefit
 - No such finding exists
- Objection is not to Formation
- Objection is not to Fair Market Value Methodology
- Objection is to Consolidation of Costs
- LID Creates a Contract Between City and Property Owner
 - It is a Contract of Adhesion
 - Onus is on City to get it right
- Omission of the Finding is Curable
 - May require novation of Waiver of Protest Agreement
 - Reopens window for challenges to formation
 - Reopens window for objection

Unfortunate Mistake...For all Property Types

Summary

Fifteen Twenty-One:

- The KCA data used was stale and readily available updated data was not used
- Inappropriate techniques were used for assigning “without LID” valuations to individual condominiums
- The Crompton based valuation is grossly in error
 - Correcting results in no special benefit
- The Pike and Pine improvements provide no special benefit because of constricted access to building garages
- By not recognizing the discontinuous improvements the assessment was improperly calculated

ABS Appraisal Is Grossly in Error And Deserves To Be Nullified

Apt 2304:

- **Correcting gross valuation errors yields no special benefit**
- Even allowing a “large park” assumption...special benefit is small and the assessment substantially exceeds the special benefit.

THE ECONOMIC BENEFITS OF SEATTLE'S PARK AND RECREATION SYSTEM



THE TRUST *for* PUBLIC LAND

CONSERVING LAND FOR PEOPLE

THE ECONOMIC BENEFITS OF SEATTLE'S PARK AND RECREATION SYSTEM

*The Trust for Public Land
Center for City Park Excellence*

March 2011

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LAND



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EXECUTIVE SUMMARY

Seattle has long been a city of great parks. Found in more than 5,400 acres within the city's boundaries, the parks have countless amenities—26 recreation centers, 114 ball fields, 165 tennis courts, trails for bike commuters, and even a mountain bike course underneath a freeway colonnade. While the natural beauty of the Northwest is evident in the views of Puget Sound and Mount Rainier, it is the many verdant outdoor spaces and vibrant public places that define the Emerald City. From the city's first public park—Denny Park, built in 1887—to the parkways laid out by famous designer John Charles Olmsted; to the Forward Thrust investments pushed by James Ellis, Mayor Dorm Braman, and others; to the recent addition of Lake Union Park and the expansion of Cal Anderson Park; this enduring legacy has great economic value.

Seattle's park system was always thought of partly as an economic development tool. In fact, the Olmsted Brothers firm was hired to design a showcase system for the millions of people who came to the 1909 Alaska-Yukon-Pacific Exposition. Yet the actual economic value of this asset has never been measured. Now this study provides it. Knowing the numbers can help planners and policymakers recognize the role of parks not just in sound-good buzzwords such as “quality of life” and “livability” but in terms of the real economic development of the city, quantifying past investments and informing future spending and budgetary decisions.

This study enumerates seven major factors that relate to the economic value of Seattle parks: *property value, tourism, direct use, health, community cohesion, clean water, and clean air*. While the science of city park economics is in its infancy, the numbers reported here have been carefully tabulated, considered, and analyzed for the most recent year available at the time of this study. The valuation includes Seattle's entire park and recreation system—its trails, natural areas, neighborhood and community parks, and parkways.¹

Two of the factors provide Seattle with *direct income* to the city's treasury. The first is increased property tax from the increase in value of residences that are close to parks. This came to nearly \$15 million. The second consists of sales tax receipts from tourism spending by out-of-towners who came to Seattle primarily because of its parks. This value came to nearly \$4.4 million.

In addition to increased tax money, these same factors bolstered the *collective wealth* of Seattleites—by more than \$80 million in total property value and by more than \$30 million in net income from tourist spending.

Two other factors provided Seattle residents with *direct savings*. The larger by far stems from Seattleites' savings by using the city's public parks, recreation centers, trails, and facilities instead of having to purchase these items in the private marketplace. This value came to more than \$447 million. Second is the health benefit—savings in medical costs—from getting physical activity in the parks. This came to just over \$64 million.

The last three factors also provided savings, but to city government rather than to individuals. The first involves water pollution reduction—the fact that the trees and soil of Seattle's parks retain rainfall and thus cut the cost of treating stormwater. This value came to just over \$2.3 million. The second concerns air pollution—the fact that park trees and shrubs absorb a variety of air pollutants. This value came to nearly \$530,000. Third is the community cohesion benefit of people banding together to save and improve their neighborhood parks. This “know-your-neighbor” social

¹ The study does not include every potential value aspect of a park system. For instance, the dollar value of the mental health benefit of a walk in the woods has not yet been documented and is not counted here.

capital, while hard to tabulate exactly, helps ward off all kinds of antisocial problems that would otherwise cost the city more in police, fire, prison, counseling, and rehabilitation costs. We estimate this value at just over \$9.5 million.

The park system of Seattle thus has provided the city with annual revenue of \$19.2 million, a municipal cost savings of \$12.4 million, a resident savings of \$511.6 million, and a collective increase of resident wealth of \$110.8 million.

Summary: Estimated Annual Value of the Seattle Park and Recreation System

Revenue-producing factors for city government

Tax receipts from increased property value	\$14,771,258
Tax receipts from increased tourism value	\$4,389,440
Total	\$19,160,698

Cost-saving factors for city government

Stormwater management value	\$2,313,341
Air pollution mitigation value	\$526,768
Community cohesion value	\$9,537,639
Total	\$12,377,748

Wealth-increasing factors for citizens

Additional property sales value attributable to park proximity	\$80,794,098
Profit from park-related tourism	\$30,027,760
Total	\$110,821,858

Cost-saving factors for citizens

Direct use value	\$447,501,085
Health value	\$64,087,756
Total	\$511,588,841

Source: Center for City Park Excellence, The Trust for Public Land, December 2010.

BACKGROUND

Cities are economic entities. They are made up of structures entwined with open space. Successful communities have a sufficient number of private homes and commercial and retail establishments to house their inhabitants and give them places to produce and consume goods. Cities also have public buildings—libraries, hospitals, arenas, city halls—for culture, health, and public discourse. They have linear corridors—streets and sidewalks—for transportation. And they have a range of other public spaces—parks, plazas, and trails, sometimes natural, sometimes almost fully paved—for recreation, health provision, tourism, sunlight, rainwater retention, air pollution removal, natural beauty, and views.

In successful cities the equation works. Private and public spaces animate each other, the value of the whole surpassing the sum of its parts. In unsuccessful communities, some aspect of the relationship is awry: production, retail, or transportation may be inadequate; housing may be insufficient; or the public realm might be too small or too uninspiring.

A city's park system is integral to this equation, but research on the topic has largely been absent in cities even though the economic impact of stadiums, convention centers, and museums has been promoted widely. Based on a two-day colloquium of park experts and economists held in Philadelphia in October 2003 (see Appendix II), the Center for City Park Excellence believes that there are seven attributes of a city's park system that are measurable and provide economic benefits to the city. (For a listing of studies done on these issues, including some by colloquium participants, see Appendix III.)

What follows is a description of each attribute and an estimate of the specific economic value it provides in Seattle. The numerical calculation sheets can be obtained from the Center for City Park Excellence or accessed at tpl.org/seattleparkvalue.

I. HEDONIC (PROPERTY) VALUE

Numerous studies have consistently shown that parks and open space have a positive impact on nearby residential property values. The evidence reveals that most people are willing to pay more for a home close to a nice park. Economists call this phenomenon “hedonic value.” (Hedonic value also comes into play with other amenities such as schools, libraries, police stations, and transit stops. Commercial office space near parks may also command increased value, but no study has yet been able to quantify it.) Incidentally, property value goes up even if the resident never goes into the park; simply a view of a park can be worth extra value for some.



Benjamin Benschneider

Aerial view of Olympic Sculpture Park from Elliott Bay. Parks enhance property values around their edges, which helps bring in additional tax revenue.

Property value near parks is affected primarily by two factors: distance and the quality of the space. While proximate value (i.e., the “nearness” factor) has been documented for up to 2,000 feet from a large park, studies found most of the value to be within the first 500 feet. To be conservative, we have limited our measurement to this shorter distance. As for park quality, beautiful natural resource parks with great trees, trails, meadows, and gardens are markedly valuable to surrounding homes. Excellent recreational facilities are also desirable (though with some reductions in value due to issues of noise, nighttime lighting, and parking). Less attractive or poorly maintained parks, however, are only marginally valuable. And parks with dangerous or frightening aspects can reduce nearby property values.

Determining a park-by-park, house-by-house property value for a city is technically feasible, but it is prohibitively time-consuming and costly. Thus we formulated an extrapolative methodology to arrive at a reasonable estimate. Using computer-based mapping, we identified all residential properties within 500 feet of every significant park and recreation area in Seattle. (We defined “significant” as parks of one acre or more that are publicly owned within the city limits, excluding water areas outside the city’s land boundary.) According to property records of the King County Assessor’s Office, there are over 63,000 residential properties within 500 feet of parks in the city of Seattle. A residential property is defined as a unit that is owned and taxed. A single-family house is one property, a 100-unit rental building is one property, and a 100-unit condominium building is 100 properties. These properties when measured in 2010 had a combined market value of \$33.9 billion.

To scientifically analyze the hedonic values conferred by parks, TPL then conducted a regression analysis of all residential property sales from mid-2005 to mid-2010. We chose this five-year period in order to have a large enough sample size. Our regression showed a 4.84 percent park effect. Using this, we calculated that the property value attributable to parks in Seattle is just over \$1.6 billion. We then applied the park-effect coefficient in two ways—to determine additional property tax income to the city in 2009 and also to determine additional personal income to those homeowners who sold their dwellings in 2009.

Using data provided by the assessor’s office, we calculated that just over \$305 million of property tax was collected from properties within 500 feet of parks. Since 4.84 percent of this was due to parks, the increment came to \$14.77 million. We also determined that based on the assessor’s data for the homes sold in 2009 (the last complete year of residential sales data available), the proximate park value realized at the time of sale was \$80.79 million.

We consider these to be conservative estimates for three reasons. First, they do not include the effects of small parks (under an acre), although it is known that even minor green spaces have a property value effect. Second, they leave out all the value of dwellings located between 500 feet and 2,000 feet from a park. Third, they do not include the potentially very significant property value for commercial offices located near parks.

Table 1. Effect of Seattle Parks on Residential Property Values

Value of properties within 500 feet of parks, 2010	\$33,929,843,080
Value attributable to parks (4.84%)	\$1,642,204,405
Property tax revenue from properties within 500 feet of parks, 2010	\$305,191,275
Tax revenue attributable to parks (4.84%)	\$14,771,258
Value of properties sold in 2009 within 500 feet of parks	\$1,669,299,551
Value attributable to parks (4.84%)	\$80,794,098

2. TOURISM VALUE

Seattle's place as a city on the sea with mountain views from its seven hills, combined with its cultural offerings, nightlife, and heritage, makes it a popular city to visit. A significant portion of the city's tourism can be attributed to its park system—visitors either coming to see specific parks or taking part in park-based events.² The evidence can be found in travel writing alone. For instance, noting Seattle's great outdoor opportunities, Fodor's lists Gas Works Park among the city's top attractions and also spotlights Discovery Park. *The New York Times*' "36-hour visit" to the city highlights the Olympic Sculpture Garden as a "must." And Wikitravel's contributors tout the park system through such activities as biking on the Burke-Gilman Trail. When it comes to large outdoor events, most take place within parks: the Danskin Triathlon attracted more than 12,000 people and Hempfest pulled in more than 200,000.



Joe Mabel

Children's Festival at the Seattle Center. Parks contribute to the tourist economy—both as event venues and as attractions in their own right.

Determining the contribution of parks to the tourism economy requires knowledge of tourist activities, the number of visits, and the level of spending. In Seattle, while attendance at some events is known, there is no comprehensive survey regarding tourism due primarily to parks. Nevertheless, Seattle's Convention and Visitors Bureau does have data on visits to King County, the level of spending, and a limited variety of reasons for the trip. This data, supplemented by interviews with local tourism experts, enabled us to estimate the economic value of park visitation by tourists.

² By definition, local users are not tourists—any spending they do at or near the park is money not spent locally somewhere else, such as in their immediate neighborhood.

We first reduced the total amount of King County tourist spending by half because about one out of every two county visitor dollars is spent in Seattle itself. Then, after eliminating all business and conference visitors, we used data on primary reasons for visits, conversed with local tourism and event specialists, and employed knowledge of statistics in other cities. We determined that approximately 3.44 percent of King County tourists visit Seattle primarily because of the city's parks. This is a broad group that includes, for instance, a suburban day visitor to the Filipino festival, an overnight traveler to Hempfest, and a family traveling to see Gas Works Park, boat from Magnuson Park, and bike on the Burke-Gilman Trail.

The level of tourist spending ranges considerably, from the high level of overnight hotel guests to the midlevel of overnightriders staying with family and friends to the lower level of day visitors who might only eat lunch or a snack and make fewer other purchases. We thus calculated that park-based tourists who stayed overnight in hotels spent \$51.8 million, those who stayed with friends and family spent almost \$22.5 million, and those who came for the day spent \$11.4 million in 2009. We then factored the sales tax rate for the city of Seattle—3 percent for food and other purchases and 10 percent for hotel rooms.³ For overnight visitors staying at a hotel, we assumed an average tax rate of 6.5 percent, splitting the difference between the lodging tax and the sales tax on all other purchases. The resulting tax revenue gain to the city came to \$4.39 million in 2009.

In addition, since economists consider about 35 percent of every tourist dollar to be profit (the rest of the income being pass-through to pay for expenses), the Seattle citizenry's collective increase in wealth from park-based tourism was just over \$30 million.

Table 2. Tourism Value of Seattle Parks

Visitor spending attributable to parks	
Spending of overnight visitors staying in hotels	\$51,875,200
Spending of overnight visitors staying with friends or relatives	\$22,497,600
Spending of day visitors	\$11,420,800
Total visitor spending	\$85,793,600
Profit to Seattle residents (35% of visitor spending attributable to parks)	
	\$30,027,760
Sales tax receipts attributable to parks	
Sales tax receipts from overnight visitors staying in hotels (6.5% of spending)	\$3,371,888
Sales tax receipts from overnight visitors staying with friends or relatives (3% of spending)	\$674,928
Sales tax receipts from day visitors (3% of spending)	\$342,624
Total tax receipts	\$4,389,440

³ The rest of the sales tax is collected by the State of Washington. Of course, a portion of state spending benefits the City of Seattle, but determining that amount is beyond the scope of this study.

3. DIRECT USE VALUE

Perhaps even more important than their indirect value for property and tourism, Seattle parks provide huge direct benefit to residents: scores of playgrounds, nature trails in Discovery Park, basketball and tennis courts in Jefferson Park, gyms in numerous community centers, the golf course at Green Lake Park, the pickup Frisbee fields of Cal Anderson Park, and much more. Economists call activities on these facilities “direct uses.”

Even though most direct uses in Seattle parks are free of charge, economists can still calculate their value by determining the consumer’s “willingness to pay” for the recreation experience in the private marketplace. In other words, if Seattle’s park system were not available, how much would the resident (or “consumer”) pay for similar experiences in commercial venues? Thus, rather than income, the direct use value represents the amount of money residents save by not having to pay market rates to indulge in the many park activities they enjoy.



Seattle Parks and Recreation

The Burke-Gilman Trail. If Seattle residents didn’t have public access to park and trail amenities, they would have to spend millions of dollars to obtain these benefits from the private marketplace.

The data for quantifying the benefits received by direct users stems from a detailed, professionally conducted, random-digit-dialed telephone survey on park use of 600 Seattle residents. The model used is the “unit day value” method as documented in Water Resources Council recreation valuation procedures by the U.S. Army Corps of Engineers. The unit day value model counts park visits by specific activity, assigning each activity a dollar value. For example, playing in a playground is worth \$3.50 each time to each user. Running, walking, or in-line skating on a park trail is worth \$4, as is playing a game of tennis on a public court. For activities for which a fee is charged, such as golf, using a weight room, or

playing league sports, only the “extra value” (if any) is assigned: that is, if a round of golf costs \$20 on a public course and \$80 on a private course, the direct use value of the public course would be \$60. Under the theory that the second and third repetitions of a park use in a given period are slightly less valuable than the first use (i.e., the value to a child of visiting a playground the sixth time in a week is somewhat lower than the first), we incorporated an estimated sliding scale of diminishing returns for heavy park users. For example, playground value diminishes from \$3.50 for the first time to \$2.25 for the sixth time in a week. We also estimated a seasonal length for different park uses to take into account reduced participation at certain times of the year. (Although some people are active in parks 365 days a year, we chose to be conservative and eliminated seasons with low participation levels. Naturally, some activities such as using an indoor community center or pool are year-round.)

The phone survey, which has an accuracy level of plus or minus 3 percent, revealed residents' park activities and the number of times residents engaged in each activity. Residents were asked to answer for themselves; a representative proportion of adults with children under the age of 18 were also asked to respond for one of their children.⁴

The result of the Direct Use Calculator was \$447,501,085 for 2010.

While it can be claimed that this very large number is not as “real” as the numbers for tax or tourism revenue, it nevertheless has true meaning. Certainly, not all these activities would take place if each had to be purchased, but Seattle residents are unquestionably getting pleasure and satisfaction from their use of the parks. If they had to pay and if they consequently reduced some of this use, they would be “poorer” from not doing some of the things they enjoy.

Table 3. Direct Use Value of Seattle Parks

Facility/activity	Person-visits	Average value per visit	Value
General park use (playgrounds, trails, dog walking, picnicking, sitting, etc.)	97,427,055	\$1.95	\$260,718,966
Sports facility uses (tennis, team sports, bicycling, running, etc.)	38,515,753	\$3.38	\$155,335,172
Special uses (fishing, kayaking, gardening, festivals, concerts, attractions, etc.)	4,648,049	\$6.77	\$31,446,947
Total value of direct use of parks			\$447,501,085

⁴ The survey covered only Seattle residents; the value from nonresident users is captured under tourism.

4. HEALTH VALUE

There is increasing evidence from experts that obesity and physical inactivity have become a major public health problem that has expensive economic consequences. A report released in August 2009 by the U.S. Centers for Disease Control and Prevention estimated that \$147 billion in added costs could be attributed to obesity the previous year. Experts have called for a more active lifestyle, and research suggests that nearby parks, programming at playgrounds, and a walkable urban environment can help people increase their level of physical activity. From the Burke-Gilman Trail, to the tennis courts in Jefferson Park, to the organized sports provided by the Associated Recreation Council, parks and programs help residents become and stay healthier.

The Health Benefits Calculator measures the collective economic savings that Seattle residents realized by their active use of parks. The key data input for determining medical cost savings is the number of park users indulging in a sufficient amount of physical activity to make a difference. The CDC defines this as at least 150 minutes of moderate activity or at least 75 minutes of vigorous activity per week.

The same telephone survey that collected the direct use data (see page 10) also determined residents' physical activities and their frequency. The survey also identified older user respondents by age since seniors typically incur two or more times the medical care costs of younger adults. In order to modify the results to serve the health benefits study, low-heart-rate uses such as picnicking, sitting, strolling, and birdwatching were eliminated. Also, all respondents who engaged in strenuous activities fewer than three times per week were dropped as not being active enough



Seattle Parks and Recreation

Rock climbing with the Outdoor Opportunities program. Parks improve their users' health and reduce healthcare costs by providing a venue for different types of outdoor exercise.

for health benefit, in accordance with CDC guidelines. Likewise, for less vigorous activity, respondents were not valued if they did not engage in activities at least four times per week. Based on studies from seven different states, we assigned a value of \$351 as the medical savings for those who exercise regularly. For persons over the age of 65, that value has been doubled to \$702. The calculator then makes one additional computation, applying a small multiplier (0.95) to reflect the fact that Washington medical care costs are 5 percent lower than those of the United States as a whole.

In Seattle, we estimated that 179,061 residents—165,926 younger than 65 and 13,135 older than 65—engaged actively enough in parks to cut their health costs. The combined health savings due to park use for 2010 was \$64,087,756.

Table 4. Health Value of Seattle Parks

Adults younger than 65 years of age	
Average annual medical care cost difference between active and inactive persons younger than 65 years of age	\$351
Number of adults younger than 65 years of age physically active in parks*	165,926
Medical care cost savings subtotal	\$58,240,026
Adults 65 years of age and older	
Average annual medical care cost difference between active and inactive persons 65 years of age and older	\$702
Number of adults 65 years of age and older physically active in parks*	13,135
Medical care cost savings subtotal	\$9,220,770
Subtotals combined	\$67,460,796
Regional multiplier for medical care costs	0.95
Total annual value of medical care cost savings attributable to parks	\$64,087,756

*Calculations are based on adults engaging in moderate or vigorous activity as defined by the CDC.

5. COMMUNITY COHESION VALUE

Along with schools, churches, and other social gathering spaces, parks are key sources of community cohesion. Studies show that the institutions and places that make up this web of human relationships can make a neighborhood stronger, safer, and more successful. This network, for which urbanist Jane Jacobs coined the term “social capital,” is strengthened in some communities by parks. From playgrounds, sports fields, swimming pools, and ice skating rinks, to park benches, chessboards, and flower gardens, parks offer opportunities for people of all ages to communicate, compete, interact, learn, and grow. The acts of improving, renewing, or even saving a park can build extraordinary levels of social capital in a neighborhood that may be suffering from fear and alienation partially owing to the lack of safe public spaces. Groups such as the Seattle Parks Foundation, the Friends of Seward Park, and the Cal Anderson Park Alliance have garnered support for parks and gathered neighbors for their cause.

The economic value of social capital is not entirely identifiable and is in some ways priceless, but it is possible to tally up a proxy based on real numbers—the amount of time and money that residents donate to their parks. Seattle has thousands of park volunteers who do everything from picking up trash and pulling weeds to planting flowers, raising playgrounds, teaching about the environment, educating public officials, and contributing dollars toward a better city.



Art Wolfe

Pelly Place. Parks are places where people come together. The economic value of this social capital can be measured in volunteer hours and the contributions of nonprofit groups.

To arrive at the proxy number, we tallied all the financial contributions made to “friends of parks” groups, community park organizations, nonprofits, and foundations in 2009, the most recent year available. We also included all the hours of volunteer time donated directly to the city’s adopt-a-park and other volunteer programs as well as to park organizations; we then multiplied the hours by the \$20.85 value assigned to volunteerism in 2009 by the Washington, D.C.-based organization Independent Sector.

The result of the Community Cohesion calculation for the city of Seattle—financial contributions plus the dollar value of people’s time—was \$9,537,639.

Table 5. Community Cohesion Value of Seattle Parks

Dollars donated	\$2,212,992
Hours of time donated (51 organizations)	351,302
2009 value of a volunteer hour	\$20.85
Value of hours donated (line 2 times line 3)	\$7,324,647
Total community cohesion value	\$9,537,639

6. STORMWATER RETENTION VALUE

Stormwater runoff is a significant problem in cities. When rain flows off roads, sidewalks, and other impervious surfaces, it carries pollutants with it, causing significant ecological problems.

The lush parks of Seattle, from the trees of Ravenna Park to the large absorbent surfaces of Discovery and Magnuson Parks, reduce stormwater management costs by capturing precipitation and/or slowing its runoff. Large permeable surface areas allow precipitation to infiltrate and recharge the groundwater. Also, vegetation provides considerable surface area that intercepts and stores rainwater, allowing some to evaporate before it ever reaches the ground. In effect, urban green spaces function like mini-storage reservoirs and are the original form of green infrastructure.



Seattle Housing Authority

High Point Pond. Parks are green infrastructure, filtering and absorbing stormwater otherwise bound for the city's gutters and sewer system.

Our calculation methodology compares actual runoff with parks against the theoretical runoff that would occur if there were no parks. To determine the water retention value of Seattle's parks, we compared the perviousness of the entire park system with the perviousness of the more built-up surrounding city as a whole. The parks are largely pervious, of course, although they also contain impervious roadways, asphalt trails, parking areas, buildings, and hard courts.

of perviousness of the rest of Seattle—in other words, the city without its parkland. The pervious land consists largely of residential front and backyards and private natural areas such as cemeteries, institutional grounds, and office campuses. Naturally, the city as a whole has a higher percentage of hardscape than its parks.

Next, we analyzed the same data for the amount

Third, we plugged in the amount and characteristics of rainfall for the city. Seattle receives just under 39 inches of precipitation per year, largely in the form of fall-winter-spring drizzle.

The Western Research Station of the U.S. Forest Service in Davis, California, has developed a sophisticated model to estimate the value of retained stormwater runoff due to vegetation. Inputs to the model consist of geographic location, climate region, surface permeability index, park size, land cover percentages, and types of vegetation. Using that, we compared the modeled runoff with the hypothetical runoff that would leave the same acreage developed at the average density of Seattle (i.e., with streets, rooftops, parking lots, etc.). In other words, how much more water would flow off the land if Seattle had no parks? This number comes to 171,358,581 cubic feet of water per year.

The final step is to calculate what it costs to manage stormwater using “hard” infrastructure (e.g., concrete pipes, sewers, large holding tanks, and the like). This is not a generally known number and, in fact, is difficult to ascertain. Therefore, to obtain an estimate, we divided citywide spending on stormwater facilities for 2009 by the total amount of water conveyed by the city’s system (i.e., the rain falling on the developed areas of the city). This works out to a cost for stormwater conveyance of \$0.0135 per cubic foot.⁵

Thus, by knowing the stormwater retained by the parks and what the cost of treating that water would have been, we obtained a total annual Stormwater Retention Value of \$2.3 million for the park system of Seattle.⁶

Table 6. Stormwater Retention Value of Seattle Parks (Typical Year)

Typical year	Inches	Cubic feet
Rainfall	38.95	773,112,318
Runoff from parkland		170,915,287
Runoff from same acreage if there were no parks (theoretical)		342,273,869
Runoff reduction due to parks		171,358,581
Cost of treating stormwater (per cubic foot)		\$0.0135
Total savings from runoff reduction attributable from parks		\$2,313,341

⁵ This is likely a low number because it does not fully account for the far greater initial costs of the system that have been paid off since pipes were laid down.

⁶ We also obtained an alternative estimate from city stormwater staff using billing records. In 2009, the Seattle Parks and Recreation Department was assessed \$3.3 million in drainage fees based on the parkland’s rate of imperviousness. However, if parks had the same rate of imperviousness as the rest of the city, the department would have been assessed \$7.3 million. The rate structure thus implies a \$4 million value to the runoff reduction of parks, an even higher estimate than ours.

7. AIR POLLUTION REMOVAL VALUE

Air pollution in cities can harm health and damage structures, creating both environmental and economic problems. Human cardiovascular and respiratory systems can be affected with broad consequences for health costs and productivity—something seen in the many urban-dwelling children with asthma. In addition, acid deposition, smog, and ozone increase the need to clean, repair, or repaint buildings, bridges, and other costly infrastructure.

With its cool, slightly dry summers and damp winters, Seattle is a place where vegetation abounds, and the “urban green” of park trees and shrubs have the ability to remove air pollutants such as nitrogen dioxide, sulfur dioxide, carbon monoxide, ozone, and some particulate matter. Leaves absorb gases and particulates adhere to the plant surface.

The Northeast Research Station of the U.S. Forest Service in Syracuse, New York, has designed a calculator to estimate air pollution removal by urban vegetation. This program, which is based on the Forest Service’s earlier Urban Forest Effects (UFORE) model, is location-specific, taking into account the air characteristics of the city of Seattle. Cities generate dissimilar results based not only on numbers of trees but also on differences in ambient air quality.

Using aerial photography and computerized mapping, we obtained land cover information for all of Seattle’s parks. (Seattle has numerous trees on private property as well as on streets, but this study counts only the value of park trees.) We calculated that 48.1 percent of the city’s 5,468 acres of parks—2,630 acres—are tree-covered.



Kobe Terrace. Vegetation in Seattle parks helps clear the air of pollutants.

Joe Mabel

We then considered the pollutant flow through the area within a given time period (known as pollutant flux), taking into account the concentration of pollutants and the velocity of deposition. (The calculator uses 2000 Environmental Protection Agency hourly pollution concentration data.) We also took into account the resistance of the tree canopy to the air, the behavior of different types of trees and other vegetation, and seasonal leaf variation. We then multiplied the total pollutant flux by tree-canopy coverage to estimate pollutant removal. Finally, we determined the monetary value by multiplying by the median U.S. externality values for each pollutant. The externality value refers to the amount it would otherwise cost to prevent a unit of that pollutant from entering the atmosphere. For instance, the externality value of preventing the emission of a short ton of carbon dioxide is \$870; the externality value of the same amount of sulfur dioxide is \$1,500.

The result of the Air Quality Calculator for the park system of Seattle in 2010 was a savings of \$526,769.

Table 7. Air Pollution Removal Value of Seattle Parks

	Tons removed	Savings per ton removed	Pollutant removal value
Carbon dioxide	7.61	\$870	\$6,624
Nitrogen dioxide	17.55	\$6,127	\$107,533
Ozone	38.76	\$6,127	\$237,502
Particulate matter	36.34	\$4,091	\$148,674
Sulfur dioxide	17.62	\$1,500	\$26,436
Total savings			\$526,769

CONCLUSION

While reams of urban research have been carried out on the economics of housing, manufacturing, retail, and even the arts, there has been until now no comprehensive study in Seattle on the worth of the city's park system. The Trust for Public Land believes that answering this question—How much value does a city park system bring to a city?—can be profoundly helpful and useful. For the first time, parks can be assigned the kind of numerical underpinning long associated with transportation, trade, housing, and other sectors. Urban analysts will be able to obtain a major piece of missing information about how cities work and how parks fit into the equation. Housing proponents and other urban constituencies will potentially be able to find a new ally in city park advocates. And mayors, city councils, and chambers of commerce may uncover the solid, numerical motivation to strategically acquire parkland in balance with community development projects.

Seattle would not be the Emerald City without its lush offerings of parks, parkways, and trails. From Seward Park's forest, to Discovery Park's trails, to the development-enhancing power of Lake Union Park, Seattle provides outstanding value to residents and visitors alike—and the city reaps the benefits.

Research by economists Gerald Carlino and Albert Saiz has concluded that metropolitan areas rich in amenities such as parks, historic sites, museums, and beaches have “disproportionately attracted highly educated individuals and experienced faster housing price appreciation.” Additional research and writing by academics such as Richard Florida and John Crompton have indicated that great parks, trails, and recreational amenities are key ingredients to attracting talent and distinguishing a city as good place to live.

This study has shown local benefits from Seattle's parks on property values and taxes, increased economic development and tax revenue from tourism, improved quality of life from publicly available amenities, a healthier and more interconnected citizenry, and an enhanced ability to deal with the environmental challenges of stormwater management and air pollution.

Determining the economic value of a city park system is a science still in its infancy. More research and analysis are needed regarding park usership, park tourism, adjacent property transactions, water runoff and retention, and other measures. In fact, every aspect of city parks—from design, to management, to programming, to funding, to marketing—will benefit from much deeper investigation and analysis. This study is offered as a mechanism to begin a conversation about the present and future role of parks within the life—and economy—of Seattle.

APPENDIX I – ACKNOWLEDGMENTS

The report was commissioned and funded by the City of Seattle and Seattle Parks Foundation.

The principal authors were Peter Harnik, director of the Center for City Park Excellence, and Ben Welle, assistant director, with help from Coleen Gentles, marketing director, and Elissa Hoagland, intern. Brenda Faber of Fore Site Consulting provided GIS support. Special thanks go to Eric Friedli (acting deputy superintendent) and Rodney Young (GIS specialist) of the Seattle Parks and Recreation Department. Major consultation on the underlying economic formulas for this study was provided by:

David Chenoweth, Ph.D., Health Management Associates, New Bern, North Carolina
John Crompton, Ph.D., Department of Park, Recreation, and Tourism Sciences,
Texas A&M University
E. G. McPherson, Ph.D., U.S. Forest Service Western Research Station, Davis, California
Sarah Nicholls, Ph.D., Department of Park, Recreation, and Tourism Resources,
Michigan State University
David Nowak, Ph.D., U.S. Forest Service Northeast Research Station, Syracuse, New York
Dan Stynes, Ph.D., Department of Park, Recreation, and Tourism Resources,
Michigan State University

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Mark Mead, Seattle Parks and Recreation
Mike McGinn, mayor, City of Seattle
Dewey Potter, Seattle Parks and Recreation
Stanley Roe, King County Department of Assessments
Rebecca Salinas, Seattle Parks and Recreation
Michael Shiosaki, Seattle Parks and Recreation
Kevin Stoops, Seattle Parks and Recreation
Nathan Torgelson, Seattle Parks and Recreation
Christopher Williams, acting superintendent, Seattle Parks and Recreation

APPENDIX II – COLLOQUIUM ATTENDEES

The following individuals took part in the Colloquium, “How Much Value Does a Park System Bring to a City,” in October 2003.

Susan Baird, Denver Department of Parks and Recreation, Denver, Colorado
Kathy Blaha, The Trust for Public Land, Washington, D.C.
Blaine Bonham, Pennsylvania Horticultural Society, Philadelphia, Pennsylvania
Glenn Brill, Ernst & Young, New York, New York
Valerie Burns, Boston Natural Areas Network, Boston, Massachusetts
Patrice Carroll, Philadelphia Managing Director’s Office, Philadelphia, Pennsylvania
Donald Colvin, Indianapolis Department of Parks and Recreation, Indianapolis, Indiana
Ernest Cook, The Trust for Public Land, Boston, Massachusetts
John Crompton, Texas A&M University, College Station, Texas
Dick Dadey, City Parks Alliance, New York, New York
Nancy Goldenberg, Philadelphia Center City Partners, Philadelphia, Pennsylvania
Peter Harnik, The Trust for Public Land, Washington, D.C.
Nancy Kafka, The Trust for Public Land, Boston, Massachusetts
Alastair McFarlane, U.S. Department of Housing and Urban Development, Washington, D.C.
Ken Meter, Crossroads Resource Center, Minneapolis, Minnesota
Sarah Nicholls, Michigan State University, East Lansing, Michigan
Joan Reilly, Pennsylvania Horticultural Society, Philadelphia, Pennsylvania
Dan Stynes, Michigan State University, East Lansing, Michigan
Patrice Todisco, Boston GreenSpace Alliance, Boston, Massachusetts
Susan Wachter, University of Pennsylvania, Philadelphia, Pennsylvania
Guijing Wang, Centers for Disease Control, Atlanta, Georgia
Richard Weisskoff, Everglades Economics Group, North Miami, Florida
Wayne Weston, Mecklenburg Parks and Recreation Department, Charlotte, North Carolina
Jennifer Wolch, University of Southern California, Los Angeles, California
Kathleen Wolf, University of Washington, Seattle, Washington
Matt Zieper, The Trust for Public Land, Boston, Massachusetts

APPENDIX III – RESOURCES RELATED TO THE ECONOMIC VALUE OF PARKS

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Appraisal Review

Waterfront Seattle Project Special Benefit Study

as of October 1, 2019 (Study Date)

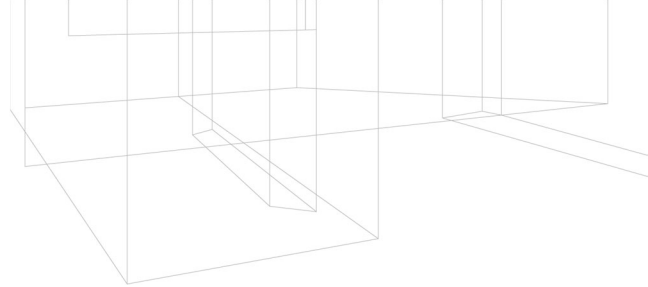


Prepared for
Victor Moses

Prepared by
Peter K. Shorett, MAI, CRE, FRICS

KM Job A20-0228

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March 9, 2020

Victor Moses
1521 2nd Ave., Suite 2304
Seattle, WA 98101

Dear Mr. Moses:

At your request, we have performed an appraisal review of the Final Special Benefit/Proportionate Assessment Study (Study) for the Waterfront Seattle Project (Waterfront Project) Local Improvement District (LID). This review was conducted in accordance with Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) for performing Appraisal Reviews. These services comply with and are subject to the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. A summary of the appraisal reviewed and our conclusions are contained in this report.

The Study concludes that 6,238 properties within a defined LID boundary will benefit from LID improvements that are part of the larger Waterfront Project. The Study provides opinion and analysis that form the basis for the formation of the LID boundary area and then applies value estimates for each of the 6,238 properties before and after completion of the Project.

This review provides an opinion of the appropriateness of the conclusions reached in the Study. We consider the appropriateness of the LID boundary conclusions, the estimates of benefit to the properties in the study, then a review of the value appropriateness before and after the Project for the property that is the subject of this review.

Respectfully submitted,

Peter K. Shorett, MAI, CRE, FRICS
Certified General Real Estate Appraiser
WA License 1100389, exp 4/10/2021



Certification

I certify that, to the best of my knowledge and belief:

- 1) The statements of fact contained in this report are true and correct.
- 2) The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- 3) I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- 4) I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- 5) My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- 6) My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- 7) My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- 8) Peter K. Shorett has not made a personal inspection of the property that is the subject of this report.
- 9) I have not previously appraised the property within the three years preceding our acceptance of this engagement.
- 10) Jesse Baker provided significant real property appraisal assistance to the persons signing this certification.
- 11) The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the *Code of Professional Ethics and Standards of Professional Practice* of the Appraisal Institute.
- 12) The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- 13) As of the date of this report, Peter K. Shorett have completed the continuing education program for Designated Members of the Appraisal Institute.

Peter K. Shorett, MAI, CRE, FRICS
Certified General Real Estate Appraiser
WA License 1100389, exp 4/10/2021



Limiting Conditions

Limiting conditions specific to this appraisal are as follows:

- 1) The appraiser has made no survey of the property and assume no responsibility in connection with such matters. Any sketch or identified survey of the property included in this report is only for the purpose of assisting the reader to visualize the property.
- 2) It is assumed that there are no hidden or unapparent conditions of the property, subsoil or structures (including asbestos, soil contamination or unknown environmental factors) that render it more or less valuable. No responsibility is assumed for such conditions or for arranging the studies that may be required to discover them.
- 3) No responsibility is assumed for the legal description or for matters including legal or title considerations.
- 4) The information identified in this report as being furnished by others is believed to be reliable, but no warranty is given for its accuracy.
- 5) The appraiser is are not required to give testimony or attendance in court by reason of this appraisal unless arrangements have previously been made.
- 6) The allocation of total value to land, buildings, or any fractional part or interest, if shown in this report, is invalidated if used separately in conjunction with any other appraisal.
- 7) The appraiser is competent and qualified to perform the appraisal assignment.
- 8) Valuation Advisory Services is a subsidiary of Kidder Mathews, a full service commercial real estate brokerage firm. On occasion, employees or agents of the firm have interests in the property being appraised. When present, interests have been disclosed and the report has been made absent of any influence from these parties.

RESTRICTION UPON DISCLOSURE & USE:

Disclosure of the contents of this appraisal report is governed by the By-Laws & Regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraisers or the firm with which they are connected, or any reference to the Appraisal Institute or to the MAI designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the undersigned. No part of this report or any of the conclusions may be included in any offering statement, memorandum, prospectus or registration without the prior written consent of the appraiser.



Summary

Property Appraised in Study	Residential Condominium 1521 2 nd Avenue, Unit 2304 Seattle, WA
Study Prepared By	ABS Valuation Robert J. Macaulay, MAI 2927 Colby Avenue, Suite 100 Everett, WA 98201
Study Reviewed By	Peter K. Shorett, MAI, CRE, FRICS Kidder Mathews Valuation Advisory Services 601 Union St., Suite 4720 Seattle, WA 98101
Intended Users	This appraisal review is prepared for you, City of Seattle Hearing Examiner Ryan Vancil, the Seattle City Council members, and Robert J. Macaulay, MAI, appraiser with ABS Valuation
Intended Use	To be used in support of the property owners appeal of the Special Benefit Assessment proposed to be levied against the property.
Purpose of the Assignment	To determine the appropriateness of the conclusions reached in the Final Special Benefit/Proportionate Assessment Study (Study) for the Waterfront Seattle Project Local Improvement District (LID).
Date of Appraisal Under Review	Prepared – November 18, 2019 Date of Value – October 1, 2019
Date of Reviewer's Opinion	Prepared – March 9, 2020 Date of Value – October 1, 2019
Extraordinary Assumptions or Hypothetical Conditions to this Review	None



**Scope of the
Review**

This is a review and critique of the value methodologies and conclusions in the Study and the estimate of value increase for the property before and after the LID improvements are in place.

The scope of work included a review of the Study, its Addendum, a general inspection of properties within the LID boundary area, location where the LID improvements will be made, additional research on the case study examples used in the Study and interviews with market participants in those markets.

The results of the review are contained in this report.

**Value Conclusion of
Study Under
Review**

APN	Value Before	Special Benefit %	\$	Value After	LID Assessment
253883 0850	\$2,412,200	2.7%	\$65,129	\$2,477,329	\$25,519



Reviewer's Conclusions

It is concluded that the assignment results in the Study are misleading and do not provide the necessary evidence to provide credible opinions of property value increases before and after the LID improvements are in place. The appraiser has failed to provide the proper support to conclude that the LID improvements provide special benefits to the properties in the LID boundary area, in contrast to the more common general benefits that park improvements typically create for the benefit of the larger community and region.

The Study determines special benefits based on case studies that represent completely different neighborhood settings. As explained in the attached exhibit, every case study considered was in a significantly inferior condition before the project improvements were installed. Most are significant urban renewal projects that have changed the landscape of surrounding neighborhoods and communities, and dramatically changed the way locals and visitors interact with those communities. Those case studies starkly contrast with the Seattle waterfront that even today, is a very desirable community asset with views to the west towards the Puget Sound and the Olympic Mountains. As part of the Viaduct removal, the City must restore the waterfront with roads, sidewalks, landscaping and other streetscape improvements regardless of the LID improvements. The LID improvements marginally add to what would already have been a very desirable property condition before the improvements. The case studies contained in the Study illustrate benefits received in those communities well beyond the level that the LID improvements will provide.

Further, the economic studies considered in the Study focus on the overall benefit of the projects rather than the incremental impact such as the LID improvements provide. None fairly represent incremental property value impacts such as those contemplated from the LID improvements. And the results of the studies focus on benefits to a larger study area than those established in the LID boundary area.

The estimated value increases are so small that it is virtually impossible to estimate at the level of precision implied in the Study. The value increase estimates of 0.5% to 4.0% are below the margin of error typically accepted within real estate appraisal practice.

The increase in value reported in the appraisal is not credible and is not reliable.

Attached to this review is Exhibit 1 that provides further support and explanation for these opinions.

The above opinion relates to how the Study fails to provide sufficient information to enable the users of the appraisal to understand the report under USPAP Standards Rule 6-1 for the 6,238 properties within the LID Boundary area. The following provides a more detail analysis of how the Study fails to support the opinions rendered in that report specific to the residential condominium unit that is the subject of this review.



Standard 5 of the Uniform Standards of Professional Appraisal Practice (USPAP) speaks to the development of a mass appraisal and states that *“In developing a mass appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals.”* Standard 6 guides how the results are to be reported. It is my opinion that the appraiser has failed to provide the necessary evidence to provide a credible appraisal.

USPAP Standards Rule 6-1 states that:

Each written report of a mass appraisal must:

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly

The extent of research and projects used to formulate the appraisers opinions are described on page 44 of the Study. It includes consideration of impacts on property values of and the geographic radius of special *probable* benefit created by such projects of other properties around the country, research of published studies and interviews with real estate brokers and appraisers in many of the affected neighborhoods.

However, the appraisal states:

1. While aspects of the projects are discussed and used for comparison, none of the projects are highly similar to the Waterfront Seattle Project LID (i.e., differences in view amenity, specific improvements, neighborhood and parcel characteristics, etc.), and
2. Ongoing and proposed construction will have profound impacts on market value of individual subject properties, the magnitude of such impacts, considering the current strength of the local market demand, is the major influence on property values with waterfront projects (the subject and others, including removal of the viaduct) contribution in varying degrees.

These statements imply a low level of precision to the estimates in the Study. As stated in the report, the projects considered are neither “highly similar” and are influenced by “external factors” and impact the project element studied. These statements simply confirm that determining any value increase from the LID Improvements beyond those that would have otherwise been in place in the before condition is remote and speculative. Again, the appraiser fails to employ the most relevant metric for determining special benefits for this specific property type – matched pair analysis.

The Study considers six case studies in the report. However, none of the case examples are in anyway similar to the nominal level of improvement that the LID Improvements provide above the base condition assumed in the “before” condition.



The following explains why the case examples in the ABS report are not relevant for the study of value increases from the LID Improvements.

Case Studies

None of the case studies offer comparison discussion or provide analysis specific to the value of high-end residential condominium units, or for that matter, hotel properties along with most the other property types within the LID Boundary Area. They simply fail to provide the necessary support for the increase in value for a nominal change in condition from the LID Improvements.

Tom McCall Waterfront Park, Portland

This case study only references office and retail uses. The narrative states that interviews were conducted with area brokers for residential, commercial and office uses, but the report only comments on value influences for office and retail uses. There are no statements about how the multifamily residential (apartments), residential condominium units or hospitality (hotel) markets are affected. A statement on page 50 says research from CoStar shows a 16% increase in property values, but the report fails to explain if this is for office, retail, or other property type, or for what time period.

Further, there is no date stamp on the events and associate value increases reported in the Study. It notes that renovation of the existing park began in 2003 and continued into 2011, a nine-year time frame when economic conditions were changing rapidly. It is not clear if the reported value increases are related to the economic growth incurred leading to the great recession in late 2008, or after it was named one of America's greatest public spaces in late 2012 when the economy was well underway with its economic rebound.

There is no compelling evidence in this case study, as reported, that residential condominium values like the property being appraised would increase from the proposed LID Improvements. The same is true for hotel properties.

Kidder Mathews has had an office overlooking the park for many years. Steven Klein, Executive Vice President and Managing Director of the Portland office states: "In my opinion, having been in the KM office directly across the street from the Park for 14 years and one block off for the past 2 years, I have seen no difference in activity in the park. The biggest benefit is a better view looking east, and that's about it. Over the last 2 years they have closed one of the two north bound lanes of Naito Parkway and created a bike lane, which has frustrated many of the drivers who use NP to get to those buildings closer to the park. Traffic gets pretty backed up at times. I really don't see much, if any, rent premium for buildings closer to the park. In fact, the space that we moved out of in the Umpqua Plaza, directly across from the park, with exceptional view, sat vacant for two years until it was just recently leased. Some would say that being located closer to the core downtown area or the streetcar would be more of a benefit."

Rose Kennedy Greenway, Boston

This is a completely different redevelopment scenario than the proposed LID Improvements. The Rose Kennedy Greenway results from moving elevated Interstate 93 underground that opened 17 acres of what was a physical barrier separating East and West Boston. It is the byproduct of the Big Dig, the underground tunnel megaproject completed in 2007 for over \$8.08 billion.



Rose Kennedy Greenway, Boston MA Above, Before (left) and After (right)

This redevelopment opened the surface right of way that was turned into a 15-acre greenway with substantial surface improvements for neighborhood connectivity. Improvements include water attractions, beer and wine gardens, plants and landscapes, carousel and food trucks along with the bike and walking trails. The difference before and after the project completion is substantial.

The Study does reference increases in residential values, which is not surprising given the magnitude of this project compared with the minimal impact that the LID Improvements will provide compared to the condition of the Seattle Waterfront without these improvements in place.

Hudson River Park, New York, NY

This land before the Hudson River Park is described on the internet as wasteland with warehouses of no value demolished to make way for the Federal and State funded park. It was a complete transformation of underutilized land into a thriving regional park. Construction of the park began in the 1990's and was complete over several stages through the 2010's.



The park was improved with sports fields, mini golf, a carousel, a promenade, dog parks, play areas, bike paths and other waterfront amenities. Like the Rose Kennedy Gardens Greenway, this project is a dramatic change in land use and complete redevelopment of the area. It is such a vastly more impactful project than the LID Improvements for the Seattle waterfront it spurred new residential condominium construction.

Embarcadero, San Francisco, CA

The Embarcadero was destroyed during the 1989 Loma Prieta earthquake requiring demolition and replacement transportation improvement alternatives as it was a main transportation link into the City of San Francisco. Demolition of the ruined viaduct was completed by 1991 and a new transportation grid and project improvements were completed in early 1990's. This project was developed by necessity, but the City did have input on its design and used the opportunity to better a waterfront once separated by the elevated Embarcadero viaduct structure. It opened access to the waterfront from the City along with desirable views east towards San Francisco Bay.



Ferry Building, San Francisco. Before Loma Prieta Earthquake and after.

The study appropriately states there were no special benefits to residential and retail properties beyond 1 to 2 block radius from the expressway, the views east towards the Bay are still blocked for those properties.

Millennium Park, Chicago, IL

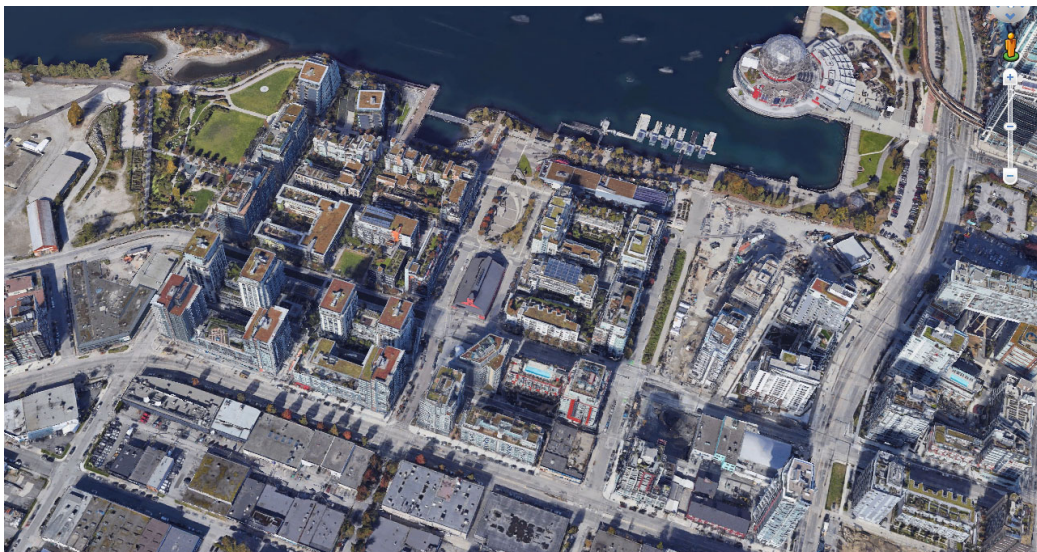
Like the Rose Kennedy Greenway and Hudson River Park, Millennium Park was a total transformation of an underutilized large Former rail yard. The 24.5 acre former rail yard was transformed into one of the most accessible and innovative public spaces. It was completed in 2004 for nearly \$500 million paid through taxpayers and private donors. As the reader can see, this is an extraordinary renovation not even close to the magnitude of the LID Improvements.



The citations in the Study indicate that the renovation resulted in new construction and housing stock. It is also reported that “To be sure, some of the building would have occurred to the degree and not with the speed it has”. And while the Study touts the economic benefit to the City of Chicago, it only cites a study that measured increases in value from better views, not because of the redevelopment project.

Southeast False Creek Conceptual Plan/Stanley Park, Vancouver B.C.

Much like the three previous case studies, the Southeast False Creek redevelopment is a complete transformation of a neighborhood that far exceeds the scale of development contemplated for the LID Improvements. The 80-acre site has been in redevelopment since the mid 1990’s and was the site of the Vancouver 2010 Olympic and Paralympic Village. The photos below show a complete transformation of the neighborhood from what was once underutilized industrial land.





The only real findings from these studies for multifamily projects are:

- Redevelopment of an under improved area will likely result in gentrification and new residential construction.
- Premiums are paid for properties with superior view orientations and waterfront amenities.

The performance of this redevelopment project is not comparable to possible value increases resulting from the LID Improvements.

Olympic Sculpture Park

The Study discusses this public improvement, which is about one half mile northwest of Pike Place Market, and the location of the Overlook Walk. The Study talks about how the park was built on a contaminated brownfield, that it is a locational amenity, remains a draw to occupants of multifamily property, but is not a deciding factor in overall asking rental rates and vacancy percentages. Absent the park and with the continued existence of an abandoned and hazardous industrial area, it was the opinion of most brokers and managers that this would be a negative factor affecting overall rental and vacancy rates. From the interviews, an aesthetically pleasing open space amenity is perceived as a positive influence for the surrounding market area.

The condition of the surrounding properties to the Olympic Sculpture Park before and after are really no different than the case studies examined above. Why there are no implied increase in property values reported in the Study is not clear, maybe there are none. The impacts to properties around this project are no different from in the other renovation examples.

Conclusion

There is no empirical evidence to support property value increases for high end, west facing, residential condominium units from these case studies in the before and after condition assumed in the Study. To do draw such a conclusion is misleading.

Economic Studies

2019 HR&A Economic Study

In Exhibit 1 to this appraisal review, the HR&A Economic Study analyzes the entire regional waterfront project, including a geographical area far greater than the LID Boundaries used in the Special Benefit Study. If further analyzes the project in its entirety, and does not differentiate between the incremental difference between the “before” and “after” conditions assumed in the ABS report. Therefore, the results of the report overstate the economic impacts to properties because of the LID Improvements.

The ABS report errors in referencing that the enhanced waterfront has the potential to add 1.5 million new net visitors generating \$191 million in annual visitor spending, among other statistics



noted in the report, without disclosing that this data is not specific to the LID Improvements and that the actual impacts of these improvements were not within the scope of the HR&A Study. Reliance on the HR&A report by ABS is misleading.

Crompton

Exhibit 1 to this appraisal review outlines the relevance (or lack thereof) of John L. Crompton's economic analysis 2001 (updated 2014) study entitled "The Impact of Parks on Property Values: A Review of the Empirical Evidence" referenced on pages 45 – 47 of the ABS report on how it relates to property values with and without nearby parks. The report fails to cite the actual study used in the ABS analysis - "THE PROXIMATE PRINCIPLE: The Impacts of Parks, Open Space and Water Features on Residential Property Values and the Property Tax Base". This is the source for the statistical data used in the ABS appraisal (PDF pages 19, 20 & 21).

It is important to understand that the results of the studies are specific to residential uses and does not quantify or qualify the economic benefits for other property types such as office, hotel, retail, special purpose or government use properties.

Further, the study measures the premium that people are willing to pay for a property located close to parks and open space areas compared with a home that does not have this amenity. But it does not measure the granular difference between what would already be considered a park like setting of the Seattle Waterfront in the before condition to that with the LID improvements in place.

Last, the study determines the incremental amount of taxes that would be generated by each property to pay the annual debt charges required to retire the bonds use to acquire and develop the park. The purpose of the study has nothing to do with the assessment of special benefits.

From this study, ABS estimates that condominium values will increase by 5% within a 3 blocks of the new amenities. However, this opinion implies a linear or straight-line benefit for these three blocks. This contradicts the Crompton study results that show the most benefit is within the first block immediately adjacent to the park, diminishing exponentially with distance to the amenity.

Crompton concludes that the area of proximate impact of a park should be limited to 500 feet or three blocks. The empirical results suggest this is likely to capture most the premium from small neighborhood parks and 75% of the premium from relatively large parks. The remaining 25% will dissipate over properties between 500 and 2,000 feet from the amenity as shown on the graphic below (page 85).

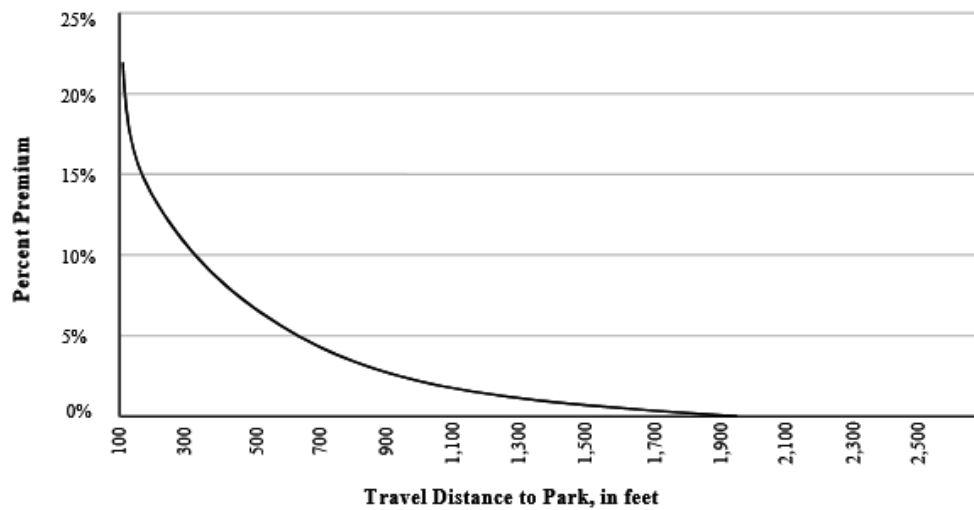
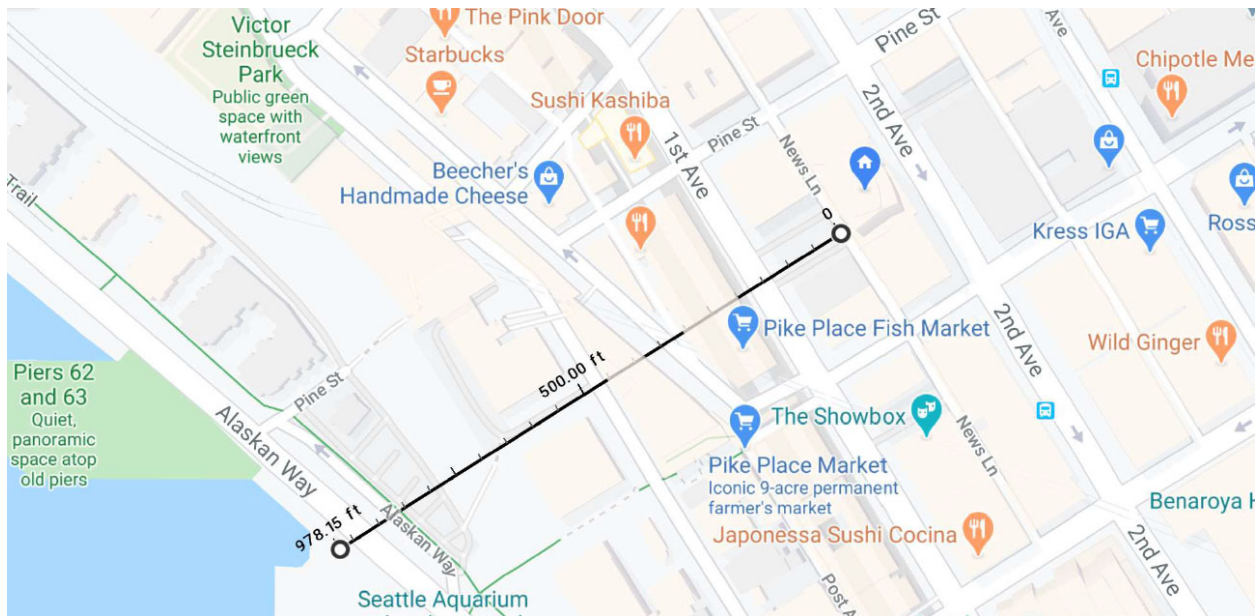
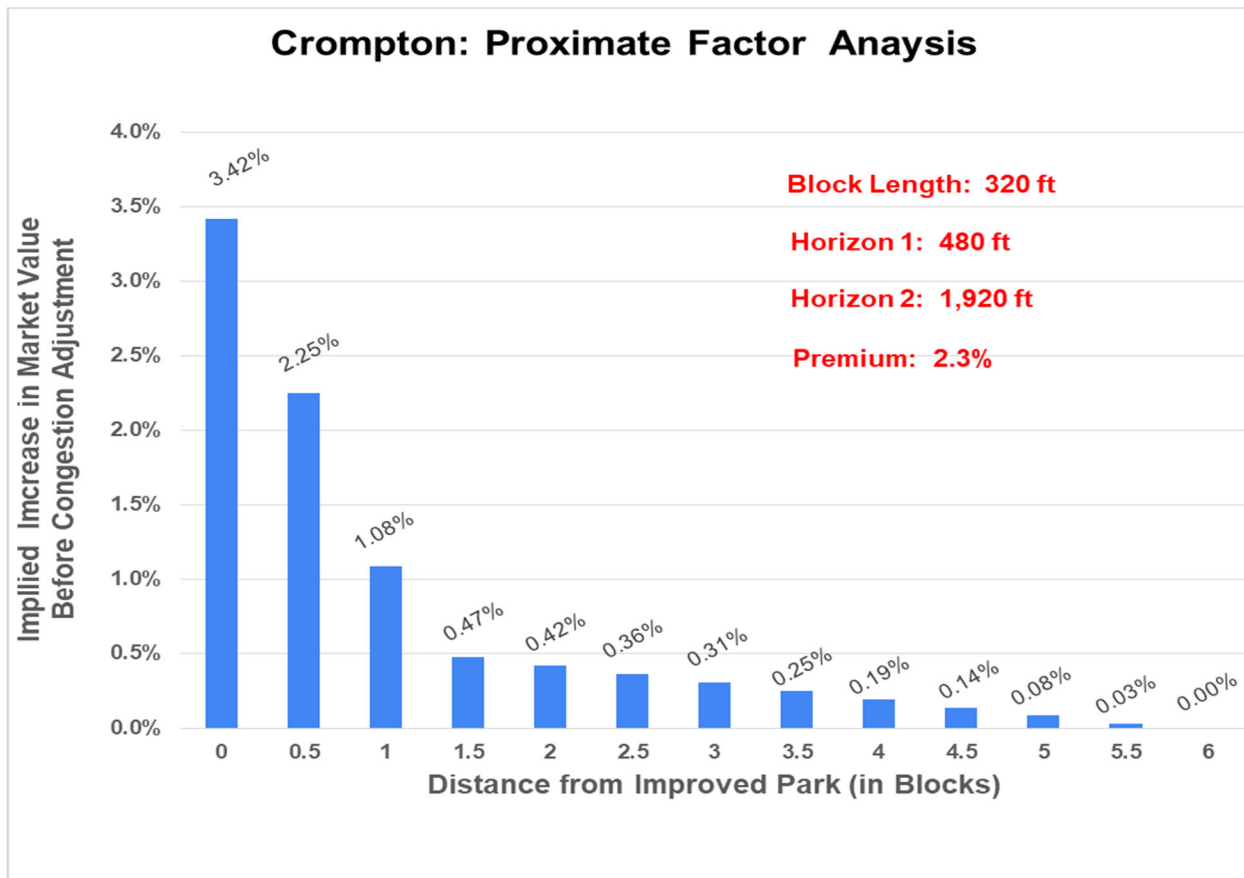


Exhibit 3-5 Impact of Proximity to Parks (14 Neighborhood Parks, Dallas-Fort Worth Metroplex)

The 1521 2nd Avenue Condominiums are approximately 1,000 feet from the primary park improvements or slightly more than three city blocks.



Applying the principles of Crompton's research for a large park adapted to Seattle city blocks and incorporating the highest level of benefit estimated in the ABS report for a condominium (Four Seasons at 3.42%) results in a 0.31% benefit for the property.



The map and financial analysis presented was prepared by Victor Moses, appellant to the Waterfront LID, Unit 2304 at 1521 2nd Avenue, Seattle, WA. His research and analysis is attached to this review as Exhibit 2. I have reviewed his work and concur with his analysis.

Even if one were to agree that the LID Improvements provided special benefit, which I don't believe has been adequately established, properly using the Crompton analysis would imply a benefit of about 0.3% compared with the ABS report that estimates a value increase of 2.7%.

Using the value estimate in the ABS report, this would result in an LID assessment of:

Market Value Before LID Improvements		\$2,412,200
Special Benefit	0.3%	\$7,237
Market Value After LID Improvements		\$2,419,437
Assessment	39.2%	\$2,837

The Assessment shown above is for the cost of all the LID improvements. It includes no adjustment the potential negative impact on value from the improvements made along the Pike/Pine Corridor. Exhibit 1 to this appraisal review concludes these to be general street beautification improvements, something the City of Seattle would otherwise be obligated to provide as part of ongoing maintenance and regular upgrade initiatives. Mr. Moses provides his



perspective on the negative impact of these improvements in Exhibit 2. It is a more detailed analysis, including increased pedestrian traffic on Pike/Pine nor the impact of changes to make both of those streets “shared use” pedestrian between 1st and 2nd Aves., separation of the Pike/Pine Improvements and lack of tree maturity. These are not considered in the ABS report.

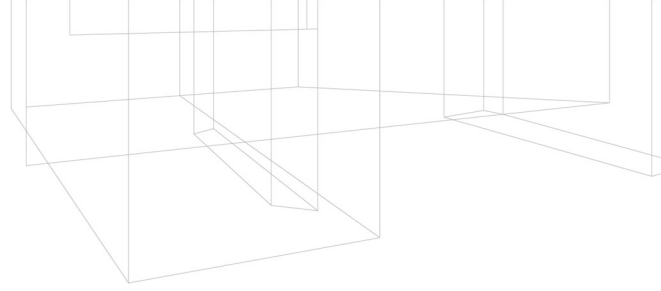


EXHIBIT 1 – ATTACHMENT TO APPRAISAL REVIEW

This attachment provides support for the opinions in the accompanying appraisal review. It is not intended to be a standalone document and can only be used in conjunction with that appraisal review report.

This letter provides a descriptive overview of the Waterfront Seattle Project (Project) proposed by the City of Seattle and the appropriateness of the Special Benefit/Proportionate Assessment Study (Study) prepared by ABS Valuation for assigning assessments to properties for partial funding of the Project through a Local Improvement District (LID) special assessment.

Executive Summary

Following the removal of the Alaskan Way Viaduct, the City of Seattle plans to construct a park promenade along the water, construct a new surface street along Alaskan Way, rebuild Pier 58 and Pier 62, build an elevated connection from Pike Place Market to the waterfront, and improve east-west connections between downtown and Elliott Bay. The Project will be a \$724M investment planned for completion by 2024.

The City adopted the ordinance to create the formation of the LID for partial payment of the Project. ABS Valuation prepared their Study with an October 1, 2019 date of value released to the public on or about January 10, 2020. The Study estimates the before and after value of property within a defined LID boundary area. The report includes 6,238 properties within the LID boundary and concludes a value increase because of the Project equal to \$447M. The City has allocated \$175.5M of the Project cost to these properties through the formation of the LID.

A LID is an unusual funding mechanism, especially for a project of this magnitude. The last major LID formed in the region was for the South Lake Union Streetcar in 2007. Funding for the park projects noted in the Study and accompanying reports was from tax incremental financing, transportation funds, City, State or Federal funds and grants, public, private, or philanthropy. None were funded with a LID.

It is important to understand the property conditions before and after the LID improvements that the Study is attempting to value. The Project is a component of a larger effort to restore the Seattle waterfront following the removal of the Alaskan Way Viaduct. As part of its removal, the City must restore the waterfront with roads, sidewalks, landscaping and other streetscape improvements to current design standards regardless of the LID improvements. The LID improvements add on to a project that is already schedule for construction.

Up to the release of the Study, the condition of the property before the LID improvements was largely unknown because the City had not prepared drawings and exhibits showing the difference in the property before and after with the LID improvements in place. These conditions were just provided as an addendum to the Study and help explain the marginal difference between the property condition before and after the LID improvements.

From this, the Study attempts to determine the value increase from these LID improvements for a very large grouping of properties from what would already have been a very desirable property condition without the LID improvements.

It is our conclusion that the assignment results in the Study are misleading and do not provide the necessary evidence to provide credible opinions of property value increases before and after the LID improvements are in place.

1. The difference in the property condition before and after the LID improvements are in place is overstated.
2. The LID improvements provide a general, not special benefit. There is insufficient evidence in the Study to conclude that the LID improvements provide special benefits to the properties in the LID boundary.
3. The LID boundary area is too large.
4. The value increase from the LID related improvements opined in the Study of 4% or less is within a margin of error for mass appraisals, and therefore is remote and speculative.
5. There is inequitable analysis between property types and uses.
6. Many values are overstated.
7. The Study relies on a report prepared by HR&A Advisors that fails to consider the economic impacts if the LID improvements were not funded.

1. Difference in the Before and After Condition

The Study gives the impression that the LID improvements will transform the Project to a greater level of improvement than will actually be realized.

The LID improvements will convert public space to a dedicated park, but it does not bring better connectivity to Pioneer Square, north towards Colman Dock and the retail piers (54 through 57) to Union Street. Those connections already exist.

The Study states: "... With the LID project completed, accessibility to the waterfront from nearby areas including the Pike Place Market, downtown business district and Pioneer Square will vastly improve. On an overall basis, referring the economic studies and rating system discussed herein, *the waterfront area in general improves from a subjective quality rating of average in the "before" scenario to excellent with the LID project completed.*"

The Overlook Walk will provide a grand entrance from the Market to the waterfront, but for decades, tourists and visitors have found their way to the waterfront. Access to the waterfront from downtown Seattle will improve near Pike Place Market in the after condition, but the improvement is not such that it creates a special benefit.

Properties around the Project will still enjoy the spectacular views west towards Puget Sound, the Olympic Mountains to the south towards Mount Rainer, some of the many reasons visitors are *attracted* to Seattle. Adding the LID improvements marginally enhances that experience above and beyond what would be in place without the LID improvements. Even today, with all the construction from the removal of the Alaskan Way Viaduct, Sea Wall replacement and Washington State Ferry Terminal construction, the waterfront remains an active and vibrant

tourist destination. There is no market evidence in the report that waterfront access would change from average to excellent because of the LID improvements.

There are too many other amenities in the region attracting tourism to suggest that the LID improvements singularly will cause property values to increase. Seattle is already blessed with attractions like the Pike Place Market, Pioneer Square, International District, Seattle Center, Space Needle, Chihuly Garden and Glass, Seattle Monorail, Seattle Art Museum, Washington State Ferries, the Great Wheel, T-Mobile Park, CenturyLink Field, Hiram Chittenden Locks, Discovery and Myrtle Edwards Parks. There is competition for tourist dollars from these area attractions. It's virtually impossible to identify a percentage of value increase from the LID improvements, and to conclude that the LID improvements will substantively change visitor preferences is remote and speculative.

There are consequences from the LID improvements not considered in the report, such as losing street parking. The renderings show a loss of at least 60 parking stalls along Alaskan Way in a market already short of parking. Also not considered are the impacts to properties where tree density will increase, and views will be lost from the lower level of some buildings.

The Study also ignores the impacts for development not expected to be completed until 2023/2024. Work will be ongoing including the completion of Pier 62, construction of a new pedestrian bridge, stairs and an elevator on Union Street from Western Avenue to Alaskan Way. In 2021, the Overlook Walk, a main park promenade along the water and piers with a bike bath, a new park on Pier 58 and additional connections to Colman Dock will be built. The new Seattle Aquarium Ocean Pavilion will not be completed until 2024. The Study also ignores the uncertainty of completing a five-year project on time, nor does it consider changes in project scope or cost overruns, real elements in any development the magnitude of the Project.

It also ignores the impacts of construction over the next five years in its analysis. The construction along the waterfront has been disruptive and has negatively affected property value. Retail sales are down and will expect to be soft during project construction.

The following exhibits present a better visual of the difference before and after the LID improvements. The most impactful consist of the Promenade, Pier 58 decking, Union Street Staircase and Overlook Walk. While the LID improvements create a more park like setting, the condition of the roads, bike trails, landscaping and streetscape after completion is marginally improved from the condition before. The reader can see the marginal increase in property condition that visitors will experience because of the LID improvements.

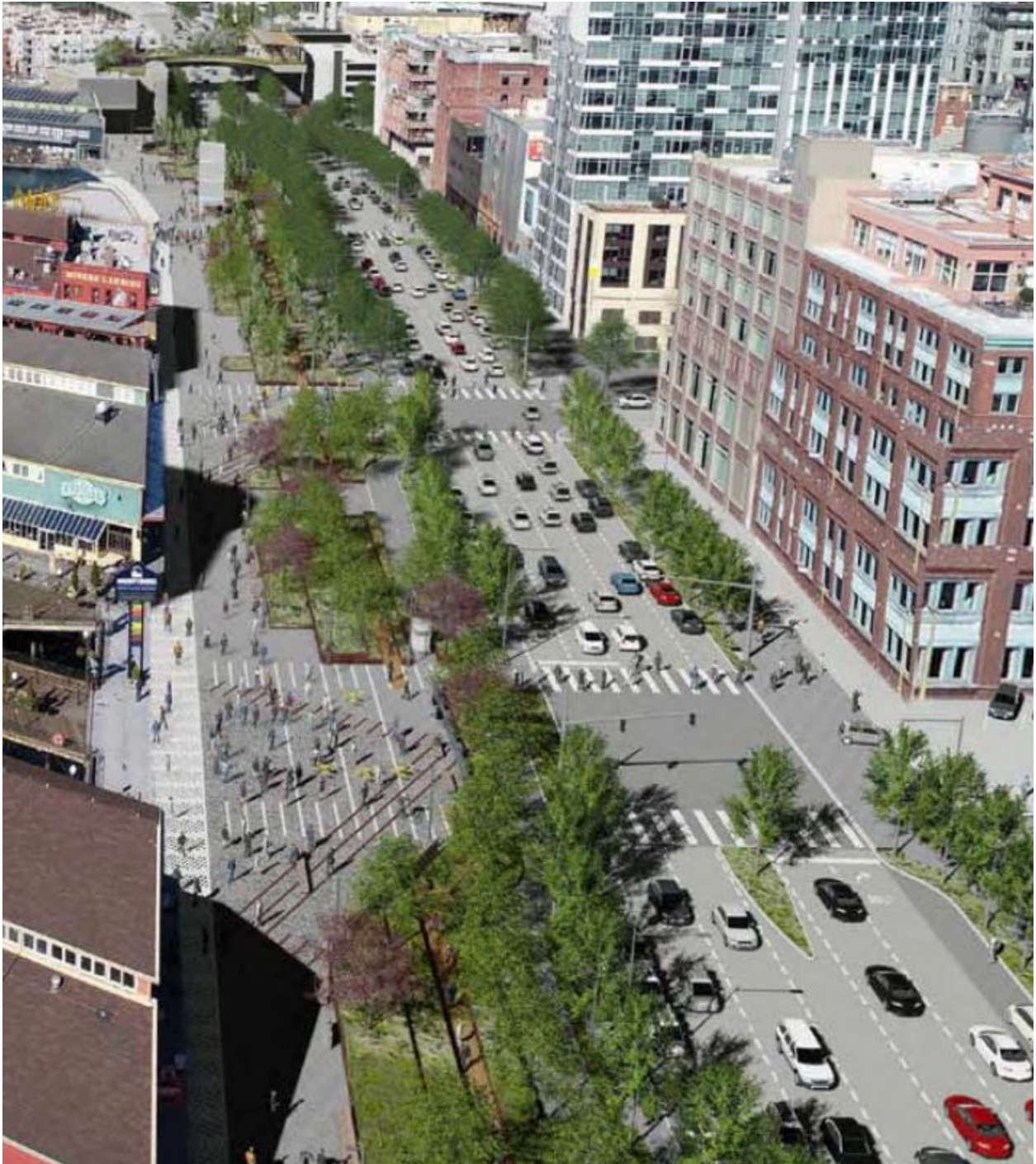
Promenade

Before

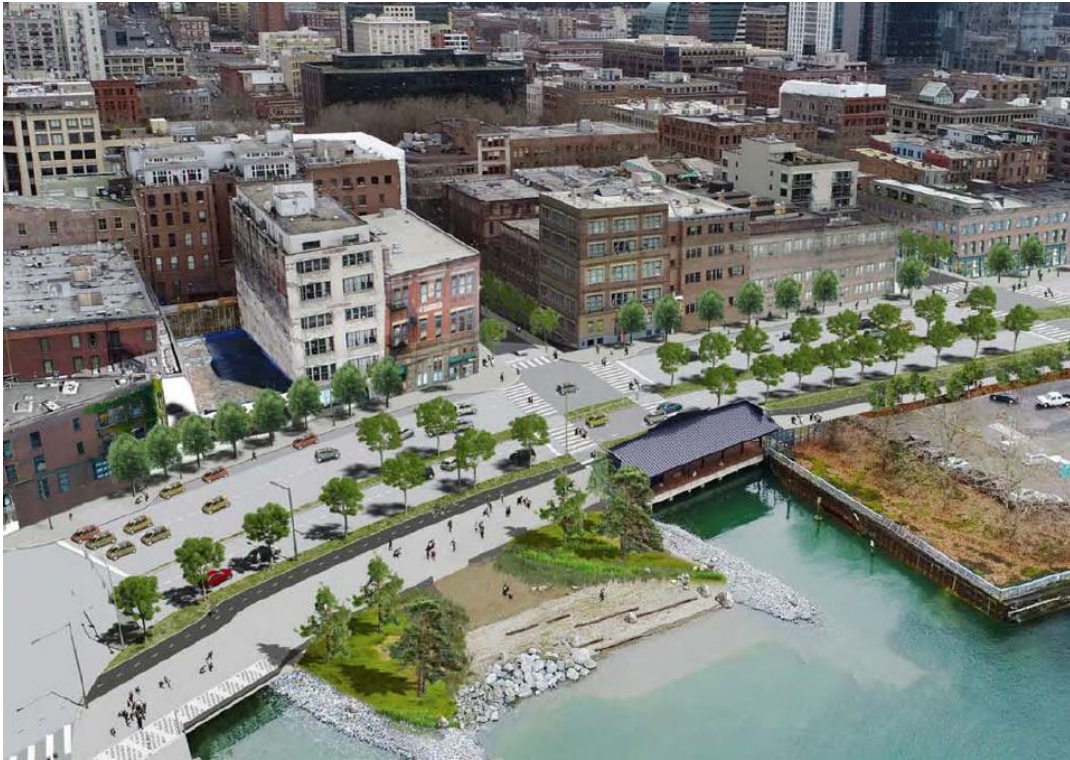


After

The area along Elliott Bay stretching from about Pine Street south to Dearborn Street will add landscaping, pedestrian corridors, bike paths, and park elements (benches, artwork, etc.).



Before



After



Pier 58

Waterfront Park is improved with a boardwalk & a pair of sculptures, plus views of the skyline & ships in dry-dock. There is a mix of plantings, public gathering areas and concrete amphitheater, fountain and seating areas.

Before



After

The LID improvements will create a larger platform with children's play area and raised lawn area. The possible bathroom would not be funded by the LID.



Union Street Pedestrian Extension

Present access from downtown Seattle is along a staircase leading down from the Four Seasons Hotel, to another staircase from Western Avenue to Alaskan Way.

Before



After

Improvements will include a new staircase, pedestrian areas, benches and artwork.



Overlook Walk

Current access to the waterfront from the Pike Place Market is the Pike Street Hill Climb, a series of steps or by elevators from the Skybridge to the Market Garage. These access points remain unchanged in the after condition.

Before and After





The rendering for the property in the before condition after the Alaskan Way realignment is shown below. The Pike Street Hill Climb and Skybridge/Market Garage elevators would remain as the primary points of access to and from the market. The rendering is a little misleading because it does not include the new \$113M Seattle Aquarium pavilion in the before condition. The Project will include \$34M in already identified City of Seattle funding as part of the Project outside of the LID improvement cost. The remaining costs will be funded by \$60M in private donations and \$19M from King County, Washington State and Federal sources. It is expected to be completed by 2024. The rendering shows a “no aquarium” alternative when in reality, it should be in place around the time the LID improvements are completed.



After

The Overlook Walk is the most significant improvement of the project. A pedestrian bridge and landscaped public space will cross over the Elliott Way surface street. It will include substantial public open space connecting the north end of the Pike Place Market with the waterfront. The Pike Street Hill Climb and Skybridge elevators are still in place in the after condition, and the aquarium improvements are shown as completed.



2. General versus Special Benefits

General benefits are easy to recognize such as an improved system of highways, or regional airport or new ferry terminal, since everybody in a community benefits from that improvement. General benefits are those that accrue to an entire neighborhood, community or region.

Special benefits are more difficult to define. They add value to a property because of a specific improvement as distinguished from those enjoyed by the public. Special benefits are easy to recognize when there is an actual physical improvement to a property, such as when water or sewer lines are installed, or a storm water retention system to keep a property from flooding is added, or a new freeway off-ramp serving an area once distant from freeway access is built. The benefit must result directly, uniquely and specifically from the public project to individual parcels.

The Study fails to properly determine that the LID improvements create special benefits to the properties within the LID boundary area. The case examples in the Study provide only anecdotal information about the project's general benefits. It does not employ a traditional "matched pair" analysis that would provide discrete value increase metrics from sale transactions for properties near these projects compared with those removed from the project influence. The proper measure of benefit is to compare like property transactions with and without the variable that is the project.

Moreover, the value increases noted in case studies contained in the report are not reflective of conditions even close to the LID improvement component of the project and are misleading. Virtually every case example cited in the Study are substantially more impactful than the LID improvement project. The High Line in New York City, for example, was an abandoned and unused elevated railroad that was a barrier and blight to the adjoining properties. The project improvements were so substantial, that it is now one of the more noted gentrification initiatives in the country. The Rose Kennedy Greenway in Boston also brought a major change to the area. The surface interstate highway was put underground and converted to a regional park. Not only had the interstate generated noise, it had posed a physical barrier that separated neighborhoods, whereas the project eliminated the noise and allowed for recreation and walking between neighborhoods.

We researched the case studies cited in both the Study and referenced HR&A reports. The changes in the condition before and after were so substantial that they dwarf the difference between the condition of the property before and after the LID improvements, and are not credible sources for opinions of value. Examples of the case studies used in the Study are discussed below.

Tom McCall Waterfront Park, Portland OR

Before

The original 37-acre park was completed in 1984. The park was doubled in size following its southern expansion in 1999, resulting in a public space that spans about 1.5 miles on the west side of Willamette River. While the park offered water views, the park itself and the immediate neighborhoods adjacent to the park, and extending north and south from Burnside, were considered unsafe and not attractive. Upgrades were needed to the seawall. Public events such as the Saturday Market and the Portland Blues Festival were established.

After

Redevelopment of the park was completed in 2011. The primary arterial, Naito Parkway, was reconfigured and overall improvements to the park included new pathways, public gardens, fountain upgrades, and construction of three plazas for events. Salmon Springs Plaza on the north end allowed for the expansion of the Saturday Market. A waterfront esplanade extends the full length of the park from RiverPlace Hotel on the south end to the Japanese-American Historical Plaza on the north. Coinciding with park renovation were new housing development projects (The Yards) and upgrades to trees, sidewalks, and signage on adjacent access streets. Perception has changed from unsafe and limited upside to a marketable destination. While these improvements are superior to the condition of the property before, it's not clear that values have increased because of them.

Rose Kennedy Greenway, Boston MA

Before

Elevated JFK Expressway separated the east and west portions of town for 1.5 miles. Downtown was disconnected from the Waterfront. The expressway was demolished and I-93 was relocated underground following the Big Dig that started in 1991. The result was a cleared, graded site, with gravel and no enhancement factor, but the neighborhoods were at least connected.

After

Independent non-profit, The Greenway Conservancy was established in 2004 to guide development and raise funds via endowment. The 17-acre park opened in October 2008 and can be best described as a linear park that spans over one mile across several Downtown Boston neighborhoods (Chinatown, Fi-Di, Waterfront, and Northend). Only a small eastern portion of the park has waterfront view or access; however, the park did connect Downtown with the Waterfront. Park features include gardens, promenade, sculptures, seating, trees, and greenspace. In 2008, State Legislation established a 50/50 Public-Private-Partnership (PPP), with Greenway Conservancy being appointed steward and operator in 2009. A new agreement was announced in 2017 dictating operational financing. The breakdown includes State/City 20%, New Greenway Business Improvement District (BID) 20%, and Greenway Conservancy 60% generated through private donations.

Hudson River Park, New York NY

Before

500+ acres of West Manhattan with water view but considered as wasteland.

After

After 30 years of planning, Friends of Hudson River Park were behind the effort to redevelop. Completed in the early 2000s, this project led to the complete redevelopment of the neighborhood. Park features included sports fields, recreation, walking and bike paths, waterfront promenade, and other amenities. Dramatic change in land use, private investment, and politics were required to make this project so. The project magnitude was well beyond the Seattle project.

The Embarcadero, San Francisco, CA

Before

Post-Earthquake (1989), the city demolished the highway in 1991. The Bayfront was disconnected from Downtown San Francisco and considered under-utilized. This area of San Francisco was considered an industrial service corridor.

After

Complete transformation; however the park project coincided with demolition opening once blocked waterfront view. This was around the time of the economic boom associated with the 1990's economy and Dot-Com era. All work was completed by early 2000's. City streets connected to the Embarcadero, a boulevard that runs along the waterfront, and sidewalks offered immediate waterfront and park access. Led to easier access to southern bay front and redevelopment of SOMA, (south of market), AT&T Park, and the new Arena, etc. This is a dramatically different level of improvement than those that will be realized from the LID improvements.

Millennium Park, Chicago IL

Before

Existing Grant Park and location in between downtown and major highway. This area was home to the Illinois Central rail yards, parking lots, and vacant underutilized land.

After

The rail yard was converted to one of the world's largest green roofs. New park features include significant green space, major art installations such as the Bean, skating rink, pedestrian bridge, theatre, promenade, and an outdoor auditorium. The park is operated by the Chicago Department of Cultural Affairs and managed by MB Real Estate. The total cost of the park was \$475MM, equating to three times its original \$150MM budget; however, it has become the number one tourist attraction in the Midwest, as of 2015.

False Creek Viaduct Replacement, Vancouver BC**Before**

The Southeast False Creek project is the third and final segment of the waterfront revitalization plan. The City owned 80-acre area has historically been industrial with significant areas of undeveloped land. It is also the location of the aging Georgia and Dunsmuir Viaducts.

After

The City plans to demolish the viaducts and through private and public funding rezone and designate the entire area for redevelopment including new road infrastructure, opens space and development sites. There will be defined districts – Events and Entertainment District, Park District and Main Street District, each with development expected to provide the development of several million square feet of office and hundreds of multifamily housing, along with supporting retail uses. This redevelopment will have a dramatically different scale of impact to property values when compared with the LID improvement component of the larger Project.

High Line, New York City, NY**Before**

Elevated rail infrastructure built in 1930's. The southern section was demolished in the 1960's, with last portion of demo in 1991. Remaining section spans from Meatpacking District, extending north through West Chelsea. Abandoned warehouses, lots of graffiti and area considered an eyesore. By 2006, an area of West Chelsea was rezoned to a special district to accommodate a public park. CSX, a supplier of rail-based freight transportation in North America, donated the right-of-way and infrastructure in 2005. Ground broke in 2006, first segment opened in 2009. In 2012, the second segment was completed (20th - 30th) and zoning changes were approved to allow the third segment to open in 2014 (30th - 40th).

After

The completed product is a 1.45-mile long greenway maintained and operated through a public/private partnership between Friends of the Highline and NYC. The space is considered a tourist destination. In addition, the High Line is used to support many public programs including teen-engagement, art, and performance.

From an economic standpoint, real estate values near the park were driven up by speculators during the planning and development phases. The park is now an anchor and tourist attraction in the West Chelsea and Meatpacking Districts. Property values and retail/condo markets have experienced significant positive benefits.

According to Friends of the High Line co-founder Robert Hammond, the High Line “gets too much credit and too much blame” for the redevelopment of West Chelsea. The park development coincided with the rezoning of West Chelsea, with no affordable housing mandates. This led to gentrification and outpricing of the local community, including art galleries and businesses, due to people moving in from Manhattan. These issues led to an extended debate over income

inequality etc. Many cities have followed and completed or proposed elevated parks due to the overall positive impact of the High Line (Jersey City, Chicago, Philly).

Buffalo Bayou Park, Houston TX

Before

Buffalo Bayou Promenade was completed in 2006, establishing a 23-acre recreation area with 1.4 miles of hiking and biking trails that connects from West of Downtown to the Theater District.

After

Buffalo Bayou Park was completed in 2015 and established the new park immediately west of the promenade. This project added 160 acres of new parkland stretching 2.3 miles. Park features include a dog park, greenspace, gardens, restaurants, and an art space. Since 2015, this area has experienced three significant flood events. In 2017, Hurricane Harvey caused devastation and significant damages to property in the adjacent neighborhoods.

Atlanta Beltline, Atlanta Georgia, GA

Before

Vacant land including parking lots, demolished buildings or what remained of old foundations, vacant land, crime, and considered an eye sore. Some trails (The Westside Trail) and bridges that spanned the topography.

After

Partnership formed in 2005 to transform the area into a destination. First portion opened in 2012, with completion in 2014. The completed park offers a major pedestrian path for walking, running, and biking, and trails that connect to other areas of the city. Notably, the Eastside Trail extension broke ground in 2016 and was completed in 2017, which connected two disconnected railways. Funding sources for this portion included a \$3MM Woodruff Foundation grant, Beltline Tax Allocation District, The Kendeda Fund, and Waterfall Foundation. The redevelopment of this area has resulted in significant multifamily development around the trails and recreation space, including the “Edge” project near the new proposed Edgewood Avenue Bridge, which is to be added following the project. This project essentially is continuous.

11th Street Bridge, Washington DC

Before:

Existing 11th Street Bridges. Construction began in 2009 on replacement bridges, new ramps, and interchanges. Phase 1 completed in 2013; Phase II completed in 2015.

After:

Breaking ground in 2021, the elevated park is proposed for construction atop the existing piers of the former 11th Street Bridge. This project is designed after the High Line in NYC. The finalized product will include art and performance spaces, recreation areas, plazas, urban farming plots, an amphitheater, and greenspace. The completed park will help connect Wards 7 and 8 to the rest of the city. Much of the hype is over the bridge design of the superstructure. Other issues have arisen over potential gentrification.

Willoughby Plaza, New York City NY**Before**

Vacant land owned by Marriott. There was significant traffic congestion near Downtown Brooklyn and the Brooklyn Bridge. The project area included an active use shared pedestrian/bike/vehicle street, parking lot underutilized vacant land.

After

Land was donated by Marriott as part of the renovation to their south tower completed in 2013. Street access was eliminated and this area designated an outdoor plaza. Marriott retains the ability to use the space as additional function space. Pedestrian traffic and access increased. Storefront retail businesses and restaurants saw positive impact. There was no revenue impact to Marriott from the project.

3. LID Boundary Area

There is no justifiable basis or support for the LID boundary areas as they have been determined. The primary improvements of the Project will be along the waterfront and near Pike Place Market, not away from the water. LID improvements, as identified by the City of Seattle, extend up the Pike/Pine corridor, and from Alaskan Way into Pioneer Square. But these improvements appear to be more of an improvement program to neglected streets, not part of the larger LID project.

It is unreasonable to conclude that properties in the north end of the boundary area will receive any benefit from the LID improvements. On the south end, neither T-Mobile Park (Mariners) nor Century Link Field (Seahawks & Sounders) will ever realize an increase in value from any part of the Project, let alone the LID improvements. Stadiums like these are bound to contracts that will not allow the property value to increase. The Seahawks games sell out every year, and fans will not pay more for a ticket or be drawn to the area because of these improvements.

Even if one were to accept there are special benefits, they would only accrue to properties closest to the Promenade and Overlook walk. However, the Study fails to provide sufficient evidence that even those properties would receive any special benefit from the LID improvements. The formation of the LID boundary in the study is arbitrary with the incremental value increase along boundaries so nominal that their inclusion to the study is well beyond the margin of error in rounding.



4. Inequitable Analysis

The property uses within the LID boundary area are diverse and the Study fails to provide equitable value allocations. Vacant redevelopment site values are significantly lower than improved property value estimates passing the assessment burden to these higher value properties. This creates inequities on how the assessments are allocated as shown in three examples presented below. The sites should instead be analyzed on the common denominator of assessment per sq ft of land area.

The first example of the inequitable valuations is two nearly identical sites between Alaskan Way and Western Ave. Cyrene Apartments is a recently completed 17-story mid-rise apartment complex along the better part of the Seattle waterfront. One block south is a redevelopment site with nearly identical site characteristics that could be developed with a similar mid-rise apartment complex. The difference between the values and assessment allocation between the two properties is substantial. The improved property will be burdened with an assessment of \$932,361 or over four times the assessment of the development site.

Example #1	Land SF	Zoning	Value Before	Value After	Value Increase		Assessment	\$/SF Land
Cyrene Apartments 50 University 7666202450	15,413	DMC 170	\$101,209,000	\$104,242,000	\$3,033,000	3.0%	\$1,188,396	\$77.10
Surface Parking 1101 Western Ave 7666202506	14,156	DMC 170	\$18,757,000	\$19,413,000	\$656,000	3.5%	\$257,035	\$18.16

The next example is for property in the northern portion of the LID boundary area. The Amazon Office property is an older but functional 7-story office building. Directly across the street are three parcels that combine for the equivalent of a similar sized redevelopment site. The assessment for the Amazon Office property is three times that of the development site.

Example #2	Land SF	Zoning	Value Before	Value After	Value Increase		Assessment	\$/SF Land
Amazon Office 1903 Terry Ave 0660001255	42,360	DMC 340/ 290-400	\$127,103,000	\$127,303,000	\$200,000	0.16%	\$78,364	\$1.85
Development Site	13,334	DMC 340/	\$21,334,000	\$21,356,000	\$22,000	0.1%	\$8,620	
1906 Terry Ave to	14,160	290-400	22,656,000	22,679,000	23,000	0.1%	9,012	
1001 Virginia St	14,160		22,656,000	22,679,000	23,000	0.1%	9,012	
0660001512, 25, 30	41,654		\$66,646,000	\$66,714,000	\$68,000		\$26,644	\$0.64

The last example is the comparison of sites closer to the downtown core where the highest densities are allowed. The 27-story Olivian Apartments were built about 10 years ago. Immediately south are two nearly identical parcels, one interior and the other a corner lot. A comparison of these properties show that the Olivian Apartments are burdened with an assessment nearly four times that of the two redevelopment sites.

Example #3	Land SF	Zoning	Value Before	Value After	Value Increase	Assessment	\$/SF Land
Olivian Apartments 809 Olive Way 0660000835	13,160	DOC2 500/ 300-550	\$160,493,000	\$161,295,000	(\$802,000)	0.5%	\$314,241
Old Bldg/Surface Pkg 1618 8th Ave 0660000820	14,160	DOC2 500/	\$25,488,000	\$25,679,000	(\$191,000)	0.75%	\$74,838
Surface Parking 802 Pine St 0660000804	13,200	300-550	\$23,976,000	\$24,156,000	(\$180,000)	0.75%	\$70,528
							\$5.34

It is very apparent there is a disparity between how the study has treated properties already improved with those that will likely be developed in the near term. There is an inequitable allocation of the LID assessment. The owner of the development site will enjoy a significant value advantage into perpetuity compared with the owner of the improved property.

Moreover, there are no latecomer fee provisions in the analysis. These are often used to help reimburse the agency or funding source for the cost of a development. They are very common in utility infrastructure improvements. It allows the property owner to defer the cost of paying for the improvement to when the benefit is actually realized.

An alternative and more equitable value allocation approach would have been to measure the value increase based on the underlying land value, a common denominator for all properties in the LID boundary area. Under that approach, it is doubtful that the Study would conclude that there are value increases due to the LID improvements anywhere near the \$447M conclusion in the report.

5. Mass Appraisal Margin of Error

The value increase from the LID related improvements opined in the Study of 4% or less is within a margin of error for mass appraisals. ABS Appraisal includes 6,238 properties in their study area with a before value of \$56,359,239,000. The overall increase in value of all the properties is \$447,908,000 or an overall increase of less than 0.8%. The estimated value increases fall within the standard margin of error not only for a mass appraisal, but also for a single property being valued by appraisers armed with all the necessary data not using mass appraisal techniques. It's simply impossible to adjust changes in property values with this level of precision. There are so many impactful elements requiring adjustment such as building age, location or site characteristics that would overwhelm and more than offset the implied value increases estimated in the Study. Determining such small value increases with this level of precision is simply impossible in the realm of traditional appraisal practice. The increases in value estimated in the appraisal are so small they are remote and speculative.

6. Values are overstated

We analyzed about a dozen hotel properties in the Study area. The properties are overvalued, some by as much as almost 100%.

There are other examples where the Study fails to consider certain deed restrictions, or title encumbrances. We know of a site that has a small commercial building in the downtown core

that has sold the development rights thus preventing development, yet the property was valued much higher as a redevelopment site. There is another property along Pine St. valued as a redevelopment site, apparently with no development restrictions. However, it is above the Sound Transit light rail tunnel. That prohibits excavation for below grade and requires extraordinary foundation construction that will limit development height to somewhere around ten stories, well below the site's maximum development potential of up to 550 feet, which was used in the Study.

These omissions bring question to the reliability of the other property value conclusions in the Study.

7. Economic Studies

The Study relies on three economic studies as support of property value increases because of the LID improvements. These include an updated study "Beyond Real Estate Increment: The Value of the Central Seattle Waterfront" prepared by HR&A Advisors, "The Impact of Parks on Property Values: A Review of the Empirical Evidence" study by the Department of Recreation, Park and Tourism Sciences at Texas A & M University", and "The Economic Benefits of Sustainable Streets" published in 2014 by the New York City Department of Transportation.

The first study explains the economic, fiscal and community benefits of the waterfront project. The study focuses on the larger waterfront Project and does not differentiate between the larger Project and the incremental value increase associated with or without the LID improvements. It simply is a study discussing the economic benefits from the Project. It also confirms that the improvements in their entirety reflect general benefits to the community and region, not special benefits by citing a \$1.1B one-time economic impact because of the construction of the Project, \$288M ongoing economic impact, 2,385 permanent jobs and \$10M in ongoing local taxes. These accrue to the community and region, and are general, not special benefits.

The second study compares neighborhoods with and without a park, a more definitive distinction than the Study is trying to identify. The primary focus of this second study is to measure increases in sales revenue resulting from these new park projects. While it also considers other elements such as storm water runoff, air quality and health benefits, there is no documentation that these benefits directly lead to increases in property values. Further, the study additionally appears to imply these benefits accrue to the larger community rather than properties specifically adjacent to the park. This is support that the benefits generated from these park improvements are general, not special benefits.

The last study considered focuses on road improvements or street beautification projects in New York. The study compares unwelcoming, traffic-dominated corridors to safer, more attractive public spaces that better accommodate all users. The study focuses on safety, access/mobility, economic vitality, public health, environmental quality and livability/quality of life. The economic component is based on full availability of retail sales tax filings, limited data on commercial leases and rents, along with data on assessed market values. It is not based on real estate transactions and market sales. And while the results imply general increases in retail sales, it does not substantiate that this directly results in increases in property value. Again, there is no support that these result in special benefits, and in fact they are general benefits.

8. Summary

As stated in the accompanying appraisal review, it is our conclusion that the assignment results in the Study are misleading and do not provide the necessary evidence to provide credible opinions of property value increases before and after the LID improvements are in place. The appraiser has failed to provide the proper support to conclude that the LID improvements provide special benefits to the properties in the LID boundary area, in contrast to the more common general benefits that park improvements typically create for the larger community and region.

The Study determines special benefits based on case studies that represent completely different neighborhood settings. As explained in the attached exhibit, every case study considered was in a significantly inferior condition before the project improvements were installed. Most are significant urban renewal projects that have changed the landscape of surrounding neighborhoods and communities. This contrasts the Seattle waterfront that even today, is a very desirable community asset with views to the west towards the Puget Sound and the Olympic Mountains. As part of the Viaduct removal, the City must restore the waterfront with roads, sidewalks, landscaping and other streetscape improvements regardless of the LID improvements. The LID improvements marginally add to what would already have been a very desirable property condition before the improvements. The case studies in the Study starkly contrast with the level of benefit that the LID improvements will provide.

Further, the economic studies considered in the Study focus on the overall benefit of the project rather than the incremental impact that the LID improvements provide. None represent a fair representation of incremental property value impacts as it relates to those contemplated from the LID improvements. And the studies focus on benefits to a larger study area than those established in the LID boundary area.

The estimate of value increases are so small it is virtually impossible to estimate at the level of precision implied in the Study. The value increase estimates of 0.5% to 4.0% are below the margin of error typically accepted within real estate appraisal practice.

Exhibit 2

Provided by Client

Crompton Model (Crompton 2004, pp 19-21)

1. The area of proximate impact of a park should be limited to 500 feet or three blocks. The empirical results suggest this is likely to capture almost all the premium from small neighborhood parks and 75% of the premium from relatively large parks. The remaining 25% is likely to be dissipated over properties between 500 and 2000 feet. Disregarding this will lead to an underestimate of the proximate impact of large parks which may be substantial because while the premiums at these distances are relatively low, the number of properties within these parameters is relatively high. However, adopting this 500-foot parameter substantially simplifies the estimation task.
2. Grade each park in the system on the five-point scale shown in Exhibit A ranging from “unusual excellence” to “dispirited, blighted.” The grading can be done either by park staff or by a panel of residents familiar with each of the sites. This scale is defined primarily by the emotional response of people in a park’s area of influence. It recognizes that a park’s quality is defined by people’s emotional response to it, rather than only by its physical and tangible qualities. In every community there are fine, physically attractive parks that receive little use, either because the infrastructure or/and land uses around it do not encourage use, or because the behavior of existing users discourages others from using it. Such parks should not score highly on this scale and are likely to be assigned to the “average” category.

Exhibit A Park Quality Scale for Determining Proximate Premiums

Unusual Excellence: A signature park; exceptionally attractive; natural resource based; distinctive landscaping and/or topography; often mentioned in sales advertisements for nearby properties; well maintained; genuine ambiance; engenders a high level of community pride and “passionate attachment.”

Above Average: Natural resource based; has charm and dignity; regarded with affection by the local community; pleasant, well maintained.

Average: Rather nondescript; not really “noticed” by the local community; adequately maintained; no distinguishing features.

Below Average: Sterile; absence of landscaping or trees; athletic fields with noise, lights, congestion; intensive use.

Dispirited, Blighted: Dilapidated, decrepit facilities; broken equipment; unkempt, dirty; unofficial depository for trash; noisy; undesirable groups congregate there; rejected and avoided by the community.

3. Based on the results reported in the monograph, the suggested premiums applied to all single family home properties within the 500 foot proximate area for each of the three highest categories shown in Exhibit A are:

Unusual excellence: 15%

Above average: 10%

Average: 5%

After reviewing the monograph, these may appear low to some readers because several of the most recent, technically strong studies reported premiums in the 16%-22% range. However, these were for the first block immediately adjacent to the park and the premiums declined for properties in the second and third blocks. The proportionate premiums suggested here in stage 3 are averages to be used for all properties within the 500-foot (three block) radius.

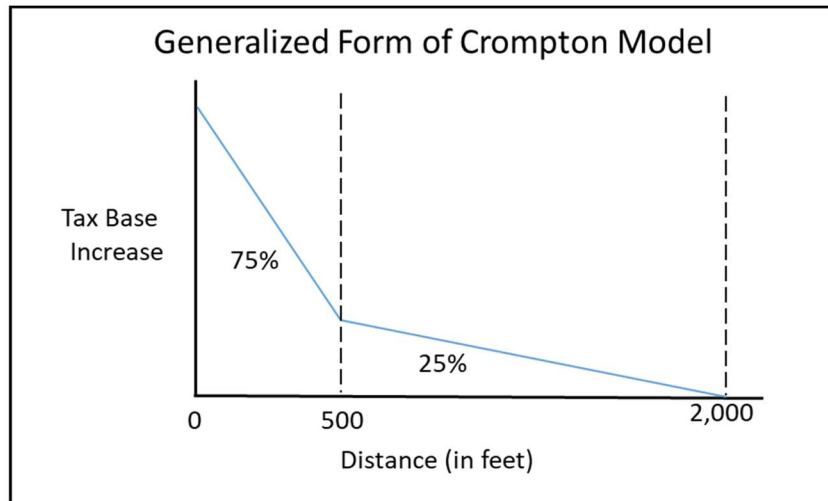
4. Apply the percentage premiums suggested above (15%, 10% or 5%) to the aggregate value calculated in step 3.
5. Aggregate the premiums calculated for each park in step 4. This figure represents an estimate of the overall change in property value attributable to the parks and open spaces examined.

With regard to step 3 above, I would also direct you to Crompton, Chapter 1: Context of the Issue, the section titled Factors Influencing Capitalization (page 34).

“It may take 30 to 40 years for new parks to *mature*. In the beginning trees are small and spindly, plantings are scattered and immature, shade is scarce, and the landscaping often is not aesthetically pleasing. Hence, the capitalized premium initially may be relatively small, but if the park is well maintained the premium is likely to increase over time.”

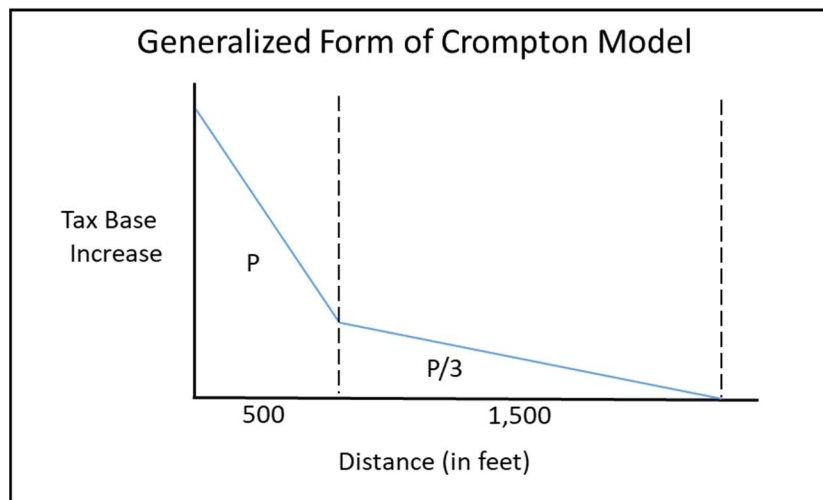
Analyzing the Crompton Model

The Crompton Model can easily be reverse engineered to generate the underlying price increases by property layer within both the 500 feet and the 500 to 2,000 feet zones described by Crompton.



The 25% tail provides an anchor for grading the run-off of value over the initial 500' zone. The calculations for deriving the relative points on the graph above are as follows:

Assuming that the LID improvements constitute a large park, take the premium (P) calculated in step 3 on the prior page. It is equal to 75% of the total price increase. One-third of amount, $P/3$ is equal to 25% of the price increase and is the area of the low zone triangle.



The generalized form is confirmed in several places in John Crompton's work. In his paper *The Impact of Parks on Property values: Empirical Evidence from the Past Two Decades in the United States* (Managing Leisure 10, 203-218 (October 2005)) shows this graph.

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Crompton

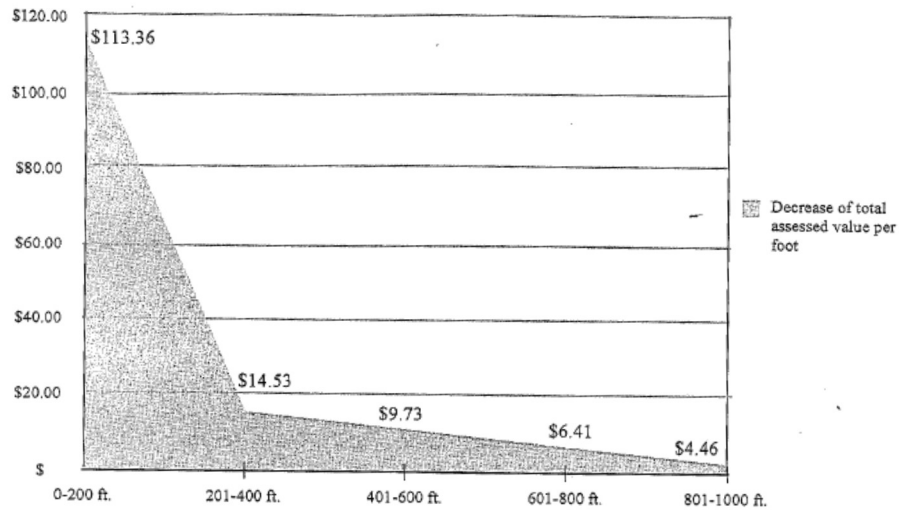
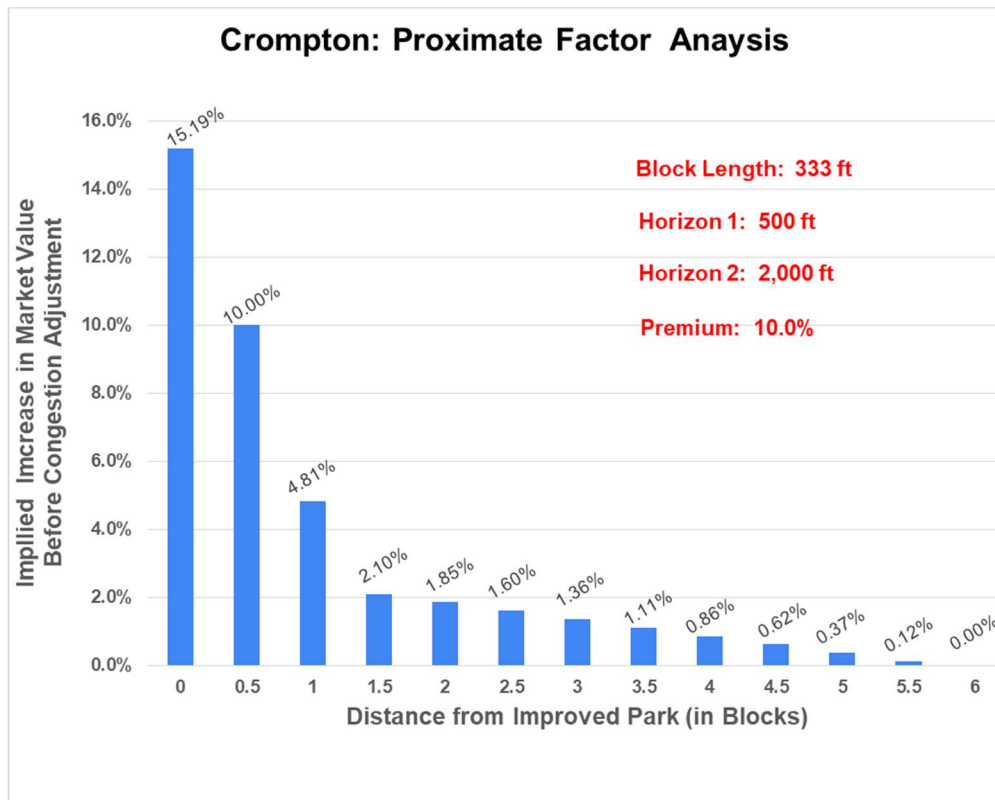


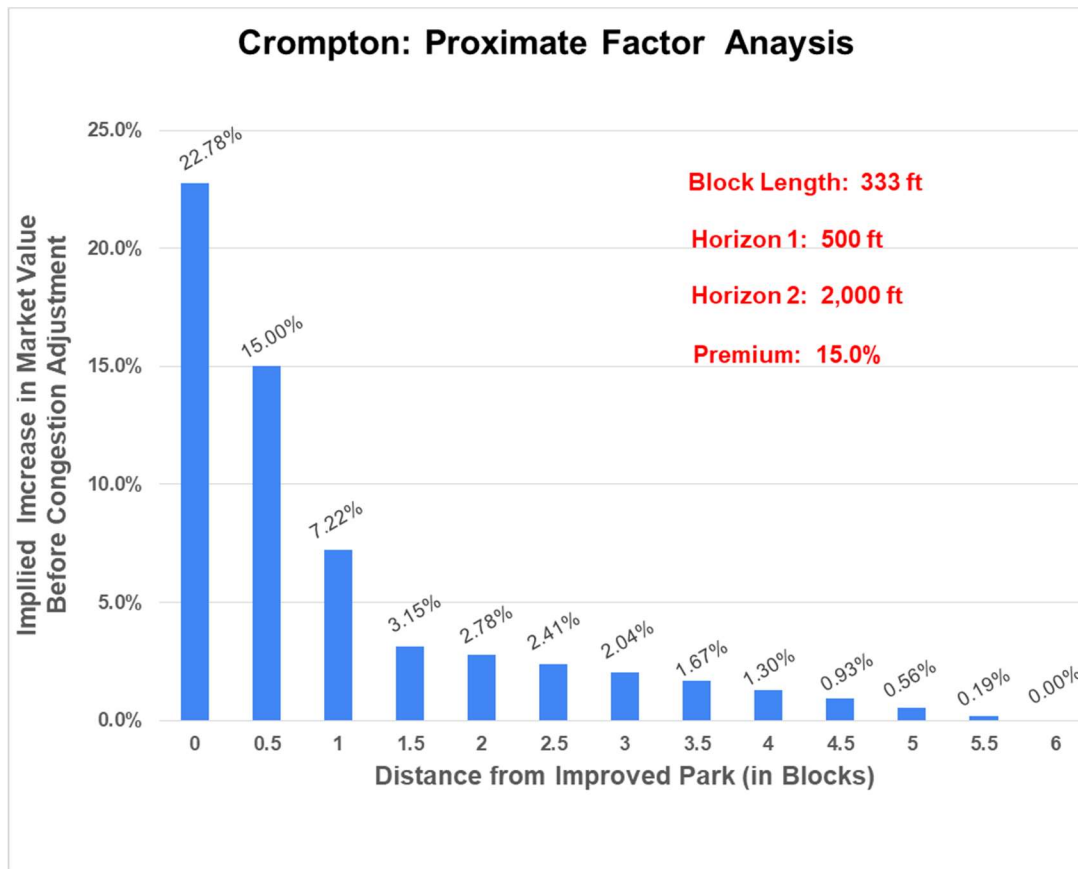
Fig. 2. Decrease of total assessed value per foot (Jackson Park)

Without even going into all of the mathematics, here is a spreadsheet generated version of the model for a 10% capitalization premium (Above Average).



It can easily be verified by checking to see that (1) the average over the first three property layers (500 feet) is 10% and (2) the amount in the tail is 10%, which is one-third of the total amount in the high zone. There is no other continuously reducing piecewise linear solution.

Similarly, here is the spreadsheet generated model for a 15% capitalization premium (Excellent).



The average premium over the first 500 feet is 15%. The total premium over the first 500 feet is 45% and the total premium over the last 1,500 feet is 15%, one-third of 45%.

It is also worth noting that the first block premiums in these two models are 15% and 23% which is in line with Crompton noting studies showing 16% to 22% in the first block.

The outstanding question is what did Crompton mean by “500 feet (3 blocks)”? Extending the high range of the proximate effect would dramatically increase estimated values further from the park. I contend that Crompton meant layers of parcels that could easily be picked up off a mapping system like the KCA parcel viewer. Since downtown Seattle typically has alleys that separate parcels in each of its 320’x340’ blocks, I contend Crompton indicates that the best choice for demarcation of a first horizon would be 3 property layers, 1½ Seattle city blocks or 480 feet, the closest demarcation for a 500’ boundary. The correct answer to the question has significant impact both on the ABS condominium valuations and on their setting of the LID boundaries.

In order to confirm my view I contacted John Crompton via email and on February 6th, 2020. I subsequently sent him a copy of (1) the Study, (2) my submitted objection with pertinent exhibits and (3) a spreadsheet generated output of an earlier version of the model shown above adapted to a first horizon of 640 feet or 2 Seattle city blocks (at this point I had not considered using the alleys as a logical break point) and a 5% capitalization premium. Mr. Crompton responded that “I see nothing inappropriate in the calculations that accompany your submission, but I simply do not have the time to engage in a detailed analysis of them.”

I emailed him back, thanking him taking the time to look at my work and asking him to confirm two points: “(1) that 500’ feet was the appropriate first horizon, and that his comment on my submission included the chart that was attached as Crompton Analysis.pdf. “ He responded on February 8, “I confirm your interpretation of the two points you mention are correct.”

I can supply copies of those emails and the associated attachments for you.

Variables Considered

Horizons

I tested three sets of horizons;

1. 480’ first horizon and 1,980’ second horizon
2. 640’ first horizon and 1,980’ second horizon
3. 640’ first horizon and 2,080’ second horizon

Distance

I tested four distances from 1½ to 3 Seattle blocks in ½ block increments

Capitalization Premiums

I tested 3 different capitalization premiums.

1. 2% (ABS’ 3.0 % high range for condominiums)
2. 2½% (5% adjusted down for 50% maturity)
3. 3% (ABS’ raw pick)

Matching of the 2% and 3% capitalization premiums to ABS is shown in Appendix 3

Results

	3% Maximum Premium		3% Average Premium
Special Benefit % @ 3 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.27%	0.34%	0.41%
640'	0.46%	0.57%	0.69%
640'/2,080'	0.43%	0.55%	0.64%

Special Benefit % @ 2 1/2 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.32%	0.40%	0.48%
640'	0.54%	0.68%	0.81%
640'/2,080'	0.49%	0.63%	0.74%

Special Benefit % @ 2 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.37%	0.46%	0.56%
640'	0.63%	0.78%	0.94%
640'/2,080'	0.56%	0.71%	0.84%

Special Benefit % @ 1 1/2 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.42%	0.52%	0.63%
640'	1.00%	1.25%	1.50%
640'/2,080'	0.94%	1.18%	1.42%

Conclusions

My analysis confirms John Crompton's conclusions that the estimated impact on property prices from proximity to a park is relatively small beyond the 500' range.

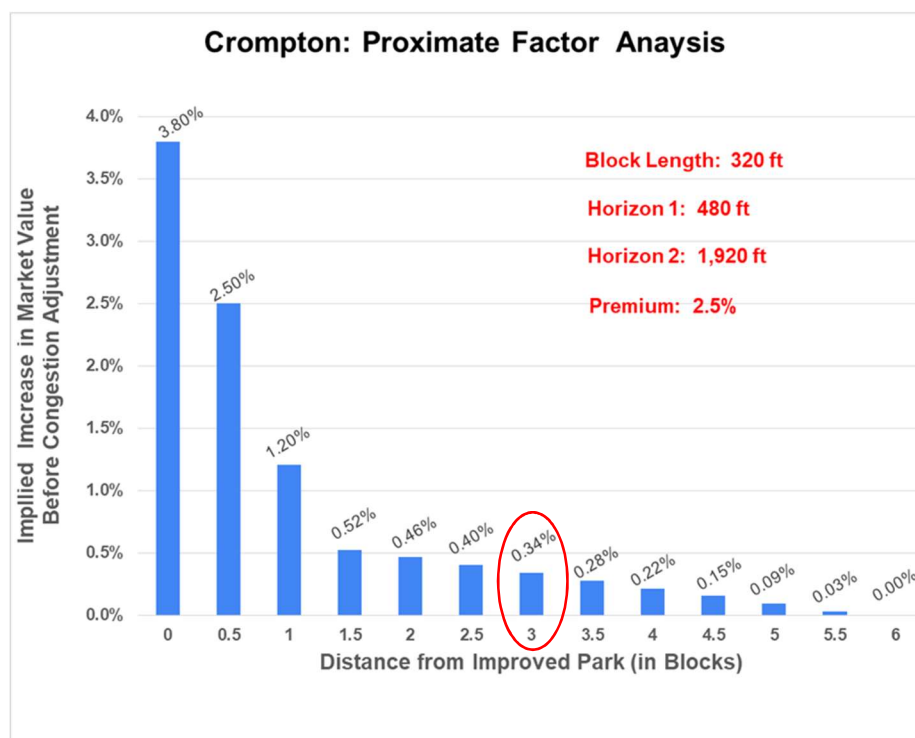
My conclusion is that a 2½% capitalization premium is appropriate. This is based on the LID Improvements raising the before condition of the park from "Average" to "Above Average" and reducing the implied capitalization by 50% for immaturity of the new "park". The "with LID" condition will provide an amenity that is "Natural resource based; has charm and dignity; regarded with affection by the local community; pleasant, [and hopefully] well maintained". It will never reach the level of Seattle's other great parks like Green Lake/Woodlawn Park, Seward Park, Washington Park/Arboretum or Discovery Park.

I considered two different distance measurements:

1. Line of sight to the waterfront (west side of Alaskan Way)
2. Line of sight to the nearest LID amenity (Central Waterfront Park, Pier 58)

Both of these scenarios put Fifteen Twenty-One in the 3 block tier of Crompton's model (maps are provided in Appendix 1. I did not consider distance to the Overlook Walk, which would have moved Fifteen Twenty- One to the 2 block tier. I believe that from a market perspective, neither a prospective buyer nor seller, would consider the Overlook Walk an amenity. It is additional and redundant access. Support for that conclusion is in Appendix 4.

I concluded that the most appropriate first horizon is 480' (1½ Seattle city blocks) and the most appropriate second horizon is 1,980 feet (6 Seattle city blocks). These are that horizons that most closely line up with the Crompton horizons. Model results showed that extending the second horizon lowered the resulting Special Benefit %. Using the tables provided above, I concluded that the appropriate Special Benefit % should be 0.34%.for all Fifteen Twenty-One condominiums.



For my home, tax parcel # 258830850, this yields:

Market Value Without LID		\$2,412,200
Special Benefit	0.34%	\$8,201
Market Value With LID		\$2,420,401
Total Assessment %	39.18%	
Pike /Pine Adjustment	.9375	
Revised Assessment %	36.73%	\$3,012

In my objection I have argued that the cost and special benefit of each of the discontinuous improvements (Central Waterfront, Pike and Pine) should have been considered separately. Consistent with that argument my Revised Assessment % reflects the adjustment to remove \$10 million of Pike and Pine expenses from the total LID expense of \$160 million (both numbers are before any financing and guarantee fund expenses).

This value also disregards any adjustments for the impact of pedestrian and vehicle traffic in the area which I have included in the Pike and Pine Improvements. I value the Pike and Pine improvements as having zero to negative impact of homes in Fifteen Twenty-One. Support for that is provided in Appendix 3 – Pike/Pine.

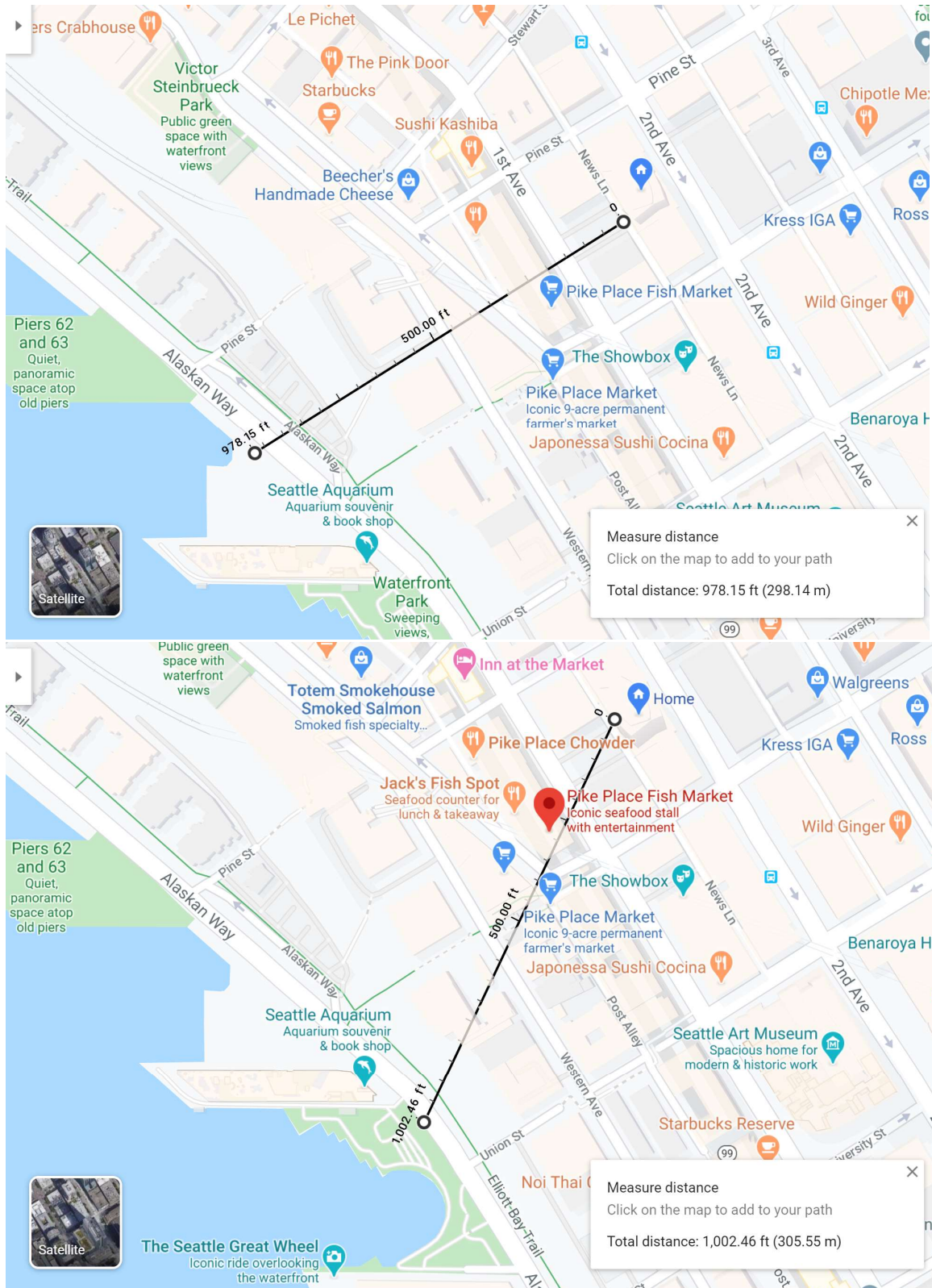
The Waterfront LD Improvements are primarily designed to aid Seattle's tourism business. Even the City's own work shows that there will be no additional utilization of the waterfront by nearby residents. Page 84 of the HR&A study done for the Friends of the Waterfront (provided in Appendix 5) shows the expected usage of the Waterfront by downtown residents at <1%. It shows the net new visitor days for downtown residents at zero. Even for city residents the net new visitor days is .11, which translates to one visit roughly every 9 years. Crompton's model was for community parks and based on their utility to proximate residents. Applying it here, even correctly applied, is generous. How ABS can posit any increase is baffling.

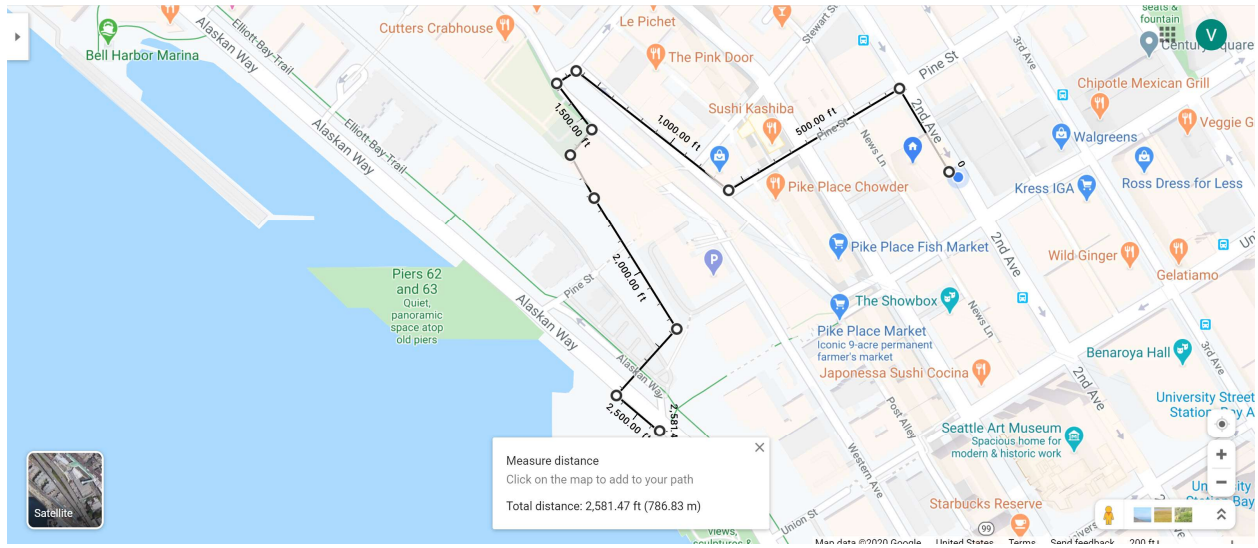
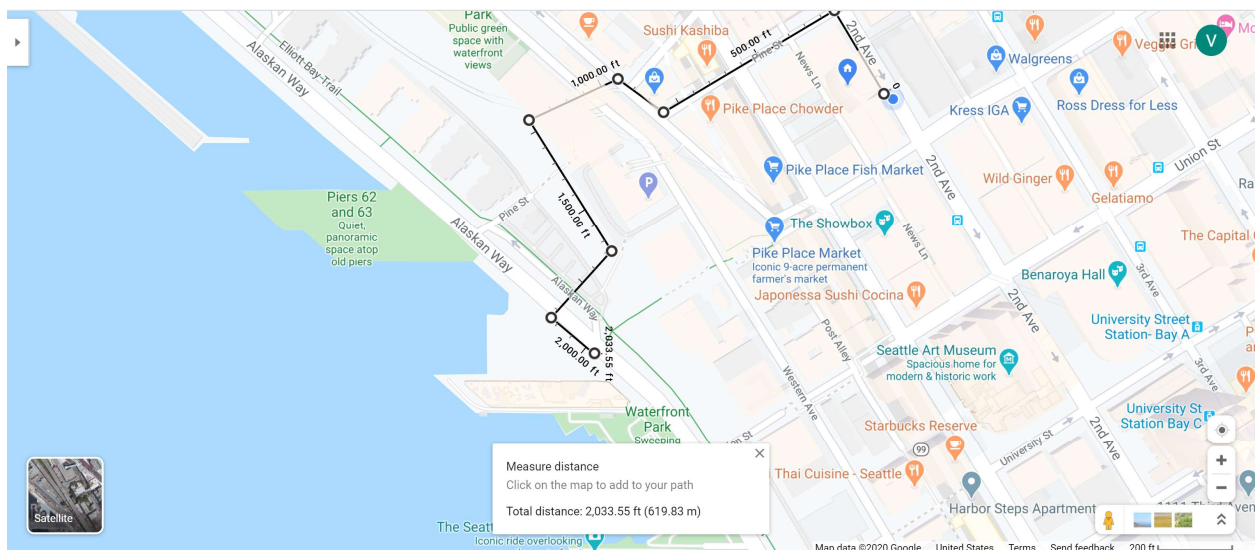
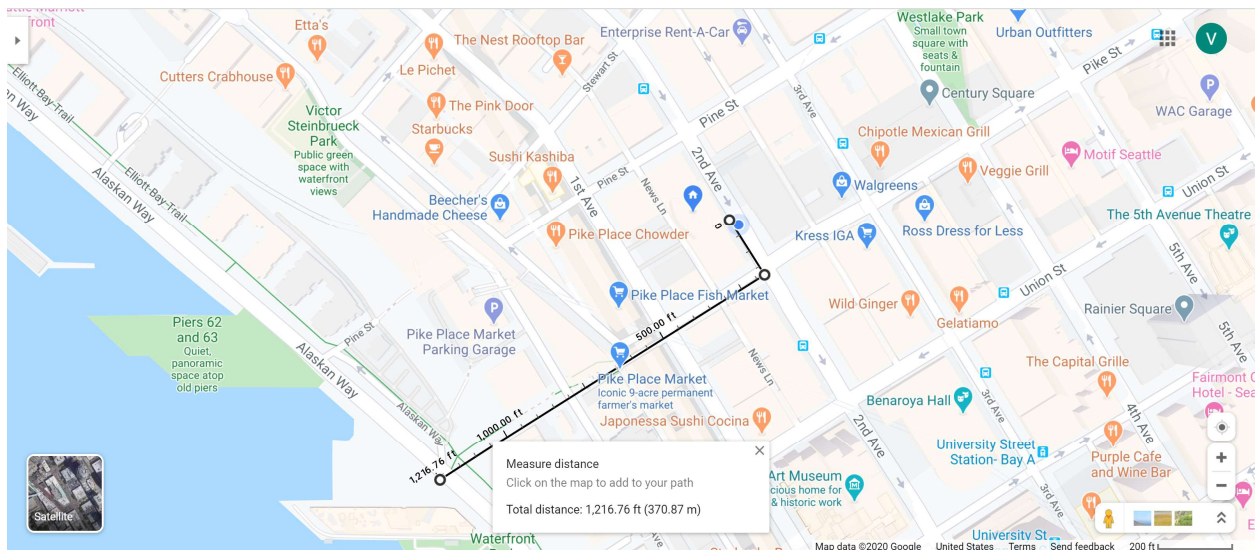
In addition, Crompton prefaced his work with this caveat (my emphasis added):

"Nevertheless, many agencies seek a method of applying a valuation to parks that they can adapt for use in their own communities. An approach is offered here for doing this, **but it is emphasized that this approach can only offer a rather crude "best guess."** The empirical findings from the studies reviewed in this monograph provide a basis for developing a relatively simple "plug and chug" formulary approach that can be used to derive an estimate of the proximate premium in a community.

This model was never intended to be used as an assessment tool. If it indicates material increases in prices then, as it was intended, it generates an increased tax base and proximate residents will pay those taxes if and when the estimated price increases are actually realized.

Appendix 1 - Maps





Appendix 2 - Overlook Walk

The Overlook walk connects the market to the waterfront. That much is clear. It will also provide some expansive views of Seattle's harbor as walk down. However from a market value perspective, whether it constitutes an amenity or not depends on the value attached to it by the user. As the owner of home 2304 in Fifteen Twenty-One, I have this view of the Seattle Harbor.



It stretches from Mt Rainier to Magnolia (I can't see the Space Needle. So would I, or a prospective buyer make a trip to the Overlook walk to enjoy the view? My perspective is that they would not.

In addition, the pictures of the Overlook Walk are misleading. They include the Aquarium Pavilion which has not been built and is not funded by the LID. It must be treated like all of the other in development projects that are in various stages of design, permitting construction within the LID. From a LID perspective the Pavilion doesn't exist. This significantly reduces the claimed open space of the Walk and emphasizes that it is just a path from the waterfront to the market. It is designed to funnel the increasing number of cruise ship passengers from Bell Harbor terminal to the Market and back.



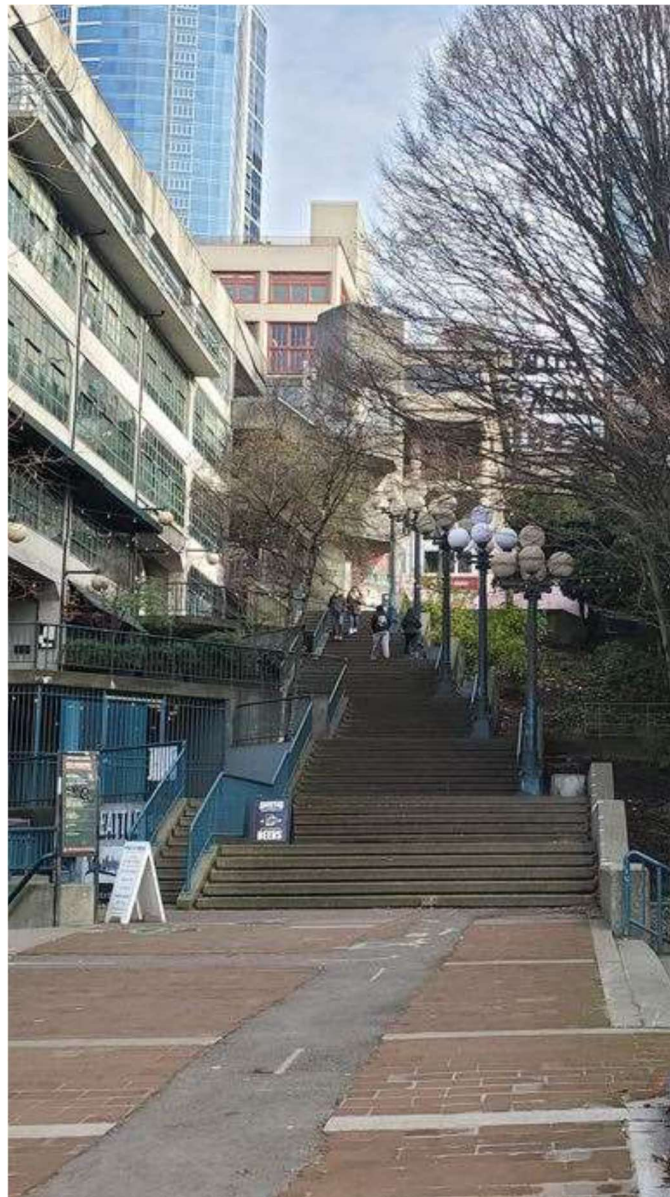
Walking Distance to Waterfront from Fifteen Twenty-One (line of Sight ~1,000')

Pike Street Hill Climb	1,216'
Overlook Walk (Market open)	~2,033'
Overlook Walk (Market closed)	~2,581'

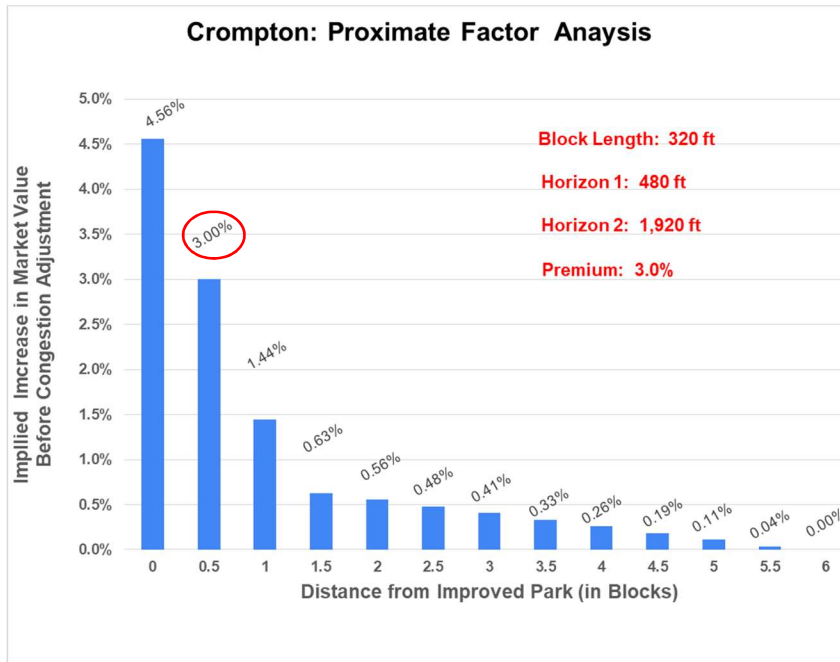
The Overlook Walk is redundant inefficient access.

Pike Street Hill Climb

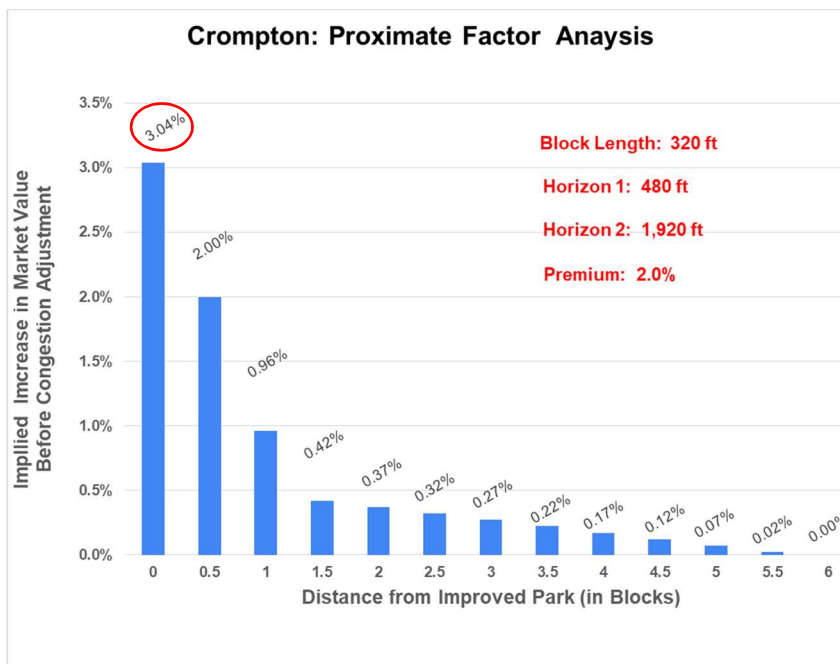
Current access to the waterfront from the Pike Place Market is the Pike Street Hill Climb, a series of steps or by elevators from the Skybridge to the Market Garage. These access points remain unchanged in the after condition.



Appendix 3 – ABS Valuation Premiums



Assuming 3% Average Capitalization Premium

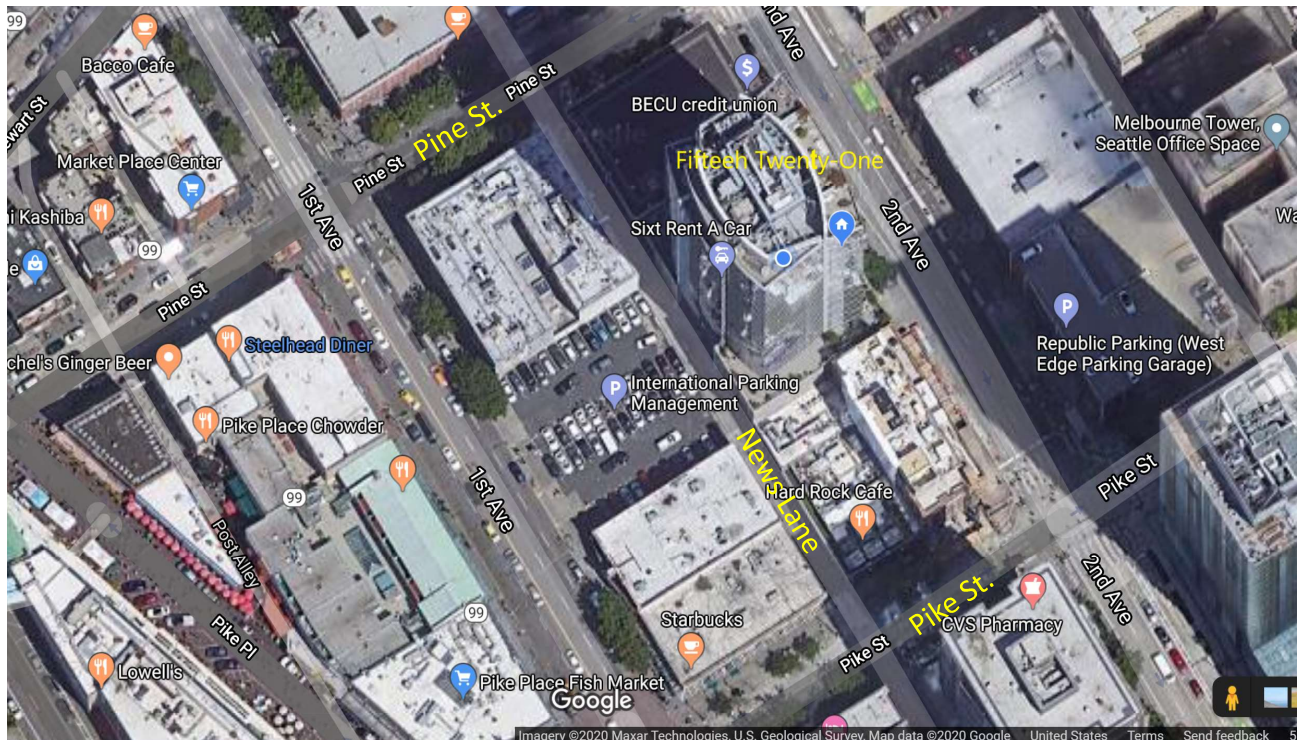


Assuming 3% Maximum Capitalization Premium

Appendix 4 – Pike and Pine

The Study has no cites providing evidence that street beautification projects, such as the Pike and Pine improvements generate any increase in residential properties. The Economic Benefits of Sustainable Streets” published in 2014 by the New York City Department of Transportation, provides only information on retail sales levels and does attempt to estimate changes in real estate prices. I conclude that there is no price appreciation for homes in Fifteen Twenty-One. If the city prevails in consolidating the costs and special benefits of the discontinuous LID Improvements, the negative value of Pike and Pine will have to be quantified and considered in the consolidated assessment.

However, there is a material negative effect that is unique to the location the building. It has two parking garages, totaling 297 parking spaces, with entry/exit at the rear of the building. The upper garage entry/exit is directly onto News Lane, the alley behind the building. The lower garage entry/exit is onto a breezeway with access to News Lane. The Pike and Pine Improvements will turn the streets at both end of News Lane into “shared space” pedestrian plazas.



Access in and out of our garages is already an issue. These changes will further constrict access to and from our garages. Service trucks use the alleys and traffic on Pike is heavy, especially at rush hour when traffic coming north on First Avenue turns east up Pike heading for the express lane entrance to I5. On weekends and in summer it will be much more difficult for us and dangerous for the cyclists and pedestrians that we have the responsibility to avoid.

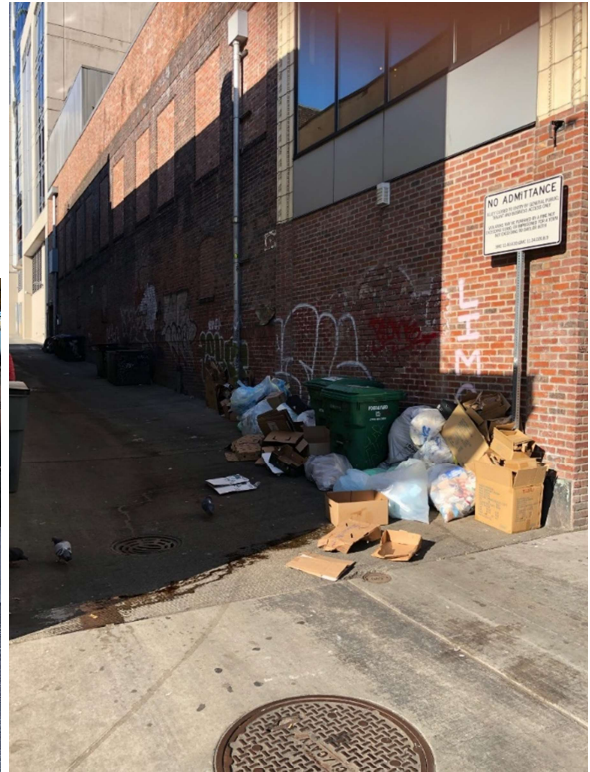
These changes are viewed as a substantial net negative by current residents. Attached is a copy of a recent Seattle Times article on the current importance of parking in downtown luxury condominiums.



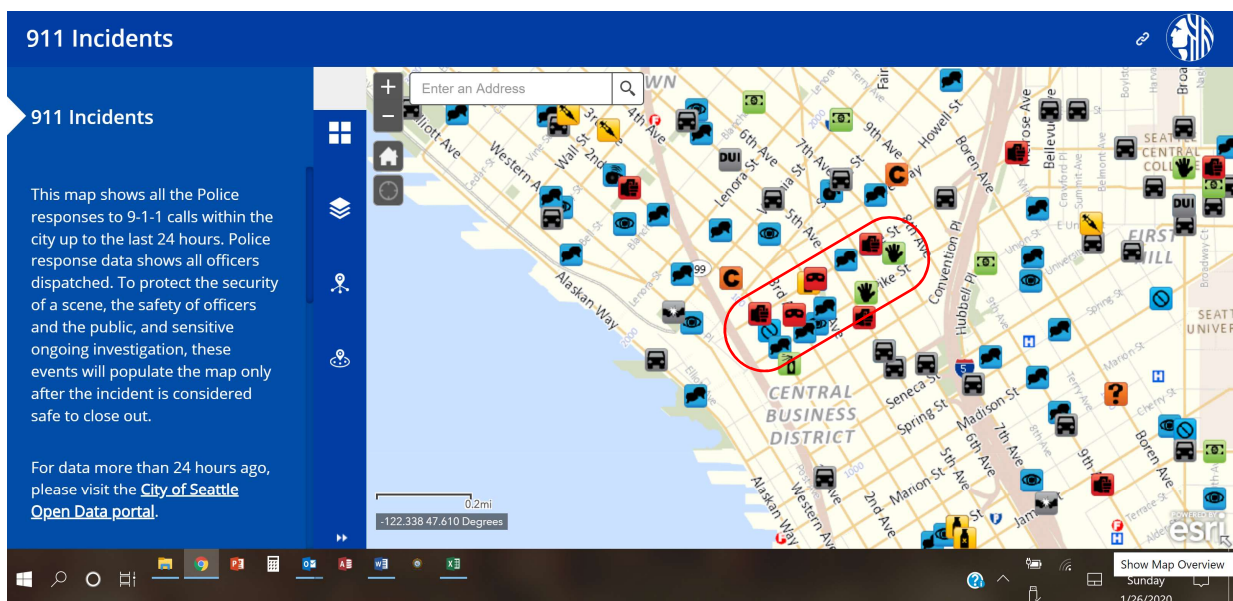
Pike St. looking west from Second Ave. It will be many years before the trees mature to look anything this.



Pine Street looking west from Second Avenue. The reality of the Pike/Pine corridor is much different than pictured above.



Pike St South Side 2/18/2020



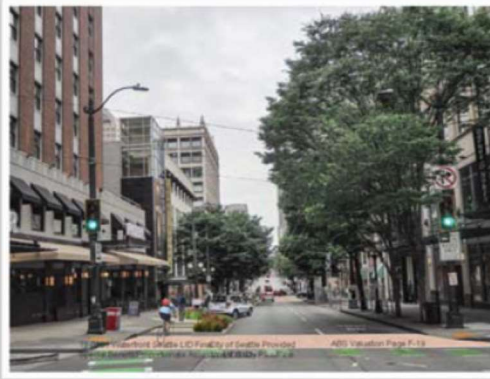
No material visual differences looking east on either Pike or Pine.

Pine Between Fourth and Ninth

Without LID



With LID

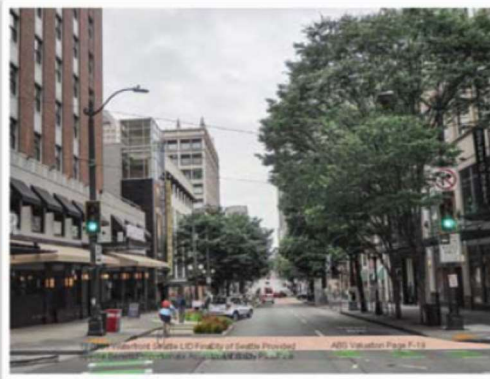


Pine Between Fourth and Ninth

Without LID



With LID



Appendix 5 - HR&A Study

ECONOMIC & FISCAL IMPACTS | NET NEW VISITATION METHODOLOGY

HR&A then estimated the share of regional vs. out-of-town visitors, and how much time these visitors might spend in the park.

Visitor Type	Share of 8M Projected Visitors	Net New Visitor Days Per Person	Net New Visitor Days
Regional Residents			
Downtown (park adjacent)	<1%	0	0
City Residents (non-adjacent)	8%	.11	69K
Metro Residents (non-city)	37%	.11	327K
Subtotal	45%		396K
Tourists			
Day Visitors	28%	.25	566K
Overnight	27%	.25	539K
Subtotal	55%		1.1M
Total			~1.5M

Note: Distribution of visitors, % regional v. tourists, is based on comps from the High Line and Hudson River Park. Distribution of regional residents is based on population distribution. Distribution of day v. overnight tourists is based on 2016 Longwood Tourism Study for Seattle. Net new visitor days per person is based on precedent research on time spent in open spaces by residents and out-of-town visitors, based on an 8-hour day.

| 84



Appraiser's Experience Data



PETER K. SHORETT, MAI, CRE, FRICS

President
Valuation Advisory Services

Peter Shorett entered private appraisal practice with Shorett & Riely in 1980 and was promoted to manager of the office in San Jose, California in 1985 and returned to practice at the Seattle office in 1990. He founded the Valuation Advisory Services division of Kidder Mathews in 1995.

In 1985 Mr. Shorett was awarded his MAI designation by the American Institute of Real Estate Appraisers (now known as the Appraisal Institute) and earned his CRE (Counselor of Real Estate) designation in 1999. He is a certified member of the Commercial Investment Real Estate Institute (CCIM) and has completed the requirements under the continuing education program of the Appraisal Institute. He has served as a Director of the Seattle Chapter of the Appraisal Institute and has served or led on the Candidates Guidance, Finance and Public Relation Committees. He also was appointed Chairman of the Seattle Chapter of the Counselors of Real Estate. In 2008 he became a Fellow of the Royal Institute of Chartered Surveyors (FRICS), the European equivalent of MAI. He serves on the Board of the Runstad Center for Real Estate Research at the University of Washington.

Mr. Shorett specializes in providing valuation and consultation for mediation, arbitration, litigation support and expert witness testimony. He has a wide diversified background in appraisal, market analysis and counseling for the development, acquisition, sale, leasing and financing of major urban real estate throughout the continental Western United States, including the cities of Seattle, Portland, San Francisco and Los Angeles.

Property types studied include apartments, churches, shopping centers, office and industrial buildings, marinas, condominiums, convention hotels, motels, golf courses, parking garages, medical clinics, service stations, residential subdivisions, nursing homes, retirement apartments, vacant land and numerous special-purpose and single-use properties. Mr. Shorett has extensive experience in working with owners whose property is acquired by condemning agencies such as Sound Transit or Local Improvement Districts (LID). Other assignments have included the valuation of leasehold interests, market analysis and lease-up studies for various investors and business groups.

PROFESSIONAL AFFILIATIONS

MEMBER OF Appraisal Institute (MAI)

COUNSELORS of Real Estate (CRE)

CERTIFIED Commercial Investment Member Designee (CCIM)

FELLOW of the Royal Institute of Chartered Surveyors (FRICS)

SELECT CLIENT LIST

Attorney/Law Firms

Bush Kornfeld

Cairncross & Hemplemann

Davis Wright Tremaine

Dorsey Whitney

Drumheller

Ellis Li & McKinstry

Foster Pepper

Hansen Baker

Karr Tuttle Campbell

K&L Gates

Lane Powell

Lasher Holzapfel Sperry &
Ebberson

Miller Nash Graham & Dunn

Perkins Coie

Pillsbury Winthrop Shaw
Pittman

Schwabe Williamson & Wyatt

Stafford Frey Cooper



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COURT EXPERIENCE

United States Bankruptcy Court
United States Federal Court
King County, Washington Superior Court
Kitsap County, Washington Superior Court
Pierce County, Washington Superior Court
Snohomish County, Washington Superior Court
Santa Cruz County, California Superior Court

EDUCATION

BUSINESS ADMINISTRATION, Western Washington University (1980)

PROFESSIONAL LICENSES

STATE OF WASHINGTON Certified General Real Estate Appraiser
(No. 1100389)

STATE OF OREGON Certified General Real Estate Appraiser (No. C000599)

STATE OF CALIFORNIA Real Estate Appraiser License (AG014564)

STATE OF IDAHO Real Estate Appraiser License (CGA-3932)

Reciprocal agreements with other states as needed

ADDITIONAL CLIENTS

Corporations/Property Owners

3M Corporation	Goodman Financial	Miller Brewing Company
Albertsons, Inc.	Health Science Properties	Nitze-Stagen
Bekins Company	Hertz Corporation	Nobel House Hotels & Resorts
Bristol Meyers Squibb	International Paper Company	Northwest Airlines
City University	KCTS Channel 9	Northwestern Trust
Clise Properties	Kilroy Industries	Olympic Resource Management
Consolidated Restaurants, Inc.	KMPG	PACCAR
Delta Airlines	Lindal Cedar Homes	Pine Street Associates
Fred Hutchinson	Lone Star Northwest	Portac, Inc.
Gai's Bakery	McDonalds Corporation	Rayonier
Goodale & Barbieri		

Attorney/Law Firms Continued

Stokes Lawrence

Stoel Rives

Tousley Brain Stephens

Williams Kastner

**Corporations/Property Owners Cont'd**

Seattle Seahawks	Swinomish Tribal Community	Union Carbide
Skokomish Tribal Community	The Boeing Company	Vulcan, Inc.
Southland Corporation	Unigard Security Insurance	Wesley Homes
		YWCA

Development Companies

Bentall Corporation	Quadrant	Trammell Crow
Lincoln Property Co.	Sobrato Development Co.	Wright Runstad & Co
Opus		

Financial Institutions/Life Insurance Companies

AETNA Life Ins. Co.	Group	T. Rowe Price
Amresco	Home Street Bank	The Union Bank of California
Allstate Life Ins. Co.	InterWest	TIAA-CREF
Bank of America	Key Bank	Transamerica Insurance Co.
CitiCorp	L.J. Melody & Co.	US Bancorp
Coldwell Banker Financial	Manufacturer's Hanover Trust Co.	Washington Capital Management
Collateral Mortgage	Mellon Financial	Washington Mutual
Crown Life Ins. Co.	Merrill Lynch	Washington Trust Bank
First Horizon	Morgan Stanley	Wells Fargo Bank
Frontier Bank	New York Life	
GE Capital	Pacific NW Bank	
Glaser Financial	Sterling Savings	

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**Governmental Agencies/Port Authorities/Nonprofits**

City of Bainbridge Island	King County Dept. of Transportation	Port of Seattle
City of Half Moon Bay	King County Property Services	Port of Tacoma
City of Kirkland	King County Prosecutor's Office	Sound Transit
City of Santa Cruz	Port of Anacortes	The Nature Conservancy
City of Seattle	Port of Chelan	Trust for Public Land
Dept. of Natural Resources (WA State)	Port of Friday Harbor	United States Postal Service
General Services Administration	Port of Port Townsend	Washington State Attorney General's Office
Internal Revenue Service	Port of Renton	

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STATE OF WASHINGTON

DEPARTMENT OF LICENSING – BUSINESS AND PROFESSIONS DIVISION



THIS CERTIFIES THAT THE PERSON OR BUSINESS NAMED BELOW IS AUTHORIZED AS A

CERTIFIED GENERAL REAL ESTATE APPRAISER

PETER K SHORETT
601 UNION STREET #4720
SEATTLE WA 98101

1100389

License Number

01/06/1992

Issued Date

04/10/2021

Expiration Date

Teresa Berntsen
Teresa Berntsen, Director

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0430 and
CWF-0431

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON RRRR
INVESTMENTS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
2538831460 and 2538831480

33
34 RRRR Investment LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070,
35 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
36
37 Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
38
39 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
40
41

42
43 **I. Taxpayer / Appellant**

44 The Taxpayer filing this appeal is:
45
46

47 RRRR INVESTMENTS LLC

1 PO BOX 21749 SEATTLE WA 98111
2 Bryon Madsen
3 206-689-2457
4 bryon@obcx.com
5

6 **II. Taxpayer's Representatives**

7 Taxpayer's representatives in this matter are:
8
9

10 R. Gerard Lutz, WSBA No. 17692
11 RLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
16 Bellevue, Washington 98004
17 Telephone: 425.635.1400
18 Facsimile: 425.635.2400
19
20

21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27
28

29 **III. Statement of Taxpayer's Interest**

30 RRRR Investment LLC is the taxpayer for the properties that are subject to the
31 proposed final assessment described in Section IV. The properties are two high-end
32 residential condominiums at 1521 2nd Avenue, Seattle, WA.
33
34

35 The basis of the proposed assessment is a Final Special Benefit/Proportionate
36 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
37 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
38 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
39 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
40
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Taxpayer appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 2538831460
34 Site Address: 1521 2nd Ave., Seattle, Unit 3800, Washington 98101
35 Proposed Final LID Assessment for Parcel: \$41,245

36
37 King County Parcel No. 2538831480
38 Site Address: 1521 2nd Ave., Seattle, Unit 3802, Washington 98101
39 Proposed Final LID Assessment for Parcel: \$44,084

40
41 *See* Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
42
43 the evidence and arguments raised before the Hearing Examiner into this appeal. In
44
45 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
46
47 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4
5 As discussed more fully below, Taxpayer specifically appeals the following Findings
6 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
7
8 Pages 61-62, 106, Sections II.6, II.7, II.12, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
9 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
10 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
11 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
12 IV.C.12, IV.C.14, IV.C.15, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
27
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39
40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$105,265 for Unit 3800 and \$115,547 for
34 Unit 3802, assuming the LID Improvements were in place and providing benefit in
35 October 2019. However, the LID Improvements will not be completed until the end of
36 2024 if the City meets its current schedule, and many of WSDOT’s alternative
37 improvements will not be built. The present value of future improvements deliverable in
38 five years is significantly lower than the current value of improvements that already exist.
39 Further, ABS’s own materials show that benefits may not accrue for at least five years
40 after they are completed, in 2029. If the hypothesized special benefits are discounted to
41 present value, the assessments materially exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

7
8 **Legal Requirement:** Actual and measurable special benefit
9

10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
4
5

6
7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
15

16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
12 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
13 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
14 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
15 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
16 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
17 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
18 provided expert opinion showing that improvements actually diminished value of the
19 property). In fact, no independent evidence is required at all if, for example, objectors show
20 that the assessment was grounded on a fundamentally wrong basis due to an error in the
21 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
22 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
23 a property owner could simply point out that the square footage assumed in the City's
24 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
25 Examiner's Recommendation: Sections II.12, II.14, IV.A, IV.B.11(a), IV.C.2, IV.C.8, and
26 IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
3
4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
6
7 upon all the property in accordance with the special benefits conferred thereon.” RCW
8
9 35.44.010.
10

11 3. No analysis of general benefits. Special assessments have been “held valid
12
13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14
15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
16
17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
18
19 they are for the construction of local improvements that are appurtenant to specific land and
20
21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
22

23 4. Taxpayer’s properties are not specially benefited by the LID Improvements.
24
25 The primary purpose and effect of the LID Improvements are to benefit “members of the
26
27 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
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29 library is for the benefit of the members of the whole community individually and
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31 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
32
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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35 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
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37 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 that if an appraiser “identifies both general and special benefits, these benefits should be
2 clearly distinguished and explained, and only special benefits should be included in the
3 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
4 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
5 183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
6 including those arising from construction necessary to meet basic design standards. *See*
7 Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
8 construction costs related to meeting design standards which may be general benefits as
9 distinct from construction costs emanating from requirements of the LID project”). To the
10 extent Taxpayer’s properties may benefit from the LID improvements, the benefit is general
11 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
12 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
13 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

14
15 5. LID Improvements not necessary. Unlike typical LID projects, the
16 Waterfront LID improvements are largely unnecessary to the functionality of any particular
17 property, including Taxpayer’s properties. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
18 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
19 held invalid where owners would have benefitted equally from increase of only 9 feet);
20 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
21 intersection for new water main for hydrant held invalid because land was already afforded
22 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
23 not necessary their properties, which already have sufficient access to the waterfront,
24 downtown restaurants, and other amenities. *See* 3/12/2020 Hrg. Tr. (B. Madsen) at 107:15-
25 108:12. Specifically, waterfront access is readily available via Pike’s Place or the walkway

1 at the Four Seasons. *Id.* And the testimony established that the building already owns the air
2 space to the west and the units are on the 38th floor, so adding a streetscape/park along the
3 waterfront does little to add to their western view which looks toward the water and the
4 Olympic mountains. *Id.* at 105:8-17.
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8 6. The fact that there is no case law differentiating between binary
9 improvements and parks does not change the law prohibiting assessments on properties
10 already adequately served by existing amenities. *See* Examiner's Recommendation at
11 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
12 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
13 reasoning excuse the City's failure to account for existing amenities as part of the special
14 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
15 the incremental effect of new park improvements on the value of properties, much like
16 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
17 (Crompton's Report) at 12-13.
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20 7. To the extent benefits can be considered "special" as opposed to general, they
21 are nominal or nonexistent for many properties even in the Central Waterfront, which
22 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
23 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
24 change due to expansion of sewer service *near* owners' parcel which were already
25 connected). Here, as mentioned above, the views from these units is already protected and
26 Taxpayer testified that during the years of construction, there could in fact be a tremendous
27 devaluation in the views. 3/12/2020 Hrg. Tr. (B. Madsen) at 108:13-23. Even if the City
28 could assess for a view change (and it has promised not to assess for viaduct removal), the
29 fair market values of Taxpayer's properties have not changed because the LID
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1 Improvements have not improved the properties' waterfront view or access to the
2 waterfront, nor will they when the City anticipates completion in 2024. For these reasons,
3 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
4 IV.C.3, IV.B.9, and IV.C.3.
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8 8. No analysis of special detriments. The Final Study fails to properly account
9 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
10 owners for removal and cleanup of underground storage tanks discovered during the
11 improvement project). Mr. Madsen testified that the only potential impacts from the LID
12 Improvements are negative—e.g., noise and disruption from four years of construction,
13 increased potential for crime and homelessness, and increased congestion from tourism and
14 loss of parking. 3/12/2020 Hrg. Tr. (B. Madsen) at 109:3-111:21. And Mr. Shorett
15 explained that the property value of these units are not likely to increase due to the LID
16 Improvements because buyers of luxury residential properties are more concerned with the
17 amenities of the property itself, including the views which are already protected. *Id.* at
18 15:12-16:8.
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21 9. Although Mr. Macaulay claims he analyzed impacts on the City's planned
22 elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how
23 lost parking might be a detriment, and no property-specific parking analysis in any of his
24 materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg. Tr. at
25 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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28 10. Likewise, there was no analysis of the risks associated with disamenities such
29 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
30 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
31 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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1 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
2 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
3 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
4 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
5 the maintenance agreement. *Id.* at 13:4-14:2.
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11 11. There was also no consideration of negative impacts from another four-plus
12 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
13 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
14 law allowing him to dismiss these actual, non-speculative impacts. Because future special
15 benefits calculations are inherently speculative, Washington's eminent domain statute
16 specifically allows condemnees to postpone special benefits assessments until improvements
17 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
18 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
19 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
20 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
21 Greenway, the Greenway district "significantly" lagged in value).
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33 12. For these reasons, Taxpayer appeals the following portions of the Examiner's
34 Recommendation: Sections II.25, IV.B.8, and IV.B.9.
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37 13. Special benefit estimate is speculative. When calculating a special benefit,
38 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
39 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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5 14. Assuming without conceding that one day, the City’s planned LID
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7 Improvements might increase the value of neighboring properties to some extent, that
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9 potential benefit is many years away and speculative. While appraisers tolerate some degree
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11 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
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13 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
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15 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
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17 the level of precision implied in the Final Study due to the size of the LID and use of
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19 hypotheticals).
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21 15. Although LIDs are sometimes finalized prior to completion of improvements,
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23 this is typically just six month or a year prior, and the assessments are otherwise supported
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25 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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27 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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29 will not be realized for four or five years. In the meantime, there is permitting risk,
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31 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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33 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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35 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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37 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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39 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
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41 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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43 market value would be as of the date the project would be finally constructed” because
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45 “[t]here could be a lot of elements in the market that did occur between now and then that
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47 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if

1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

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5 16. The record is clear that while no one can know what “special benefit” might
6 accrue to these properties in four years (if any), we do know that there are no actual benefits
7 now. The LID improvements provide no immediate special benefit to property owners
8 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
10 sewer system for future users). For example, notwithstanding the questionable hypothesis
11 that residential condominiums will benefit from an expected increase in tourism (higher
12 room rates or occupancy) when the improvements are complete, it is undisputed that tourists
13 are not coming in larger numbers now because of something happening five years down the
14 road. *Cf. O’Connor Decl. ISO Closing Stmt.*, ¶ 7 (dated 7/7/2020) (no apartment leased
15 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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18 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
19 for the LID Improvements, and it is unlawful to move to final assessments without such
20 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
21 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
22 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
23 dollars on projects still early in the design process. *See Washington Attorney General*
24 *Opinion 2012 No. 4* (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
25 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
26 of programs and included “only so much of the overall costs” that took place within and
27 benefitted the assessed properties).
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1 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
2 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
3 anticipated to be delivered five years later. Even before COVID, it was speculative to
4 assume that market highs experienced in October 2019¹ would be sustained through 2024,
5 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
6 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
7 my analysis in October 2019, who would have thought that this COVID issue would
8 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
9 process was that the market was going to continue to go up.” *Id.* There is no basis for
10 assuming that values hypothesized in October 2019 will remain relevant; they are already
11 irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although
12 COVID does not change actual values as of October 2019 (*see* Examiner’s
13 Recommendation at 109), the pandemic has impacted *current* values and rendered the
14 hypothetical October 2019 Final Study valuations outdated.

15 19. As another example of how future events could affect the accuracy and
16 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
17 Examiner re-open the record to allow the City to explain whether the assessments against
18 property owners within the LID are, in fact, being used by the City to fund the emergency
19 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use

20 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
21 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
22 58 (Waterfront Park) Emergency Demolition Project, *available at*
23 <https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=>; *see also* Aug. 13, 2020 Ltr. from H.
24 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,

1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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10 20. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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32 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
33 he could not point to a single one where the assessment roll was finalized five years in
34 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
35 he has never recommended final special assessments based on designs less than 30 percent
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42 available at
43 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
44 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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5 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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7 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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11 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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13 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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15 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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17 68:11-18.

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19 22. The City has cited no authority—and Taxpayer is aware of none—that
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21 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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23 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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25 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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27 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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29 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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35 IV.C.14, and IV.C.18.

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37 23. Failure to discount special benefit estimates to account for risks and present
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39 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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41 have accounted for risks associated with delivery of the improvements (including permitting
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43 risk, construction risk, general economic risk) and any special damages associated with
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45 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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47 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the

1 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
2 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
3 the impact of future conditions [through] discounted cash flow analysis.”).
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6 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
7 future condition not in place at the date of valuation and can discount for the time value of
8 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
9 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
10 Discounting would also have been consistent with his approach for analyzing special
11 benefits to vacant land. He testified that the difference between similarly situated vacant
12 sites slated for development and already developed sites was that the labor, capital and risks
13 associated with development had not yet been borne for those vacant sites. Therefore, the
14 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
15 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
16 fully permitted, has not completed environmental review, and has not reached full design is
17 presently worth significantly less.
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30 25. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
31 present value, an appraiser would consider discount rates for land development to account
32 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
33 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
34 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
35 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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43 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley’s
44 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
45 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
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1 Ex. A. Notably, this is lower than the City’s proposed \$171,000,000 assessment. Thus,
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3 ignoring momentarily all of the other methodological and other flaws discussed here and in
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5 Taxpayer’s case-in-chief, and assuming that the LID Improvements provide special benefits
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7 as soon as they are complete in 2024, Mr. Macaulay’s hypothetical assessment materially
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9 exceeds special benefits when reduced to present value. Further, to the extent the City is
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11 arguing that because they are permitted to assess 100% of the special benefit, the special
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13 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
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15 is again wrong. After applying proper discounting, the City’s proposed special benefit
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17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
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19 100% of the total estimated special benefit.

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21 27. But even the assumption that the LID improvements would deliver benefits
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23 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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25 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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27 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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29 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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31 indicates that during the construction period, the Greenway district “significantly” lagged in
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33 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
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35 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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37 30-31 (discussing New York City High Line and San Francisco Embarcadero
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39 improvements). Given the lengthy delay, any prediction of future special benefits is
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41 speculative, especially during the construction phase where values are likely to decline.
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43 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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45 Improvements take a similarly long period of time after they are complete to start producing
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47 tangible property value benefits, each additional year of delay results in further discount to

1 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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3 A.

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5 28. Applying the same discounting methods described above and in Mr. Gibbons
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7 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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9 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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11 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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13 100% assessment should be no more than \$9,915 for 1521 2nd Avenue Unit 3800 (CWF-
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15 0430) and \$10,884 for 1521 2nd Avenue Unit 3802 (CWF-0431). Anything more would
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17 permit the City to assess Taxpayer based on a hypothetical assumption that these
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19 improvements are in place and providing benefit, and ignore the risks, construction
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21 disamenity, and time value of money that normal appraisal principles would take into
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23 account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be only 39.2%
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25 of that assessment cap, or \$3,887 for CWF-0430 and \$4,266 for CWF-0431.

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27 29. Attachment B includes four Excel spreadsheets applying these discounting
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29 methods to Taxpayer's assessments. It is undisputed that special benefits will not actually
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31 accrue until the LID Improvements are complete in 2024. Accordingly, the first two
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33 spreadsheets demonstrate that discounting the City's hypothetical October 2019 special
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35 benefits to present value would reduce Taxpayer's assessment to \$14,151 for Unit 3800
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37 (CWF-0430) and \$15,124 for Unit 3802 (CWF-0431), exclusive of any other flaws in the
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39 City's proposed assessment. The third and fourth spreadsheets shows even more drastic
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41 reductions after taking into account discounting to present value for 10 years (*i.e.*, from 2029
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43 to account for the time it takes for the improvements to capture property value). After such
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45 reductions, Taxpayer's assessment would be just \$3,888 (for CWF-0430) and \$4,268 (for
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47 CWF-0431). These spreadsheets do not address other issues raised by Taxpayer's appeal,

1 but are intended to help demonstrate how unfair and inflated the City's proposed
2 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
3 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
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7 **Appraisal and Assessment Calculation Methods Are Flawed**
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9 30. The "general rule is that each lot, piece, or parcel of land should be assessed
10 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
11 Wn.2d at 97.
12

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14 31. It is proper to sustain a challenge to an assessment, even without the appraisal
15 testimony from the owner, where the objector's expert establishes that the assessment was
16 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
17 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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20 32. The City's appraiser purports to utilize the income method of valuation but
21 relied on inaccurate revenue and market data, as discussed further below.
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23 33. The City's appraiser purports to utilize the comparable sales method of
24 valuation, but no City witness attempted "to characterize any one, or all of them, as
25 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
26 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
27 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
28 characterize any one, or all of them, as comparable to any particular property within the LID").
29 And no City witness could explain how specific adjustments were made to these sales to
30 account for value increases due to the hypothesized Before and After Improvements. For this
31 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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34 34. Special assessment improperly includes value lift from the Before
35 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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1 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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3 Improvements, which WSDOT had independently committed to fund. However, Mr.
4
5 Macaulay did not calculate the actual market value of LID properties in October 2019, and
6
7 did not separately analyze the hypothetical increase to property values attributable to
8
9 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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11 current value and then separately calculate a hypothetical "With WSDOT" Before value);
12
13 *see also* Hamel Decl., ¶¶ 11, 12 (explaining that for condos, the "first task" was to determine
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15 current values but not explaining how they included the value of the hypothetical "WITH
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17 WSDOT" Before Improvements); Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020);
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19 *see also* Gibbons 1/30/2020 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018
20
21 Letter (attached to Appeal Petition) at 3-4; Shorett Appraisal Review (attached to Appeal
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23 Petition) at 2-14. Without any documented basis or support, Mr. Macaulay simply "ma[de]
24
25 a judgment a call" on what occupancy and rates would have been for the commercial
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27 properties assuming all of the WSDOT Improvements are completed as of 2019. Macaulay
28
29 Depo. at 129:19-130:11. This outright omission precludes any independent evaluation of
30
31 the true market "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet
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33 professional appraisal standards; if an appraiser uses current sales data to infer values, then
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35 the appraiser must explain how he analyzed that data and other information to come up with
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37 the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not
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39 just removal of the viaduct, but also other road, pedestrian and landscaping improvements
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41 WSDOT had already committed to make.

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43 35. However, because Mr. Macaulay testified that he did include some WSDOT-
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45 related value-lift in the "Before" values, it follows that part of the special assessment
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47 improperly is based on value attributable to the WSDOT Improvements. As shown by

1 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
2 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
3 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
4 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
5 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
6 to properly exclude the value of Before Improvements from the assessments. For these
7 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
8 Sections II.19, II.29, and IV.B.11(a)(ii)
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17 36. Special benefits were assigned rather than measured. Mr. Macaulay
18 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
19 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
20 Shorette) Hrg. Tr. at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13.
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25 37. For condos, ABS applied a uniform special benefit percentage to every unit
26 within a condominium building, notwithstanding individual differences among the units.
27 For example, he relied solely on King County Assessor data for information regarding each
28 condo, but for Taxpayer's properties, there was no information about views. Incredulously,
29 at the same time he insisted that the After value for each condo was calculated "parcel-by-
30 parcel" and that the special benefit percentage was simply a reflection of the difference
31 between Before and After values. In fact, there is no real way to check this work or verify
32 his methods because the analysis does not exist either within his report or in the backup data.
33 However, the simple fact that every single condo within a building received the exact same
34 special benefit percentage increase is evidence enough that Mr. Macaulay did not make an
35 individual parcel-by-parcel special benefit analysis. *See* Gibbons Decl. ISO Closing Stmt., ¶
36 6 (dated 7/7/2020).
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1 38. For these reasons, Taxpayer appeals the following portions of the Examiner's
2 Recommendation: Sections II.19, IV.B.11(a)(iii), and IV.C.15.
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4 39. Special benefit falls within margin of error. The Final Special Benefit Study
5 applies an estimated value enhancement of less than 4%, which is generally within the
6 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
7 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
8 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
9 of one another, this difference is considered reasonable as it falls within the standard margin
10 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
11 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
12 percentages fall far below that 5% margin, "there is no way of authenticating" such
13 incremental changes because "[m]arket forces completely obliterate any tiny little noise
14 factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
15 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Yet,
16 Additionally, the fact that "Before" values are also based on a hypothetical that adds some
17 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
18 appraiser to discern the micro-value differences between hypothetical conditions that are so
19 similar (the WSDOT improvements compared to the LID improvements) "verges on being
20 ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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22 40. Even if it were possible to accurately tease out such a miniscule hypothetical
23 value change due to improvements coming five years later, experts testified that there is no
24 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
25 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (P. Shorett) Hrg. Tr. at
26 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at 88:21-88:24 ("you cannot measure one percent
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1 difference in a high-rise building for this kind of a medium ... it's simply assigned to a
2 before value"). For these reasons, Taxpayer appeals the following portions of the
3 Examiner's Recommendation: II.27 and IV.B.4.
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6 41. No analysis of value increase attributable to individual components of the
7 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
8 percentage difference between hypothetical Before and After conditions. Throughout his
9 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
10 descriptions in the Addenda even though he testified that he relied on these to calculate
11 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
12 someone might be able to determine how he attributed value to After conditions described in
13 the Addenda, he answered that that was "not the scope of the assignment" because he was
14 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
15 that the six components were not actually a continuous project, that he was viewing them
16 together because the City asked him to, and that if he were to view them independently,
17 there was a low probability that properties in the north would specially benefit from
18 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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21 42. Not only did he fail to analyze benefits from each of these non-contiguous
22 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
23 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
24 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
25 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
26 objectives that guided regulators' assessment of architectural plans for buildings along a
27 "signature street" were so vague that they amounted to ad hoc review based on the
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1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.
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23 43. Special assessment is not supported by comparable studies, data or reports.

24 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
25 that the LID Improvements will lead to meaningfully increased real estate values for
26 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
27 comparable sales or information from the "over twenty-five studies and reports" to arrive at
28 very precise special benefit increases for the residential condominiums, including
29 Taxpayer's properties. For example, although Mr. Macaulay stated that no single report or
30 study was directly on point due to the unique nature of the LID Improvements (*see, e.g.,*
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments
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3 in his parcel-by-parcel analysis other than to say that the studies generally provided “some
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5 background to base decisions on.” See 6/23/2020 Hrg. Tr. at 161:5-162:12; see also
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7 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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9 similarities and differences between these improvements and the comparable parks he
10
11 looked at).

12 44. Ms. Hamel also explained that after considering the “over 25 studies and
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14 reports” as background, ABS concluded that there was “no consensus among the many
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16 reports reviewed as to a set block or foot radius that should be utilized.” Hamel Decl. at ¶
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18 33. So, they “took that information and calibrated it to the LID improvements and
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20 conditions in Seattle[.]” *Id.* However, there is no analysis and no documentation on how
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22 general principles articulated in the studies translated into specific property value increases.
23
24 ABS does not explain what the studies indicate should be an outer limit on impacts to
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26 property value, and do not explain *how* the different streetscape and “park-like” elements
27
28 were treated—only that they were treated differently.
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30 45. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
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32 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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34 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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36 research misinterprets his work in critical ways, including because the LID Improvements
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38 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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40 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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42 in Seattle). See Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
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44 related value increases are in fact smaller; that estimated increases are “best guesses” rather
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46 than predictions of property value increases in a particular city; and that percentages do not
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1 account for diminishing returns after taking into account water views, which would be the
2 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
3 topography grants most properties in downtown a water view.
4

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6 46. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
7 that this was just one source of information that was not entirely relevant because, among
8 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
9 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
10 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
11 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
12 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
13 Crompton concluded that 500 feet via road from "park" improvements is just one or two
14 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
15 significantly beyond that which the park study indicated (even if it was legitimate to use the
16 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
17 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
18 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
19 Taxpayer's properties are not within 500 road network feet from the "park" improvements.
20 See Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
21

22 47. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
23 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
24 six LID components together as one entity. See 6/23/2020 Hrg. Tr. at 167:15-180:16. And
25 based on the attention given to Dr. Crompton's work in the Final Study and supporting
26 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
3 parcel-by-parcel analysis.
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6 48. Ms. Hamel’s testimony that Crompton’s report is “one of the first studies to
7 look at various correlations between parks and real estate values” and that “his study was
8 cited in many of the research studies and economic reports we reviewed” suggests that
9 without this study, ABS would have little to no basis for the special benefit estimates for
10 condos. Hamel Decl. at ¶ 37 (dated 6/26/2020).
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13 49. The destination parks discussed in the Final Special Benefit Study do not
14 provide reliable, comparable, and valid support for the calculation of special assessments
15 here. See Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
16 critique of every case study cited concludes the changes to those “dwarf the difference
17 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
18 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
19 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
20 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
21 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
22 funded by a LID. And in virtually all of those cases, the park improvements dramatically
23 restored unimproved or blighted areas, and properties evaluated were within two or three
24 blocks of the park.
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (see Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 50. ABS’s claimed reliance on three economic studies to support property value
2 increase is also flawed. The HR&A study does not inform what value increases are
3
4 expected from the LID Improvements because it projects increases to tourism from *all* of the
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6 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
7
8 dissimilar parks in other cities,⁸ making the methodological application to the LID
9
10 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
11
12 conclusion that there would be *no new net visitors* from downtown residents as a result of
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14 the LID Improvements and could not explain how this impacted his condo analysis.
15
16 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
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18 Property Values” primarily focused on whether the benefits accrue to the larger community
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20 rather than properties adjacent to the park. And the 2014 New York City Department of
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22 Transportation study is not based on real estate transactions and market sales and fails to
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24 substantiate any link between increased retail sales and property values. Moreover, this
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26 study only looked at impact either directly abutting the streetscape improvement, or a couple
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28 hundred feet for plaza-like improvements.
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30 51. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
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32 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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34 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
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36 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
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38 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
2 asked whether he considered that HR&A's estimated LID impact is six times greater than
3 TLP's assessment of Seattle's entire park system, his surmised that it was because the
4 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
5 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
6 assumptions to account for this difference, which may be partly explained by the fact that
7 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
8 approximately 3.44% of King County tourists visit Seattle primarily because of the city
9 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
10 waterfront improvements.

20 52. Although proximity to the improvements is a key factor in all of these
21 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
22 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
23 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
24 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
25 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
26 Improvements is approximate 20 acres and it is not a community park.⁹

34 53. There is no explanation in the Final Study or the supporting materials of how
35 the studies or comparable sales were used to derive values for Taxpayer's properties. For
36 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
37 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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43 ⁹ *See*
44 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
45 connecting Seattle's central waterfront to downtown.").

1 54. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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3 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
4 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
5 recognized) for developing the MAI standards for mass appraisals, testified that the Final
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7 Study does not meet mass appraisal standards nor allow for independent assessment of the
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9 accuracy of Mr. Macauley's conclusions.
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12 55. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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14 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
15 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
16
17 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
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19 testimony suggests that he incorrectly believed that the only difference between direct
20
21 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
22
23 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
24
25 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
26
27 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
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29 Gordon uses in doing his limited restricted report").
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32 56. But the difference is not only in reporting—mass appraisal techniques must
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34 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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36 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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38 parcel approach:
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40 The mass appraisal technique is an appraisal method used to evaluate
41 a group of properties that are subject to similar market forces as of a
42 certain date through the use of market data, statistical analysis and
43 testing. As a result, the mass appraisal technique does not require or
44 involve analysis of each individual property's specific data.
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1 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

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3 57. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
4 universe of properties as a given date using standard methodology, employing common data,
5 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
6 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
7 model" is "a mathematical expression of how supply and demand factors interact in a
8 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
9 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
10 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

11
12 58. Regardless of client direction, Mr. Macaulay is required to comply with
13 USPAP. So if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
14 economically feasible because it would have taken "an incredible amount of time and cost"
15 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
16 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
17 individual appraisal of each [condo] parcel would have been cost and time prohibitive").

18
19 59. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
20 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
21 value, fails to calibrate the model structure to determine the contribution of the individual
22 characteristics affecting value, and does not review the mass appraisal results against actual
23 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
24 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the relationship between characteristics that affect value, and to calibrate that model to specify how individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-21). The purpose is to rationally determine what characteristics will create value, and by how much.

1 60. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. There is no documentation of the “internal
9 review process” for the condos. 6/25/2020 Hrg. Tr. at 165:13-18. And because both the
10 Before and After values were hypothetical, it was not possible to identify matched pair sales
11 and no City witness explained how ABS Valuation made adjustments to “comparable” sales
12 in order to check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6
13 which requires him to explain his model structure.
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15 61. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
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This allows the mass appraiser to not only generate outputs, but also to test the reliability of the model (and allow others to do so) by comparing the results of the model with actual sales. *See* 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which include explanation of the model specification, data requirements, calibration methods, and mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-(o). Without this reporting, it is impossible for users of the appraisal report to determine how the appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott) Hrg. Tr. at 206:15-207:17.

62. Finally, Taxpayer’s properties are not appurtenant—or even in close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of proving special benefit” shifted to the City because the protestors’ parcels merely stood “in close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s properties are not even within 500 road network feet from the core “park” improvements. And, as described above, the special assessment is overstated because the Final Study makes no attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or special detriments. In addition, it is speculative due to the fact that, as of October 2019, improvements were not in place—and, in fact, much of the waterfront is a construction zone following removal of the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have discounted the special benefit estimates or waited to perform the Study until the improvements were at least close to complete.

Erroneous Pre-Improvement Valuation

63. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's properties as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's properties.

64. The City's Final Study was used to compute the proposed final assessment of Taxpayer's properties. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final

¹¹ See, e.g., Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet (providing a “County Link” to the King County Department of Assessment’s online “eReal Property” search tool).

1 Study does not accurately reflect this data. The Final Special Benefit Study does not explain
2 this difference—or any differences—between its pre-improvement valuation and its
3 supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the
4 Examiner’s Recommendation.
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8 65. Further, the City’s analysis was based on unreliable market data. There was
9 no information about views from 1521 2nd Avenue Units 3800 and 3802, (CWF-0430 and
10 CWF-0431) on King County Assessor’s site even though there are significant views from
11 these properties.¹² This is problematic given that other objectors’ cross-examinations—in
12 particular regarding the Waterfront Landing condos—effectively demonstrated that ABS
13 Valuation made incorrect assumptions about views for a significant number of properties.
14 See, e.g., 6/25/2020 Hrg. Tr. at 87:18-88:1; 89:7-91:23; 95:2-10; 97:2-99:14; 100:24-101:13
15 (for the Waterfront Landing, ABS Valuation did not discount for view blockages in the
16 Before condition as a result of the Pine Street Connector and instead simply assigned per
17 square foot values in \$25 increments based on incorrect assumptions about corner units and
18 units on higher floors).
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21 66. Thus, aside from multiple other reasons why computation of the special
22 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
23 improvement values that do not accurately reflect market data. For these reason, Taxpayer
24 appeals the Examiner’s recommended denials on page 106 of the Examiner’s
25 Recommendation.
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45 ¹² See
46 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>;
47 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>.

Erroneous Computation of Special Benefit

67. “Special benefit” is “the increase in fair market value attributable to the local improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?” *Id.* 165–66.

68. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

69. Arbitrary assignment of special benefit. The City’s Study computed the proposed final assessment by multiplying the market value of the property without the LID improvements by 2.7%, which the City contends represents the estimated special benefit of the LID improvements applicable to all condo owners in Taxpayer’s building. However, there is no analysis and no documentation on how general principles articulated in the studies translated into the specific property value increase for Taxpayer’s properties.

70. It also bears noting that any “internal review” of the special benefit estimates would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of error. Indeed, given all the same information, he seemed to suggest that it would be perfectly reasonable for another experienced appraiser to come up with special benefit estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact same quality of data to be 50% off). Ultimately, his repeated insistence that there is no

1 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
2 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
3 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
4 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
5 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
6 special because it is arbitrarily assigned; and it is too small to realistically be supported by
7 appraisal techniques.
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10 71. No evidence of special benefit. Meanwhile, there is “no actual evidence from
11 any seller or purchaser that the price was higher because of the LID improvements.”
12 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
13 identified any seller or buyer, or any particular property where the existence of the LID
14 improvements had an effect on the market price.” *Id.* at 410-11. Taxpayer has explained
15 that the property has not increased in value due to the forthcoming LID Improvements,
16 because, among other reasons, the improvements ABS believes will generate value do not
17 exist, and will not for a number of years to come. There are no comparable sales because
18 the LID Improvements are not in place, nor will they be until the end of 2024 if completed
19 on schedule.
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22 72. The fair market values of Taxpayer’s properties have not changed due to
23 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
24 benefited from installation of new water main and fire hydrant where it was already
25 adequately supplied with water and afforded adequate fire protection). As explained above,
26 both units face west and already have full westerly views. And because the building
27 purchased the space to the west, the view is protected from further development. Unit 3802
28 also has a south-facing view of Mt. Rainer, the stadiums, and south Seattle. Unit 3800 has a
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1 north-facing view as well. Instead of increasing waterfront views, the Waterfront LID
2 improvements may actually decrease value of these units due to worse looking views during
3 construction and more difficult views for the future due to lighting.
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6 73. There is no special benefit because LID improvements in fact diminish the
7 value of Taxpayer's properties due to construction, increased traffic, decreased access to
8 existing businesses and restaurants (especially during construction), potential increase in
9 crime and sanitation issues due to the City's failure to maintain the park, and decreased
10 parking availability. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert that LID
11 actually diminished value of property was sufficient to rebut presumption that assessment
12 was proper). Moreover, for Taxpayer's properties, the improvements will more than likely
13 make waterfront access worse, first during the years of construction and then further by
14 creating structures, trees, etc., where access is currently unimpeded.
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17 74. The assessment formula is an attempt to distribute costs that do not relate to
18 special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be "merely a
19 mathematical model that distributes costs").
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22 75. The Special Benefit Study fails to address whether the \$346,000,000
23 estimated LID project cost takes into account the investment that would have occurred in the
24 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
25 invested. This is a critical component of estimating which properties receive a direct benefit
26 from the improvements, versus more incidental benefits further from the park.
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29 76. The proposed final assessment substantially exceeds the special benefit to the
30 property and is disproportionate to similarly situated properties within the LID. For these
31 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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47 Sections II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.15.

State Environmental Policy Act and Other Environmental Permitting

77. While this appeal is not challenging the City's environmental review and permitting processes, those processes are relevant in determining the legality of the assessments, and to assessing the delivery risk, the present value of the City's plans, and ultimately the amount of the assessment. If the roll is finalized, the City will commit to pursue projects that have not yet undergone environmental review (thus limiting the choice of reasonable alternatives to those projects). For example, if the roll is finalized, the City is committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63) is just beginning. Further, the City has segmented environmental review, and still has a gauntlet of federal, state and tribal review processes to complete before it will be clear what the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b), SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and committing to reconstruction of Pier 58 and major street improvements without environmental review, or the City's Final Special Study has improperly included and is proposing to assess the Taxpayer the costs and special benefits of improvements that may not get built. Either way, it is faulty process.

Due Process Rights

78. The City's failed to notify Taxpayer sufficiently in advance of the hearing to allow Taxpayer to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes

1 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
2 555, 569–70, 229 P.3d 761 (2010).
3

4 79. The LID statute specifies that cities must mail notices giving the time and
5 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
6 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
7 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
8 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
9 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
10 secure their own appraisal), evaluate proportionality of the proposed assessments, and
11 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
12 for anybody to get an appraisal”).
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15 80. The City’s Notice of Assessment was sent on December 30, 2019. And the
16 Final Special Benefit Study has only been available for public review since January 7, 2020.
17 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
18 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
19 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
20 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
21 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
22 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
23 the Examiner’s Recommendation: I.B.
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26 **VII. Relief Requested**

27 Taxpayer respectfully requests that the City Council:

- 28 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
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- 1 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
2 assessment dated December 30, 2019; or
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5 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
6 proposed final assessment to \$0 (zero), or such amount as Taxpayer
7 establishes at the hearing in this matter; or
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10 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
11 and reduce Taxpayer's assessment using recognized appraisal techniques
12 consistent with USPAP and:
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15 i. Excluding any property value increase attributable to viaduct removal
16 and other planned WSDOT Improvements;
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18 ii. Taking into account the effects of the COVID-19 pandemic on the
19 value of Taxpayer's property and other relevant developments since
20 October 2019;
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22 iii. Accounting for and excluding (1) any special benefits from existing
23 or planned improvements that already provide similar benefits to
24 Taxpayer's property, and (2) any special detriments from construction
25 and other anticipated LID-related disamenities;
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27 iv. Accounting for and including only those actual benefits anticipated to
28 accrue to Taxpayer's property based on its location relative to Pier 58,
29 Overlook Walk, and the Promenade, and specific elements of the LID
30 Improvements;
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32 v. Discounting anticipated special benefits to present value, based on
33 reliable estimates regarding when special benefits will start accruing
34 following completion of the LID Improvements; and
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1 vi. Accounting for such other issues specific to Taxpayer's property
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3 relevant to calculation of such assessment; and
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5 2. Grant such further relief as the City Council deems just and proper.
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7 DATED: September 22, 2020
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RCW 35.43.050

Authority—Noncontinuous improvements.

When the legislative body of any city or town finds that all of the property within a local improvement district or utility local improvement district will be benefited by the improvements as a whole, a local improvement district or utility local improvement district may include adjoining, vicinal, or neighboring streets, avenues, and alleys or other improvements even though the improvements thus made are not connected or continuous. The assessment rates may be ascertained on the basis of the special benefit of the improvements as a whole to the properties within the entire local improvement district or utility local improvement district, or on the basis of the benefit of each unit of the improvements to the properties specially benefited by that unit, or the assessment rates may be ascertained by a combination of the two bases. Where no finding is made by the legislative body as to the benefit of the improvements as a whole to all of the property within a local improvement district or utility local improvement district, the cost and expense of each continuous unit of the improvements shall be ascertained separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and expense of each unit. In the event of the initiation of a local improvement district authorized by this section or a utility local improvement district authorized by this section, the legislative body may, in its discretion, eliminate from the district any unit of the improvement which is not connected or continuous and may proceed with the balance of the improvement within the local improvement district or utility local improvement district, as fully and completely as though the eliminated unit had not been included within the improvement district, without the giving of any notices to the property owners remaining within the district, other than such notices as are required by the provisions of this chapter to be given subsequent to such elimination.

[1985 c 397 § 2; 1967 c 52 § 3; 1965 c 7 § 35.43.050. Prior: 1957 c 144 § 14; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

NOTES:

Authority supplemental—1985 c 397: See RCW 35.51.900.

Construction—Severability—1967 c 52: See notes following RCW 35.43.042.

Exhibit 5

John Crompton
 1515 Foxfire Dr
 College Station, TX 77845

RE: Waterfront Seattle LID Special Benefits Report – File Ref: 19-0101 – November 18, 2019

Authored by ABS Valuation.

Dear Mr. Lutz,

You requested me to “assess whether Mr. Macaulay and team have properly applied your and related studies in the City’s study, whether the benefit areas and assigned special benefits are supportable or speculative, and how, in the absence of a site-specific study of these proposals, you would apply the information to be included in your new book.” My comments are arranged under eight headings.

Updated material

The Appraiser (Mr. Robert Macaulay) based his use of my work on an article published in the *Journal of Leisure Research* (JLR) in 2001¹. Since its appearance, this article has been cited in 335 other articles published in the scientific literature. The high citation rate suggests it has been viewed as a foundation paper upon which other economists and social scientists have built. The appraiser also referenced that it was “updated in 2014”. He does not cite a reference for the 2014 update, and I am unaware of such an update. I did publish a book in 2004 addressing the same issue.² I assume that is the update to which he is referring. That book incorporated the material from the JLR publication, and did not update it. It was written in non-scientific language, because it was targeted at a professional rather than a scientific audience.

The Appraiser (p.45) correctly cites the 2001 article as concluding, “A positive impact of 20% on property values abutting or fronting a passive park area is a reasonable starting point guideline” (p.29). However, the Appraiser did not note that this conclusion was preceded by an important qualification: “A definitive generalizable answer to [the magnitude of the proximate effect] is not feasible given the substantial variation in the size, usage and design of park lands in the studies and the disparity in the residential areas around them which were investigated... If it is a heavily used park...then the proximate value increment may be minimal on abutting properties but may reach 10% on properties two or three blocks away” (p.29).

In 2020, together with a co-author, I updated the 2001 JLR article (51(2), 127-146). Since the new findings were published only a few months ago,³ obviously, the Appraiser did not have access to these updated findings. However, if he had contacted me, I would have made the paper available to him. It was first submitted to JLR for review in November 2018 and after changes made in response to suggestions offered by expert reviewers, it was published online on August 12, 2019.

The 33 studies located in the scientific literature that addressed this issue which we reviewed were much more accurate than those reviewed in the earlier article, reflecting five methodological developments that emerged around the start of the new millennium: Hedonic models became more

robust; statistical tools associated with hedonic analyses were more sophisticated; Geographic Information Systems enabled distance to be measured along road networks rather than straight lines; electronic data bases from Multiple Listing Services enabled larger samples to be used; and market sales rather than appraised values were used. As a result of these improvements our updated review concluded:

“When the highest premiums reported in each study were tabulated, an approximately equal number were assigned to each of three categories: less than 4%, 5%-9%, and 10% or more. This suggests the recommendation from the 2001 review that 20% on property values abutting or fronting a passive park area as a reasonable starting point guideline was overly generous. A more appropriate starting point guideline on this kind of property would appear to be 8%-10%” (p.15).

Differences in Types of Properties.

The studies reviewed in both the 2001 and 2020 JLR publications predominantly used single-family homes in their samples. This is different from the mix of residential units in the LID which are comprised almost exclusively of apartments and condominiums.

Our 2020 JLR review concluded:

The percentage premium associated with multifamily properties or small lots was higher than that associated with single-family or large lot properties. This finding was consistent in all nine studies that addressed this issue. It is explained by privately owned yard space associated with single family homes serving as a partial substitute for public parks (p.147).

Backyards in single family homes frequently contain such items as playground equipment, exercise equipment, decks with tables and chairs, barbeque facilities, basketball hoops, and grass spaces for Frisbee, soccer, tag or whatever. These amenities facilitate socialization and entertainment for family and friends. For many, they become the center of home and neighborhood life. In essence, in some homes the backyard substitutes for, and replaces, some of the facilities typically incorporated into neighborhood parks.

Hence, a case can be made that the premiums for apartments and condominiums in the LID are likely to be larger because they have no backyards, and the availability of a proximate park compensates for this lack of private space.³ However, the LID “park improvements” are best characterized as a parkway not a park. The “park opportunities” do not appear to incorporate these types of facilities or to be designed to perform this function. Rather, it appears designed as an attractive corridor to facilitate exercise, and exposure to the ambiance of water views.

The Appraiser provides a separate spreadsheet for “All other LID Commercial Properties”. It is unclear to me if the JLR review was used in ascertaining premiums for these 1,051 properties but, clearly, it is not appropriate to extrapolate its findings for deriving values for high rise office buildings, retail uses, hotels et al.

The exemplar demonstrating the impact of rejuvenated or new park land on commercial values was Bryant Park in New York City. Attached as an appendix to this report is a description of its rejuvenation that I included in my most recent book which the publishers tell me will be released next month.⁴

The success of the rejuvenation of that 8-acre park in the early 1990s which generated substantial increases in commercial office rents for the surrounding properties, led many other cities to emulate it. However, almost all the premiums associated with those parks are captured by properties directly fronting on to the parks, and they do not extend much beyond that immediate area. This is reflected in the narrow geographic area of the Business Improvement Districts that typically are established to fund and subsequently maintain such parks. It appears the Appraiser has extended the range for commercial property assessments far beyond those immediately abutting the LID “park improvements”.

Are the “Park Improvements” Best Characterized as a Park, Greenway or Parkway?

The Appraiser’s suggestion that the green space in the LID is a “park” is a misrepresentation. Although the area incorporating the “park improvements” appears to be approximately 36 acres, two-thirds of that 36 acres appears to be hardscape. This suggests the appropriate designation is “parkway” rather than “park”. This distinction is critical, because the JLR review to which the Appraiser frequently refers pertained exclusively to “parks and open space.” It did not refer to parkways or greenways. The importance of the distinction stems from the empirical literature that shows the premiums from parks on property values are likely to be much higher and to extend for a greater distance, than those from parkways or greenways.

In the narrative relating to his valuation of residential condominiums, the Appraiser makes it clear he is referring to premiums associated with parks rather than parkways or greenways. For example, “The research presents clear indications that well-designed park and street improvement projects have a positive effect on surrounding neighborhoods and property values” (p.82)

The Appraiser appears to implicitly acknowledge the distinction between parks, parkways and greenways, because three of the six projects he examined to “compare various project components” were parkways or greenways, rather than parks. (Tom McCall Parkway, Rose Kennedy Greenway, and Embarcadero Parkway).

In his exposition of the tools used in his valuation analysis, the Appraiser states:

“As mentioned throughout, increases in market value of individual parcels result primarily from enhanced location (improved pedestrian connections, open space, streetscapes) which, in turn, enhances the aesthetic appeal of the waterfront and a large segment of the downtown CBD” (p.59).

Later, in his valuation summary describing the impact of the LID he states:

“With the LID in place, there is a new waterfront promenade, consisting of continuous open space on the west side of the waterfront corridor from Pine Street to South

Washington Street, with enhanced landscaping and streetscapes. Pedestrian accessibility to the waterfront and view opportunities are greatly improved” (p. 80).

Parks are conspicuously absent from these descriptions. Rather, they describe beautification of a highway with an accompanying well-landscaped promenade.

The genesis of American parkways lies in the tree-lined boulevards of Paris that were established in the 18th and 19th Centuries. They were designed for “promenading”. The belief was that pedestrian walkable areas would add value to proximate residences.⁵ They were transposed to the U.S. by Olmsted and Vaux, the highly influential landscape architects who were responsible for many of the pioneering large urban parks in the U. S. For the most part, they preferred the term “parkways” to “boulevards” but they used them as synonyms.

Their parkways were intended to serve either as a means of approach to a large park or as a connection between large parks. Parkway was defined as “a road that is of picturesque character bordered by trees and shrubs,”⁶ and they were regarded as “narrow informal elongations”. Commercial vehicles were barred and the intent was to make driving through them a recreational experience.⁷ This meant that most of the benefit was conferred on those driving along the artery, and on those fronting on it who enjoyed views and exposure to the intensive landscaping.

Parkways were designed for through traffic and all intersections were either bridged or tunneled under the parkways. The central drives were flanked with generous 30-35-foot pedestrian medians. Parallel 25-foot side roads for local and commercial traffic were constructed along with side-walks. All elements of a parkway were separated by two rows of trees. Although it does not possess all these elements, these descriptions appear to be reasonable representations of the LID “park improvements”.

Importantly, in the context of the LID, it was believed that added real estate value from parkways was confined to properties directly fronting on to them. Kansas City was renowned for its system of parkways. In a report to his Board of Park Commissioners in 1910, George E. Kessler, the superintendent of parks, who was a highly regarded national figure in the parks field, stated: “Conservative real estate men [in Kansas City] estimated the present value of the grounds fronting on the Kansas City boulevards, less building improvements. They compared this valuation with that of ground fronting adjacent streets which were not on boulevards. They found that the difference in favor of the boulevards real estate was \$250,000 more than the entire cost to taxpayers of all the parks and boulevards embraced in the system.”⁸

The distinction between a highway and a recreational parkway disappeared from the U.S. urban infrastructure vocabulary after the Second World War. Today, when the term “parkway” is adopted, the intent is generally to upgrade perceptions of an artery’s status from an ordinary city street by providing more comprehensive landscaping and, consequently, conferring on it the image properties associated with the word ‘parkway’.

In the last two decades of the 20th Century, the term “greenways” entered the urban infrastructure lexicon. Greenways are not wide swaths of land like parks, rather they are relatively narrow corridors that have two major functions: (i) to link and facilitate hike and bike access between

residential areas and places of employment and/or parks; and (ii) to provide opportunities for linear forms of outdoor recreation (e.g. hiking, jogging, bicycling, inline skating, and ordinary walking).

Their popularization stemmed from the 1987 report of the President's Commission on Americans Outdoors. The Commission recommended communities establish "greenways", which they defined as "corridors" that "provide access to open spaces close to where they live." The Commission conceptualized these greenways as "fingers of green that reach out from around and through communities all across America" (p.142).⁹ The first extended work exploring the potential of greenways followed soon after and defined greenways as "linear open spaces...converted to recreational use" (p.1).¹⁰

Most of the enhanced value of parks derives from people's willingness to pay a premium to be proximate to the tranquility, peace and psychological relaxation many parks provide. In contrast, enhanced property values associated with greenways are likely to come from access to a trail, rather than from views of nature or open space. It is their functionality or activity potential that is likely to confer most added value, rather than the panorama and ambiance associated with parks.

In my 2004 *Proximate Principle* book², the "plug and chug" estimation process from which the Appraiser garnered the blocks measure that is described in the following section, I asserted:

"Results from the limited number of empirical studies available at this point indicate that while trails are unlikely to exert a negative impact on proximate values, there is insufficient evidence to suggest they have a positive impact. The dominant sentiment is that trails have no impact on property values, so no proximate premium is recommended for them here" (p.11).

While the Appraiser elected to use the blocks measure from the 'plug and chug' "best guess" estimation procedure, he chose not to use the trails findings. These are not as accurate a descriptor for the LID as "parkway" but are a closer depiction of the "park improvements" than parks.

Again, in a recent article, a co-author and I updated those greenway trail 2004 results. We reviewed 20 studies which had been published since 1999 that measured the impact of greenways and trails on proximate property values using hedonic analysis. None of these greenways resembled the LID in having a major highway running through them. Many of them were "rails to trails" projects which transformed disused railroad tracks into hike and bike trails. Our review of greenway trails concluded: "The results indicate that a small positive premium of between 3% and 5% was the most widespread outcome for single-family homes located proximate to a trail." (p.97).¹¹

Distance for which the "Park Improvements" Impact Property Values.

The 2001 JLR study concluded:

The diversity of the study contexts makes it non-feasible to offer a generalizable definitive answer to the question concerning the distance over which the proximate

impact of park land and open space extends. However, there appeared to be wide agreement that it had substantial impact up to 500 feet and that in the case of community sized parks it extended out to 2,000 feet (p. 29.)¹

The 2020 JLR updated review similarly concluded: “This synthesis endorsed a conclusion from the 2001 review that high premiums generally were limited to properties within 500 feet, but for large parks they extended out to 2,000 feet” (p.142).³

Both the JLR 2001 and 2020 scientific papers reported the range of impacts in feet. They made no reference to number of blocks. However, the Appraiser discarded the use of feet and replaced it with “blocks”. He did that throughout his report, which allows the reader to incorrectly infer it was a synonym for the feet measure.

His blocks measure stems from my 2004 *Proximate Principle* book, which was written for a non-science, professional audience.² In that volume, I included an approximation ‘plug and chug’ simplified procedure, based on the empirical findings, that non-scientists could adopt for use in their communities. I explained it was a template: “it is emphasized that this approach only offers a rather crude ‘best guess’”. The template suggested, “The area of proximate impact of a park should be limited to 500 feet or three blocks” (p.9). My intent in using the three-block term was to reify the 500 feet range metric. The magnitude of 500 feet is relatively difficult to grasp, whereas three blocks is easily recognizable. It reflected the approximate distance in most of the contexts in which the studies in our review were undertaken. It was anticipated the block synonym would be more understandable and easier for non-scientists to grasp. The intent was to offer a synonym for 500 feet, not an alternative to it. Clearly, if the block measure is applied to the 300-foot blocks that are more typical in the LID than the intended 150-foot distance, it extends the impacted area far beyond the 500-foot distance reported in the JLR studies.

In his interpretation of that statement (“The area of proximate impact of a park should be limited to 500 feet or three blocks”), the Appraiser states:

“In terms of direct residential impact, John Crompton’s ongoing studies into the impact of parks on property values have been used by municipalities across the country. Crompton’s “proximate principle” represents a “capitalization” of park land into increased property values and a widening of the tax base. One major finding based on his results deals with the location and proximity of property to the park improvements—both in urban and suburban environments:

- 75% of the benefit from a park is captured within 500 feet, or three blocks.
- The remaining 25% of the benefit is likely dissipated over a 500 to 2,000-foot range, or 4 to 12 city blocks” (p.83 & p.46).

In his first bullet, the Appraiser inserts a comma between the two measures, “...within 500 feet, or three blocks”. This comma was added by the Appraiser. It was not in the original Crompton manuscript. This insert reinforces an inference that the two measures are alternatives, whereas without the comma they are more likely to be accurately recognized as synonyms which was the intent.

The Appraiser throughout his report, disregarded the 500 and 2,000-foot measures and used only the blocks measures for the LID assessments. In addition to the comma insert, the above statement misrepresents my work in six ways:

- It inappropriately applied findings from our review of parks to a parkway.
- The parks review was based on residential dwellings, predominantly single-family homes, and the Appraiser inappropriately extended the findings to include commercial buildings.
- At my request, a GIS map was produced using the network metric showing the LID boundaries and proximate distances to the “park improvements” and it is attached to this report as appendix 2. It shows that 500 feet distance from the “park improvements” is either one or two blocks. Hence, using the block measure, rather than the feet measure that was reported in the JLR review, has the effect of inappropriately extending the LID impact significantly beyond that which the park study indicated (even if it was legitimate to use the park review’s findings).
- The Appraiser’s extension of the impact distance to 12 blocks was an incorrect interpretation of our work for two reasons.
 - First, our conclusion that often a small increment of impact extended out to 2,000 feet applied to “community parks”. The definition of community parks in the Seattle Parks Department Master Plan is: “Community parks satisfy the recreation needs of multiple neighborhoods. They generally accommodate group activities and recreational facilities not available at neighborhood parks. They may have athletic fields, large open spaces, paths, benches, natural areas, and restrooms. Community parks are accessible by arterial or collector streets, and usually include off-street parking” (p.97)¹². The enhanced array of amenities included in community parks accounts for them often adding a small increment of value to properties within 2,000 feet. Clearly, the proposed “park improvements” in the LID do not incorporate a comparable array of amenities and so, use of the 2000-foot metric is inappropriate.
 - A second incorrect interpretation was the failure to recognize that all the studies reviewed in our most recent JLR paper used network analysis to measure impact distance. This means the 2,000 feet refers to distance along road networks, not “as the crow flies”. When the distance from the “park improvements” is measured along roadways, the range of impact is much smaller than is shown by the current LID parameters.
- The GIS map shows the LID includes corridors extending east across Alaskan Way up to Western Ave and the Pike Place Market vicinity. Clearly, these are not “park improvements”. They bear no relationship to the park sites that constituted the samples studied in the JLR reviews.

These inaccurate interpretations of our work resulted in the Appraiser inappropriately concluding (referencing a streetscape study as well as our JLR review): “Both studies indicate a

geographical radius of benefit within 12 blocks, but most significantly within the first three blocks” (p.56).

Use of the Park Quality Scale.

The Appraiser states: “Based on Crompton’s park rating scale and considering the existing waterfront amenity, the Waterfront Seattle project would increase the quality rating from above average to excellent, which indicates an average increase in value of 5% for condominiums within a three-block radius” (p.56). This is a misapplication and misinterpretation of my work. The reality of the Appraiser’s conclusion is that it is based on his judgement, experience and expertise; it does not derive from any of my publications or from scientific empirical findings.

In the 2004 *Proximate Principle* book a “Park Quality Scale for Determining Proximate Principle Premiums” was included, as part of my ‘plug and chug’ approximation procedure. The Appraiser reproduces it in his report (p.46) as shown below.

Park Quality Scale for Determining Proximate Premiums

Unusual Excellence	A signature park; exceptionally attractive; natural resource based; distinctive landscape and/or topography; often mentioned in sales advertisements for nearby properties; well maintained; genuine ambiance; engenders a high level of community pride and “passionate attachment.”
Above Average	Natural resource based; has charm and dignity; regarded with affection by the local community; pleasant; well maintained.
Average	Rather nondescript; not really “noticed” by the local community; adequately maintained; no distinguishing features
Below Average	Sterile; absence of landscaping or trees; athletic fields with noise, lights, congestion; intensive use
Dispirited, Blighted	Dilapidated, decrepit facilities; broken equipment; unkempt, dirty; unofficial depository for trash; noisy; undesirable groups congregate there; rejected and avoided by the community

Immediately following the Park Quality Table in the Appraiser’s report, his narrative continues as follows (p.47):

- Condominiums within a three-block radius typically experience increases in property value of:

Quality of Park	Distance	Green Premium
Excellent-Average	1 block	16-20%
Excellent	1-3 blocks (500ft)	15%
Above Average	1-3 blocks (500ft)	10%
Average	1-3 blocks (500ft)	5%
Poor	1-3 blocks (500ft)	-5%

In the case of the Waterfront Seattle project, it is important to consider that there is an existing waterfront amenity; the current waterfront area can be rated as average to above average since it provides a unique public amenity. However, when considering the waterfront area as extending east across Alaskan Way up to Western Avenue and the Pike Place Market vicinity, the rating declines to merely average due largely to the poor connectivity with city streets. The existing alleys, stairwells, and dim lighting areas contribute to an undesirable atmosphere, especially at night, despite the active foot traffic and tourist-oriented venues along the waterfront. The reader is referred to the City-provided documents in the addenda volume for further discussion and descriptions of existing or “without LID” conditions.

With the project elements completed, the area will be upgraded to excellent, which indicates an average 5% increase in condominium values situated within three blocks of the improvements/new amenities. Note that this is an average based on empirical data and is utilized for background information when analyzing the subject project elements.

The above article sets up a good basis for the argument that a larger, linear, well-maintained public park that attracts active users – such as the Seattle waterfront park – will likely have a positive impact on residential property values and that the most benefit is evident within a two- to three- block radius.”

There are three concerns relating to the Appraiser’s table:

1). The columns in the “increased property value” table are different from those used in the Park Quality Scale which the Appraiser purports to represent:

- Under the “Quality of Park” heading, the Appraiser uses different ratings than are used in the Scale. The source, rationale, criteria and definitions of the descriptors that comprise the new rating scale are not explained. The new scale is not derived from the Quality of Park Scale. Indeed, there appears to be no connection between them
- Under the “Distance” heading he introduces a new category “1 block”. No rationale is provided for it. The subsequent categories refer to the 1-3 block measure which he parenthetically infers equate to 500ft, but in fact in the LID context a three-block measure significantly exceeds that range.
- The “Green Premium” heading in the third column is a new term that the Appraiser has introduced. The source of the percentage premiums used in this column is not explained. They seem to be entirely arbitrary. They do not come from the original table in the 2004 *Proximate Principle* publication which stated:

“Based on the results reported in the monograph, the suggested premiums applied to all single-family home properties within the 500-foot proximate area for each of the three highest categories shown the Table are;

Unusual excellence: 15%

Above average: 10%

Average: 5%”

Clearly, the premiums suggested by the Appraiser are much higher than those emanating from the 2004 publication from which he inappropriately infers they are derived.

2). The definition descriptors in Crompton’s Park Quality Scale were developed specifically for parks. They do not fit the context of the LID parkway. To use them in this way is like comparing the tastes of artichokes and apples. If the Appraiser required a similar scale for the parkway to guide his judgements, then he needed to develop a scale that fits the LID context. Clearly, on its face the scale lacks validity.

3). With a co-author, I recently finished an update of the 2004 *Proximate Principle* book that addresses the impacts of physical amenities on property values. Again, it is targeted at a non-scientific audience. It will be released by Sagamore/Venture Press in the next few weeks.⁴ It updates the ‘plug and chug’ numbers. In this revision, the suggested premiums on single-family homes within the 500-foot proximate area for each of the three highest categories shown in the Park Quality Scale table are;

Unusual Excellence: 10%

Above Average: 5%

Average: 3%.

These much smaller percentages reflect the more accurate lower premiums reported in the post-millennium studies.

In addition to concerns with the table, there are three concerns with the narrative cited above that follows it:

- a) The narrative states “the current waterfront area can be rated as average to above average since it provides a unique public amenity”. Subsequently it states that in another part of the LID “the rating declines to merely average.” No valid greenway or parkway scale has been developed that describes or defines “average” and “above average”. Without a benchmark scale to serve as a point of reference there are no guiding criteria, so the Appraiser’s judgement is arbitrary.
- b) The arbitrariness problem continues in the following paragraph: “...which indicates an average 5% increase in condominium values situated within three blocks of the improvements/new amenities. Note that this is an average based on empirical data.” It is not based on empirical data. It has no scientific or empirical basis. It is simply the Appraiser’s arbitrary judgement and compounds the concerns relating to range of impacts noted in the previous section of this evaluation.
- c) The final paragraph cited above states: “The above article sets up a good basis for the argument that a large, linear, well-maintained public park that attracts active users-such as the Seattle waterfront park...” It does not “set up a good basis” since it is based on faulty premises. Further, this is not a “large linear public park”; it is a parkway.

The Negative Impacts of Disamenities on Premiums

Premiums on proximate properties associated with park-like spaces are sometimes at least partially offset by a variety of social and/or environmental disamenities. These may include - congestion, increased traffic flow, lack of parking or unwanted on-street parking, litter,

vandalism, intrusive lighting, and groups engaging in morally offensive activities. This led to a number of the studies reviewed in the JLR articles reporting that properties immediately adjacent to a park did not show the highest premium. Rather, it was properties located one or two blocks distant from the park (that were also distant from the source of nuisances) which had the highest premiums.

In the context of the LID, demolishing the viaduct removes a major disamenity for those properties whose view of an ugly and noisy roadway is replaced by an attractive view of the water and new greenway. Clearly, this is likely to have a major positive impact on the value of those properties, but the Appraiser appropriately recognized this as a “before” condition, rather than a benefit from the LID.

The Appraiser identified two potential negative impacts. He indicated loss of parking spaces was incorporated in his assessments: “some parking losses along Alaskan Way in the waterfront area will occur due to the project and this is considered in the analysis” (p.7), but there is no overt description of how it was “considered in the analysis”.

He noted the LID was likely to result in an increase of “1.5 million net new visitors to the immediate area, generating \$191 million in new annual visitor spending” (p.45). This estimate was juxtaposed in a following paragraph with a quote from the 2001 JLR article which implies he recognized the potential negative nuisance impact on property values of these new visitors: “Parks that serve primarily active recreation users were likely to show much smaller proximate value increase than those accommodating only passive use” (p.28)¹. His report went on to paraphrase a conclusion from the JLR article: “Neighborhood parks that are primarily used by the surrounding residents result in a higher increase in property values than larger parks that attract active users from outside the neighborhood due to the adverse effects of noise, nuisance and congestion” (p. 46). Again, there is no overt description of the extent to which the Appraiser considered this disamenity impact in his assessments.

The Diminishing Marginal Valuation of Premiums.

The premiums on properties that are proximate to parks and water amenities are derived from two sources: distance from the amenity and views of the amenity. The Appraiser recognized “the view amenity will not change due to the LID project” (p. 48). He offers no estimate of the magnitude of the existing water view premium, since it is outside the scope of his brief. Nevertheless, the magnitude of the water premium is important, because it impacts the perceived value of potential increments of benefit that may emanate from the new greenway.

Surprisingly few empirical studies measuring water views, especially ocean views, have been reported in the scientific literature, but one of them was undertaken in Washington State in the city of Bellingham.^{13,14} The study was limited to single-family homes. The authors used hedonic analysis, which is widely accepted in the scientific community as the most accurate empirical approach to measuring the contribution of each of the multiple factors that impact property values.

The average value premium for an ocean view in the Bellingham study was 25.6%. However, it varied according to the quality of the view. The authors concluded:

“When views are classified into seven categories, the percentage increase in property value attributable to a view ranges from 8.2% for poor partial ocean view, to 18.1% for a lake view, 29.4% for a good partial ocean view, 30.8% for a superior partial ocean view, and 58.9% for an unobstructed ocean view” (p.69).¹³

Like all of us who do this type of analysis, the authors acknowledged that their results were context specific: “All estimated view amenity values are, of course, specific to the Bellingham market.”

Two other studies with which I am familiar that perhaps have water views comparable to some properties in the LID were undertaken by a research team in the Cleveland area of Cuyahoga County in Ohio. They pertained to views of Lake Erie. The two analyses reported that properties in the County with a view of Lake Erie had a premium of 90%¹⁵ and 56%.¹⁶

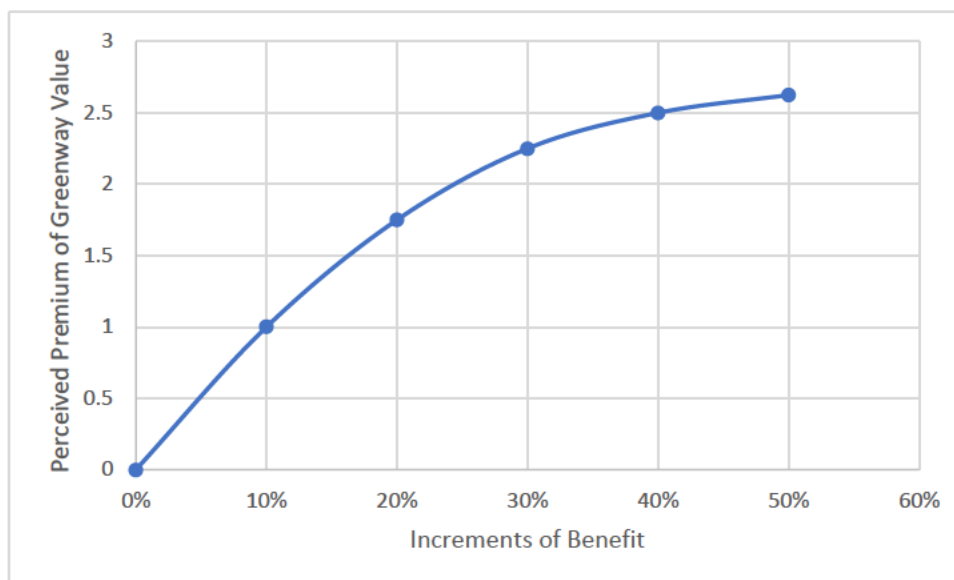
It appears reasonable to conject that similar large premiums to those reported at Bellingham and Cuyahoga County apply to properties with a water view in the LID. Further, given the fixed supply of water view properties it seems likely that premiums will rise even higher in the future.

A consequence of water premiums of this magnitude is likely to be a diminished marginal valuation of the additional units of benefit premium that may be anticipated from the new greenway.

The exposition of this principle is enshrined in Prospect Theory which was first articulated in 1979¹⁷. Its influence has been extensive and profound. It has been empirically validated in numerous contexts, and the theory is now widely accepted as being unusually robust in its ability to predict outcomes in human decision-making.

Since the article describing Prospect Theory was published, it has been one of the three most cited papers in the Economics literature; it was a foundation for the evolution of behavioral economics, which has transformed the economics discipline; and its authors (who were psychologists) received the Nobel Prize for economics in 2002.

One of Prospect Theory’s principles is that each additional increment of benefit has a smaller impact on perceived value (premium) than the equal increment preceding it. The concave value function expressing this phenomenon is shown below:



The curve shows that the perceived value of each 10% increase in benefit is lower than the perceived value of the previous increment of benefit. For example, the increase in benefit from (say) 40% to 50% is perceived to be much less valuable than the increase from 0% to 10%. One of the authors of Prospect Theory used the following analogies to illustrate the point:

Turning on a weak light has a large impact in a dark room. The same increment of light may be undetectable in a brightly illuminated room. Similarly, the subjective difference between \$900 and \$1,000 is much smaller than the difference between \$100 and \$200 (p. 282).¹⁸

In the context of the LID, Prospect Theory predicts that the incremental effect of the new “park improvements” on the value of properties which already have a large premium stemming from their view of the water is likely to be very small or perhaps non-existent.

Concluding Comments.

My brief was to evaluate whether the Appraiser properly applied my work in his study and whether the benefit areas and assigned special benefits are supportable or speculative. My evaluation has relied on secondary sources, primarily the Appraiser’s report. I have not had the opportunity to visit the LID site.

The Appraiser appears to rely on my work to justify the assignment of increment increases of 0.5% to 4%. Presumably, the credibility of his judgements is enhanced by the suggestion that they have a scientific basis, rather than relying on his expertise, experience, judgement and intuition. However, the Appraiser has misinterpreted and/or misapplied eight dimensions of my work:

- The Appraiser did not have access to the recent updated findings of my original work, because their publication in the scientific literature occurred only recently after he had completed his study.

- Both the 2001 and 2020 JLR reviews pertained to residential dwellings, predominantly to single-family homes. They did not relate to commercial properties such as high-rise office buildings, retail uses, hotels et al. The Appraiser inappropriately extended the reviews' findings to all properties in the LID.
- The LID "park improvements" manifest the characteristics of a parkway, not a park. My JLR review cited by the Appraiser related to the impact of *parks* on property values. It is inappropriate to apply the findings to parkways, since they are a qualitatively different amenity.
- My review indicated most of a park's impact occurs within a 500-foot range. The Appraiser's measure of distance to which impact of the LID "park improvements" extended was three blocks, which a network analysis showed was significantly further than 500 feet.
- The conclusion from the JLR reviews that often a small increment of impact extended out to 2,000 feet was derived from "community parks". The enhanced array of amenities included in community parks accounts for them often adding a small increment of value to properties within 2,000 feet. The proposed "park improvements" in the LID do not incorporate such an array of amenities, so the 2,000-foot distance has no merit in the context of the LID.
- Even if the 2,000-foot metric had merit, where it is applied to measure distances from the "park improvements" using network analysis which is the measure used in the scientific literature, the geographic area of the LID is substantially smaller than the Appraiser shows.
- The Appraiser inappropriately adapted the Park Quality Scale that was developed for parks. He used different ratings and failed to relate them to the descriptive characteristics of parkways; used blocks rather than network feet as a distance measure; inappropriately extended the impacted distance to 12 blocks; and created "green premium" percentages that lacked any scientific foundation.
- The Appraiser's treatment of "nuisances" does not appear to consider the disamenity value of either loss of parking or additional congestion accruing from the net increase in visitors that he projects will occur.
- The perceived benefits emanating from proximity to the "park improvements" are likely to be relatively small on properties that already enjoy large premiums attributable to high-quality water views. The Appraiser does not appear to consider the diminishing marginal value of additional amenity benefits he assumes will accrue on those properties.

The Appraiser's reliance on judgment rather than on empirical evidence is evident throughout the narrative, since his critical decisions relating to premiums are frequently preceded by the word "reasonable". Consensus as to what constitutes "reasonable" is much more difficult to obtain within any given population than when there is empirical verification.

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Appendix 1

Extracted from *The Impact on Property Values of Parks, Trails, Golf Courses and Water Amenities*

Government agencies usually provide the additional level of service which is paid for by special assessment districts, but in some large cities it has been initiated by business leaders and such areas are termed business improvement districts (BIDs). There are more than 1,000 BIDs in the United States and Canada. These districts frequently elect their own boards, which take responsibility for the annual budget, hire staff, let contracts, and generally oversee operations. Much of their effort goes into cleaning up, landscaping, maintaining trees and flowers, and enhancing security. Bryant Park, one of the country's great urban park success stories, is the result of a BID. Exhibit 8-2 briefly describes how the BID worked.¹³⁻¹⁵

Exhibit 8-2

Using a Business Improvement District to Resuscitate Bryant Park¹³⁻¹⁵

In less than 15 years, Bryant Park went from a textbook example of an urban park gone bad to an urban treasure that plays a strong role in the revitalization of Midtown New York City and especially 42nd Street. Bryant Park, beside the New York Public Library, was a neglected, vandalized facility that by the late 1970s had become a haven for drug dealers in the city of New York and was widely referred to as "Needle Park." A business improvement district was formed to maintain the eight-acre park and make ongoing park improvements. The park has been restored with tall shade trees, lush green grass, flower beds, pagodas, and a thriving restaurant, and is now considered a model park. At its summer peak, there are 55 employees working in Bryant Park in security, sanitation, gardening, and special events, all of them work for the Bryant Park Restoration Corporation, which is a nonprofit private management company supported by the Rockefeller Brothers Fund and a cooperative business improvement district of neighboring property owners. On some days, the park attracts more than 4,000 office workers and tourists, and more than 10,000 people attend some special events.

The city paid one-third of the \$18 million restoration costs, and foundations, philanthropists, and surrounding businesses financed the rest through the business improvement district. The businesses assess themselves approximately 33% of Bryant Park's \$2 million annual maintenance bill, while the remainder of the bill is raised in rental and concession fees from restaurants (33%) and special events (33%) held in the park. Businesses recognized that property values and, hence, lease rentals, were closely tied to conditions in the park.

Rents in nearby buildings increased dramatically after the park was redesigned and secured. Results of a 2003 analysis of the impact of the renovations on office buildings bordering Bryant Park are shown in the following table. The rents increased by between 114% and 225%. A second table shown below confirms that other submarkets within a half-mile of Bryant Park also experienced rental increases over this period, but they were substantially less than those shown around the park. Owners of the properties around Bryant Park also reported that the quality of

tenants improved, that there was reduced downtime between leases, and the buildings' credit profiles and market values increased.

To a primary organizer of the Bryant Park effort, the lesson was clear: "If building owners and the agents help protect urban open space, they will be more than paid back for their efforts, both in increased occupancy rates and in increased rent—all because their building has this attractive new front yard."

Exhibit 8-2 continued
Changes in Per Square Foot Rentals in Four Buildings Facing Bryant Park 1990-2002

	1990	2002	Percentage Increase
Grace Building	\$29.50	\$49	114%
Beaux Arts Building	\$18	\$60	225%
London Fog Building	\$20	\$45	125%
1065 Avenue of the Americas	\$20	\$50	150%

Rental Changes in Comparable Buildings in Surrounding Submarkets of New York City

Grand Central	55%
Times Square	67%
Penn Plaza/Garment District	73%

Following the success of Bryant Park, the Central Park Conservancy in New York City suggested a similar model for assisting with the funding needed to maintain Central Park. The Conservancy had accepted responsibility for most of the park's maintenance. Its annual budget for this task was over \$20 million, and it was concerned that the park's needs were "increasing beyond the capability of private philanthropy." Accordingly, the chairman of the Conservancy's Board stated:

Our concept for the future is to empower, by statute, all neighborhoods in the city, if they choose to do so, to support their local open space with a further revenue stream. We propose park enhancement districts similar to the business improvement districts that are improving the Grand Central area, Bryant Park and many other neighborhoods.

Each neighborhood would be enabled voluntarily to organize itself, decide whether to impose a small surcharge on its local real estate to supplement city support and private philanthropy, set the amount of the surcharge and then use it for its own park, playground or other open space. (p. 14)¹⁶

A study of the impact of Hudson River Park on proximate property values concluded: "Up to 20% of the value of properties within three blocks of the Park is attributable to the Park." This led to a recommendation:

To establish a Business Improvement District for the Hudson River Park, through which adjacent property owners would be assessed a fee and the funds dedicated specifically to the maintenance and programming of the Park...The principle of assessing neighboring property owners seems sound, as these landowners benefit most from the added value of the Park and stand to lose most if the Park were to fall into disrepair.¹⁷

Other downtown parks that have revitalized surrounding property values include:

- The \$50 million renovation of the 2.5-acre Campus Martius Park in the heart of downtown Detroit undertaken by a nonprofit coalition of business and civic leaders to celebrate the 300th anniversary of the city of Detroit. Its renovation stimulated over \$500 million of new property investment in the adjacent neighborhood.¹⁸
- Discovery Green in downtown Houston was a 12-acre park built at a cost of around \$70 million by a nonprofit that also operates it. Its impact on the assessed values of surrounding property is shown in Exhibit 8-3. In the four-year period from before the Park was announced in 2005 to when it was completed in 2008, the assessed values of property abutting it increased by 51%.
- Three park sites totaling 18.5 acres, anchor redevelopment of the 36-acre Hemisfair site in downtown San Antonio: 4-acre Yanaguana Garden, costing \$10 million which opened in 2015; 9-acre Civic Park, estimated at \$60 million; and 5.5-acre Tower Park, estimated at \$12.5 million. The Hemisfair Plaza Area Redevelopment Corporation (HPARC) is a 501(c)(iii) charged by the city of San Antonio Council with oversight of the redevelopment. It negotiates ground leases with the commercial, office, retail and hotel elements that surround the parks on the remaining 18.5 acres of the site. These revenues are funneled back into HPARC which also collects the sales taxes accruing from within the site. These funds are used to support future operations on the site. The master plan projects the site will attract \$540 million in private investment and generate \$13 million in tax revenue annually to local entities.¹⁹
- **Exhibit 8-3**
Changes in Assessed Valuations in Response to Discovery Green Park

Year	Average per square foot (\$'s)
2005	87.87
2006	102.68
2007	116.77
2008	133.08

References

1. Mouat, L. (1992). Some green in New York's concrete. *The Christian Science Monitor*, July 31, p. 7.
2. Lerner, S., & Poole, W. (1999). *The economic benefits of parks and open spaces*. San Francisco, CA: Trust for Public Land.
3. Ernest & Young. (2003). *Analysis of secondary impacts of New York City parks*. New York, NY: New Yorkers for Parks.

Appendix 2

GIS Map of the LID Using Network Analysis

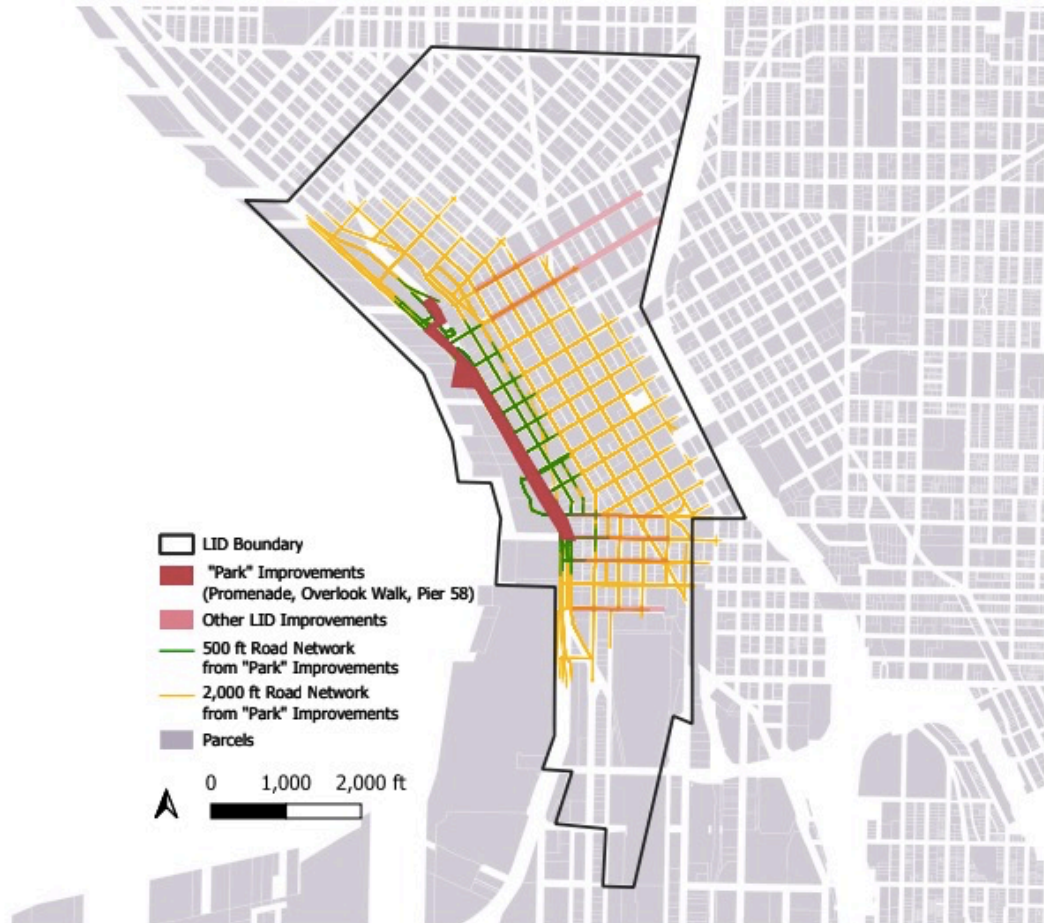


Exhibit 5

John Crompton
 1515 Foxfire Dr
 College Station, TX 77845

RE: Waterfront Seattle LID Special Benefits Report – File Ref: 19-0101 – November 18, 2019

Authored by ABS Valuation.

Dear Mr. Lutz,

You requested me to “assess whether Mr. Macaulay and team have properly applied your and related studies in the City’s study, whether the benefit areas and assigned special benefits are supportable or speculative, and how, in the absence of a site-specific study of these proposals, you would apply the information to be included in your new book.” My comments are arranged under eight headings.

Updated material

The Appraiser (Mr. Robert Macaulay) based his use of my work on an article published in the *Journal of Leisure Research* (JLR) in 2001¹. Since its appearance, this article has been cited in 335 other articles published in the scientific literature. The high citation rate suggests it has been viewed as a foundation paper upon which other economists and social scientists have built. The appraiser also referenced that it was “updated in 2014”. He does not cite a reference for the 2014 update, and I am unaware of such an update. I did publish a book in 2004 addressing the same issue.² I assume that is the update to which he is referring. That book incorporated the material from the JLR publication, and did not update it. It was written in non-scientific language, because it was targeted at a professional rather than a scientific audience.

The Appraiser (p.45) correctly cites the 2001 article as concluding, “A positive impact of 20% on property values abutting or fronting a passive park area is a reasonable starting point guideline” (p.29). However, the Appraiser did not note that this conclusion was preceded by an important qualification: “A definitive generalizable answer to [the magnitude of the proximate effect] is not feasible given the substantial variation in the size, usage and design of park lands in the studies and the disparity in the residential areas around them which were investigated... If it is a heavily used park...then the proximate value increment may be minimal on abutting properties but may reach 10% on properties two or three blocks away” (p.29).

In 2020, together with a co-author, I updated the 2001 JLR article (51(2), 127-146). Since the new findings were published only a few months ago,³ obviously, the Appraiser did not have access to these updated findings. However, if he had contacted me, I would have made the paper available to him. It was first submitted to JLR for review in November 2018 and after changes made in response to suggestions offered by expert reviewers, it was published online on August 12, 2019.

The 33 studies located in the scientific literature that addressed this issue which we reviewed were much more accurate than those reviewed in the earlier article, reflecting five methodological developments that emerged around the start of the new millennium: Hedonic models became more

robust; statistical tools associated with hedonic analyses were more sophisticated; Geographic Information Systems enabled distance to be measured along road networks rather than straight lines; electronic data bases from Multiple Listing Services enabled larger samples to be used; and market sales rather than appraised values were used. As a result of these improvements our updated review concluded:

“When the highest premiums reported in each study were tabulated, an approximately equal number were assigned to each of three categories: less than 4%, 5%-9%, and 10% or more. This suggests the recommendation from the 2001 review that 20% on property values abutting or fronting a passive park area as a reasonable starting point guideline was overly generous. A more appropriate starting point guideline on this kind of property would appear to be 8%-10%” (p.15).

Differences in Types of Properties.

The studies reviewed in both the 2001 and 2020 JLR publications predominantly used single-family homes in their samples. This is different from the mix of residential units in the LID which are comprised almost exclusively of apartments and condominiums.

Our 2020 JLR review concluded:

The percentage premium associated with multifamily properties or small lots was higher than that associated with single-family or large lot properties. This finding was consistent in all nine studies that addressed this issue. It is explained by privately owned yard space associated with single family homes serving as a partial substitute for public parks (p.147).

Backyards in single family homes frequently contain such items as playground equipment, exercise equipment, decks with tables and chairs, barbeque facilities, basketball hoops, and grass spaces for Frisbee, soccer, tag or whatever. These amenities facilitate socialization and entertainment for family and friends. For many, they become the center of home and neighborhood life. In essence, in some homes the backyard substitutes for, and replaces, some of the facilities typically incorporated into neighborhood parks.

Hence, a case can be made that the premiums for apartments and condominiums in the LID are likely to be larger because they have no backyards, and the availability of a proximate park compensates for this lack of private space.³ However, the LID “park improvements” are best characterized as a parkway not a park. The “park opportunities” do not appear to incorporate these types of facilities or to be designed to perform this function. Rather, it appears designed as an attractive corridor to facilitate exercise, and exposure to the ambiance of water views.

The Appraiser provides a separate spreadsheet for “All other LID Commercial Properties”. It is unclear to me if the JLR review was used in ascertaining premiums for these 1,051 properties but, clearly, it is not appropriate to extrapolate its findings for deriving values for high rise office buildings, retail uses, hotels et al.

The exemplar demonstrating the impact of rejuvenated or new park land on commercial values was Bryant Park in New York City. Attached as an appendix to this report is a description of its rejuvenation that I included in my most recent book which the publishers tell me will be released next month.⁴

The success of the rejuvenation of that 8-acre park in the early 1990s which generated substantial increases in commercial office rents for the surrounding properties, led many other cities to emulate it. However, almost all the premiums associated with those parks are captured by properties directly fronting on to the parks, and they do not extend much beyond that immediate area. This is reflected in the narrow geographic area of the Business Improvement Districts that typically are established to fund and subsequently maintain such parks. It appears the Appraiser has extended the range for commercial property assessments far beyond those immediately abutting the LID “park improvements”.

Are the “Park Improvements” Best Characterized as a Park, Greenway or Parkway?

The Appraiser’s suggestion that the green space in the LID is a “park” is a misrepresentation. Although the area incorporating the “park improvements” appears to be approximately 36 acres, two-thirds of that 36 acres appears to be hardscape. This suggests the appropriate designation is “parkway” rather than “park”. This distinction is critical, because the JLR review to which the Appraiser frequently refers pertained exclusively to “parks and open space.” It did not refer to parkways or greenways. The importance of the distinction stems from the empirical literature that shows the premiums from parks on property values are likely to be much higher and to extend for a greater distance, than those from parkways or greenways.

In the narrative relating to his valuation of residential condominiums, the Appraiser makes it clear he is referring to premiums associated with parks rather than parkways or greenways. For example, “The research presents clear indications that well-designed park and street improvement projects have a positive effect on surrounding neighborhoods and property values” (p.82)

The Appraiser appears to implicitly acknowledge the distinction between parks, parkways and greenways, because three of the six projects he examined to “compare various project components” were parkways or greenways, rather than parks. (Tom McCall Parkway, Rose Kennedy Greenway, and Embarcadero Parkway).

In his exposition of the tools used in his valuation analysis, the Appraiser states:

“As mentioned throughout, increases in market value of individual parcels result primarily from enhanced location (improved pedestrian connections, open space, streetscapes) which, in turn, enhances the aesthetic appeal of the waterfront and a large segment of the downtown CBD” (p.59).

Later, in his valuation summary describing the impact of the LID he states:

“With the LID in place, there is a new waterfront promenade, consisting of continuous open space on the west side of the waterfront corridor from Pine Street to South

Washington Street, with enhanced landscaping and streetscapes. Pedestrian accessibility to the waterfront and view opportunities are greatly improved” (p. 80).

Parks are conspicuously absent from these descriptions. Rather, they describe beautification of a highway with an accompanying well-landscaped promenade.

The genesis of American parkways lies in the tree-lined boulevards of Paris that were established in the 18th and 19th Centuries. They were designed for “promenading”. The belief was that pedestrian walkable areas would add value to proximate residences.⁵ They were transposed to the U.S. by Olmsted and Vaux, the highly influential landscape architects who were responsible for many of the pioneering large urban parks in the U. S. For the most part, they preferred the term “parkways” to “boulevards” but they used them as synonyms.

Their parkways were intended to serve either as a means of approach to a large park or as a connection between large parks. Parkway was defined as “a road that is of picturesque character bordered by trees and shrubs,”⁶ and they were regarded as “narrow informal elongations”. Commercial vehicles were barred and the intent was to make driving through them a recreational experience.⁷ This meant that most of the benefit was conferred on those driving along the artery, and on those fronting on it who enjoyed views and exposure to the intensive landscaping.

Parkways were designed for through traffic and all intersections were either bridged or tunneled under the parkways. The central drives were flanked with generous 30-35-foot pedestrian medians. Parallel 25-foot side roads for local and commercial traffic were constructed along with side-walks. All elements of a parkway were separated by two rows of trees. Although it does not possess all these elements, these descriptions appear to be reasonable representations of the LID “park improvements”.

Importantly, in the context of the LID, it was believed that added real estate value from parkways was confined to properties directly fronting on to them. Kansas City was renowned for its system of parkways. In a report to his Board of Park Commissioners in 1910, George E. Kessler, the superintendent of parks, who was a highly regarded national figure in the parks field, stated: “Conservative real estate men [in Kansas City] estimated the present value of the grounds fronting on the Kansas City boulevards, less building improvements. They compared this valuation with that of ground fronting adjacent streets which were not on boulevards. They found that the difference in favor of the boulevards real estate was \$250,000 more than the entire cost to taxpayers of all the parks and boulevards embraced in the system.”⁸

The distinction between a highway and a recreational parkway disappeared from the U.S. urban infrastructure vocabulary after the Second World War. Today, when the term “parkway” is adopted, the intent is generally to upgrade perceptions of an artery’s status from an ordinary city street by providing more comprehensive landscaping and, consequently, conferring on it the image properties associated with the word ‘parkway’.

In the last two decades of the 20th Century, the term “greenways” entered the urban infrastructure lexicon. Greenways are not wide swaths of land like parks, rather they are relatively narrow corridors that have two major functions: (i) to link and facilitate hike and bike access between

residential areas and places of employment and/or parks; and (ii) to provide opportunities for linear forms of outdoor recreation (e.g. hiking, jogging, bicycling, inline skating, and ordinary walking).

Their popularization stemmed from the 1987 report of the President's Commission on Americans Outdoors. The Commission recommended communities establish "greenways", which they defined as "corridors" that "provide access to open spaces close to where they live." The Commission conceptualized these greenways as "fingers of green that reach out from around and through communities all across America" (p.142).⁹ The first extended work exploring the potential of greenways followed soon after and defined greenways as "linear open spaces...converted to recreational use" (p.1).¹⁰

Most of the enhanced value of parks derives from people's willingness to pay a premium to be proximate to the tranquility, peace and psychological relaxation many parks provide. In contrast, enhanced property values associated with greenways are likely to come from access to a trail, rather than from views of nature or open space. It is their functionality or activity potential that is likely to confer most added value, rather than the panorama and ambiance associated with parks.

In my 2004 *Proximate Principle* book², the "plug and chug" estimation process from which the Appraiser garnered the blocks measure that is described in the following section, I asserted:

"Results from the limited number of empirical studies available at this point indicate that while trails are unlikely to exert a negative impact on proximate values, there is insufficient evidence to suggest they have a positive impact. The dominant sentiment is that trails have no impact on property values, so no proximate premium is recommended for them here" (p.11).

While the Appraiser elected to use the blocks measure from the 'plug and chug' "best guess" estimation procedure, he chose not to use the trails findings. These are not as accurate a descriptor for the LID as "parkway" but are a closer depiction of the "park improvements" than parks.

Again, in a recent article, a co-author and I updated those greenway trail 2004 results. We reviewed 20 studies which had been published since 1999 that measured the impact of greenways and trails on proximate property values using hedonic analysis. None of these greenways resembled the LID in having a major highway running through them. Many of them were "rails to trails" projects which transformed disused railroad tracks into hike and bike trails. Our review of greenway trails concluded: "The results indicate that a small positive premium of between 3% and 5% was the most widespread outcome for single-family homes located proximate to a trail." (p.97).¹¹

Distance for which the "Park Improvements" Impact Property Values.

The 2001 JLR study concluded:

The diversity of the study contexts makes it non-feasible to offer a generalizable definitive answer to the question concerning the distance over which the proximate

impact of park land and open space extends. However, there appeared to be wide agreement that it had substantial impact up to 500 feet and that in the case of community sized parks it extended out to 2,000 feet (p. 29.)¹

The 2020 JLR updated review similarly concluded: “This synthesis endorsed a conclusion from the 2001 review that high premiums generally were limited to properties within 500 feet, but for large parks they extended out to 2,000 feet” (p.142).³

Both the JLR 2001 and 2020 scientific papers reported the range of impacts in feet. They made no reference to number of blocks. However, the Appraiser discarded the use of feet and replaced it with “blocks”. He did that throughout his report, which allows the reader to incorrectly infer it was a synonym for the feet measure.

His blocks measure stems from my 2004 *Proximate Principle* book, which was written for a non-science, professional audience.² In that volume, I included an approximation ‘plug and chug’ simplified procedure, based on the empirical findings, that non-scientists could adopt for use in their communities. I explained it was a template: “it is emphasized that this approach only offers a rather crude ‘best guess’”. The template suggested, “The area of proximate impact of a park should be limited to 500 feet or three blocks” (p.9). My intent in using the three-block term was to reify the 500 feet range metric. The magnitude of 500 feet is relatively difficult to grasp, whereas three blocks is easily recognizable. It reflected the approximate distance in most of the contexts in which the studies in our review were undertaken. It was anticipated the block synonym would be more understandable and easier for non-scientists to grasp. The intent was to offer a synonym for 500 feet, not an alternative to it. Clearly, if the block measure is applied to the 300-foot blocks that are more typical in the LID than the intended 150-foot distance, it extends the impacted area far beyond the 500-foot distance reported in the JLR studies.

In his interpretation of that statement (“The area of proximate impact of a park should be limited to 500 feet or three blocks”), the Appraiser states:

“In terms of direct residential impact, John Crompton’s ongoing studies into the impact of parks on property values have been used by municipalities across the country. Crompton’s “proximate principle” represents a “capitalization” of park land into increased property values and a widening of the tax base. One major finding based on his results deals with the location and proximity of property to the park improvements—both in urban and suburban environments:

- 75% of the benefit from a park is captured within 500 feet, or three blocks.
- The remaining 25% of the benefit is likely dissipated over a 500 to 2,000-foot range, or 4 to 12 city blocks” (p.83 & p.46).

In his first bullet, the Appraiser inserts a comma between the two measures, “...within 500 feet, or three blocks”. This comma was added by the Appraiser. It was not in the original Crompton manuscript. This insert reinforces an inference that the two measures are alternatives, whereas without the comma they are more likely to be accurately recognized as synonyms which was the intent.

The Appraiser throughout his report, disregarded the 500 and 2,000-foot measures and used only the blocks measures for the LID assessments. In addition to the comma insert, the above statement misrepresents my work in six ways:

- It inappropriately applied findings from our review of parks to a parkway.
- The parks review was based on residential dwellings, predominantly single-family homes, and the Appraiser inappropriately extended the findings to include commercial buildings.
- At my request, a GIS map was produced using the network metric showing the LID boundaries and proximate distances to the “park improvements” and it is attached to this report as appendix 2. It shows that 500 feet distance from the “park improvements” is either one or two blocks. Hence, using the block measure, rather than the feet measure that was reported in the JLR review, has the effect of inappropriately extending the LID impact significantly beyond that which the park study indicated (even if it was legitimate to use the park review’s findings).
- The Appraiser’s extension of the impact distance to 12 blocks was an incorrect interpretation of our work for two reasons.
 - First, our conclusion that often a small increment of impact extended out to 2,000 feet applied to “community parks”. The definition of community parks in the Seattle Parks Department Master Plan is: “Community parks satisfy the recreation needs of multiple neighborhoods. They generally accommodate group activities and recreational facilities not available at neighborhood parks. They may have athletic fields, large open spaces, paths, benches, natural areas, and restrooms. Community parks are accessible by arterial or collector streets, and usually include off-street parking” (p.97)¹². The enhanced array of amenities included in community parks accounts for them often adding a small increment of value to properties within 2,000 feet. Clearly, the proposed “park improvements” in the LID do not incorporate a comparable array of amenities and so, use of the 2000-foot metric is inappropriate.
 - A second incorrect interpretation was the failure to recognize that all the studies reviewed in our most recent JLR paper used network analysis to measure impact distance. This means the 2,000 feet refers to distance along road networks, not “as the crow flies”. When the distance from the “park improvements” is measured along roadways, the range of impact is much smaller than is shown by the current LID parameters.
- The GIS map shows the LID includes corridors extending east across Alaskan Way up to Western Ave and the Pike Place Market vicinity. Clearly, these are not “park improvements”. They bear no relationship to the park sites that constituted the samples studied in the JLR reviews.

These inaccurate interpretations of our work resulted in the Appraiser inappropriately concluding (referencing a streetscape study as well as our JLR review): “Both studies indicate a

geographical radius of benefit within 12 blocks, but most significantly within the first three blocks” (p.56).

Use of the Park Quality Scale.

The Appraiser states: “Based on Crompton’s park rating scale and considering the existing waterfront amenity, the Waterfront Seattle project would increase the quality rating from above average to excellent, which indicates an average increase in value of 5% for condominiums within a three-block radius” (p.56). This is a misapplication and misinterpretation of my work. The reality of the Appraiser’s conclusion is that it is based on his judgement, experience and expertise; it does not derive from any of my publications or from scientific empirical findings.

In the 2004 *Proximate Principle* book a “Park Quality Scale for Determining Proximate Principle Premiums” was included, as part of my ‘plug and chug’ approximation procedure. The Appraiser reproduces it in his report (p.46) as shown below.

Park Quality Scale for Determining Proximate Premiums

Unusual Excellence	A signature park; exceptionally attractive; natural resource based; distinctive landscape and/or topography; often mentioned in sales advertisements for nearby properties; well maintained; genuine ambiance; engenders a high level of community pride and “passionate attachment.”
Above Average	Natural resource based; has charm and dignity; regarded with affection by the local community; pleasant; well maintained.
Average	Rather nondescript; not really “noticed” by the local community; adequately maintained; no distinguishing features
Below Average	Sterile; absence of landscaping or trees; athletic fields with noise, lights, congestion; intensive use
Dispirited, Blighted	Dilapidated, decrepit facilities; broken equipment; unkempt, dirty; unofficial depository for trash; noisy; undesirable groups congregate there; rejected and avoided by the community

Immediately following the Park Quality Table in the Appraiser’s report, his narrative continues as follows (p.47):

- Condominiums within a three-block radius typically experience increases in property value of:

Quality of Park	Distance	Green Premium
Excellent-Average	1 block	16-20%
Excellent	1-3 blocks (500ft)	15%
Above Average	1-3 blocks (500ft)	10%
Average	1-3 blocks (500ft)	5%
Poor	1-3 blocks (500ft)	-5%

In the case of the Waterfront Seattle project, it is important to consider that there is an existing waterfront amenity; the current waterfront area can be rated as average to above average since it provides a unique public amenity. However, when considering the waterfront area as extending east across Alaskan Way up to Western Avenue and the Pike Place Market vicinity, the rating declines to merely average due largely to the poor connectivity with city streets. The existing alleys, stairwells, and dim lighting areas contribute to an undesirable atmosphere, especially at night, despite the active foot traffic and tourist-oriented venues along the waterfront. The reader is referred to the City-provided documents in the addenda volume for further discussion and descriptions of existing or “without LID” conditions.

With the project elements completed, the area will be upgraded to excellent, which indicates an average 5% increase in condominium values situated within three blocks of the improvements/new amenities. Note that this is an average based on empirical data and is utilized for background information when analyzing the subject project elements.

The above article sets up a good basis for the argument that a larger, linear, well-maintained public park that attracts active users – such as the Seattle waterfront park – will likely have a positive impact on residential property values and that the most benefit is evident within a two- to three- block radius.”

There are three concerns relating to the Appraiser’s table:

1). The columns in the “increased property value” table are different from those used in the Park Quality Scale which the Appraiser purports to represent:

- Under the “Quality of Park” heading, the Appraiser uses different ratings than are used in the Scale. The source, rationale, criteria and definitions of the descriptors that comprise the new rating scale are not explained. The new scale is not derived from the Quality of Park Scale. Indeed, there appears to be no connection between them
- Under the “Distance” heading he introduces a new category “1 block”. No rationale is provided for it. The subsequent categories refer to the 1-3 block measure which he parenthetically infers equate to 500ft, but in fact in the LID context a three-block measure significantly exceeds that range.
- The “Green Premium” heading in the third column is a new term that the Appraiser has introduced. The source of the percentage premiums used in this column is not explained. They seem to be entirely arbitrary. They do not come from the original table in the 2004 *Proximate Principle* publication which stated:

“Based on the results reported in the monograph, the suggested premiums applied to all single-family home properties within the 500-foot proximate area for each of the three highest categories shown the Table are;

Unusual excellence: 15%

Above average: 10%

Average: 5%”

Clearly, the premiums suggested by the Appraiser are much higher than those emanating from the 2004 publication from which he inappropriately infers they are derived.

2). The definition descriptors in Crompton’s Park Quality Scale were developed specifically for parks. They do not fit the context of the LID parkway. To use them in this way is like comparing the tastes of artichokes and apples. If the Appraiser required a similar scale for the parkway to guide his judgements, then he needed to develop a scale that fits the LID context. Clearly, on its face the scale lacks validity.

3). With a co-author, I recently finished an update of the 2004 *Proximate Principle* book that addresses the impacts of physical amenities on property values. Again, it is targeted at a non-scientific audience. It will be released by Sagamore/Venture Press in the next few weeks.⁴ It updates the ‘plug and chug’ numbers. In this revision, the suggested premiums on single-family homes within the 500-foot proximate area for each of the three highest categories shown in the Park Quality Scale table are;

Unusual Excellence: 10%

Above Average: 5%

Average: 3%.

These much smaller percentages reflect the more accurate lower premiums reported in the post-millennium studies.

In addition to concerns with the table, there are three concerns with the narrative cited above that follows it:

- a) The narrative states “the current waterfront area can be rated as average to above average since it provides a unique public amenity”. Subsequently it states that in another part of the LID “the rating declines to merely average.” No valid greenway or parkway scale has been developed that describes or defines “average” and “above average”. Without a benchmark scale to serve as a point of reference there are no guiding criteria, so the Appraiser’s judgement is arbitrary.
- b) The arbitrariness problem continues in the following paragraph: “...which indicates an average 5% increase in condominium values situated within three blocks of the improvements/new amenities. Note that this is an average based on empirical data.” It is not based on empirical data. It has no scientific or empirical basis. It is simply the Appraiser’s arbitrary judgement and compounds the concerns relating to range of impacts noted in the previous section of this evaluation.
- c) The final paragraph cited above states: “The above article sets up a good basis for the argument that a large, linear, well-maintained public park that attracts active users-such as the Seattle waterfront park...” It does not “set up a good basis” since it is based on faulty premises. Further, this is not a “large linear public park”; it is a parkway.

The Negative Impacts of Disamenities on Premiums

Premiums on proximate properties associated with park-like spaces are sometimes at least partially offset by a variety of social and/or environmental disamenities. These may include - congestion, increased traffic flow, lack of parking or unwanted on-street parking, litter,

vandalism, intrusive lighting, and groups engaging in morally offensive activities. This led to a number of the studies reviewed in the JLR articles reporting that properties immediately adjacent to a park did not show the highest premium. Rather, it was properties located one or two blocks distant from the park (that were also distant from the source of nuisances) which had the highest premiums.

In the context of the LID, demolishing the viaduct removes a major disamenity for those properties whose view of an ugly and noisy roadway is replaced by an attractive view of the water and new greenway. Clearly, this is likely to have a major positive impact on the value of those properties, but the Appraiser appropriately recognized this as a “before” condition, rather than a benefit from the LID.

The Appraiser identified two potential negative impacts. He indicated loss of parking spaces was incorporated in his assessments: “some parking losses along Alaskan Way in the waterfront area will occur due to the project and this is considered in the analysis” (p.7), but there is no overt description of how it was “considered in the analysis”.

He noted the LID was likely to result in an increase of “1.5 million net new visitors to the immediate area, generating \$191 million in new annual visitor spending” (p.45). This estimate was juxtaposed in a following paragraph with a quote from the 2001 JLR article which implies he recognized the potential negative nuisance impact on property values of these new visitors: “Parks that serve primarily active recreation users were likely to show much smaller proximate value increase than those accommodating only passive use” (p.28)¹. His report went on to paraphrase a conclusion from the JLR article: “Neighborhood parks that are primarily used by the surrounding residents result in a higher increase in property values than larger parks that attract active users from outside the neighborhood due to the adverse effects of noise, nuisance and congestion” (p. 46). Again, there is no overt description of the extent to which the Appraiser considered this disamenity impact in his assessments.

The Diminishing Marginal Valuation of Premiums.

The premiums on properties that are proximate to parks and water amenities are derived from two sources: distance from the amenity and views of the amenity. The Appraiser recognized “the view amenity will not change due to the LID project” (p. 48). He offers no estimate of the magnitude of the existing water view premium, since it is outside the scope of his brief. Nevertheless, the magnitude of the water premium is important, because it impacts the perceived value of potential increments of benefit that may emanate from the new greenway.

Surprisingly few empirical studies measuring water views, especially ocean views, have been reported in the scientific literature, but one of them was undertaken in Washington State in the city of Bellingham.^{13,14} The study was limited to single-family homes. The authors used hedonic analysis, which is widely accepted in the scientific community as the most accurate empirical approach to measuring the contribution of each of the multiple factors that impact property values.

The average value premium for an ocean view in the Bellingham study was 25.6%. However, it varied according to the quality of the view. The authors concluded:

“When views are classified into seven categories, the percentage increase in property value attributable to a view ranges from 8.2% for poor partial ocean view, to 18.1% for a lake view, 29.4% for a good partial ocean view, 30.8% for a superior partial ocean view, and 58.9% for an unobstructed ocean view” (p.69).¹³

Like all of us who do this type of analysis, the authors acknowledged that their results were context specific: “All estimated view amenity values are, of course, specific to the Bellingham market.”

Two other studies with which I am familiar that perhaps have water views comparable to some properties in the LID were undertaken by a research team in the Cleveland area of Cuyahoga County in Ohio. They pertained to views of Lake Erie. The two analyses reported that properties in the County with a view of Lake Erie had a premium of 90%¹⁵ and 56%.¹⁶

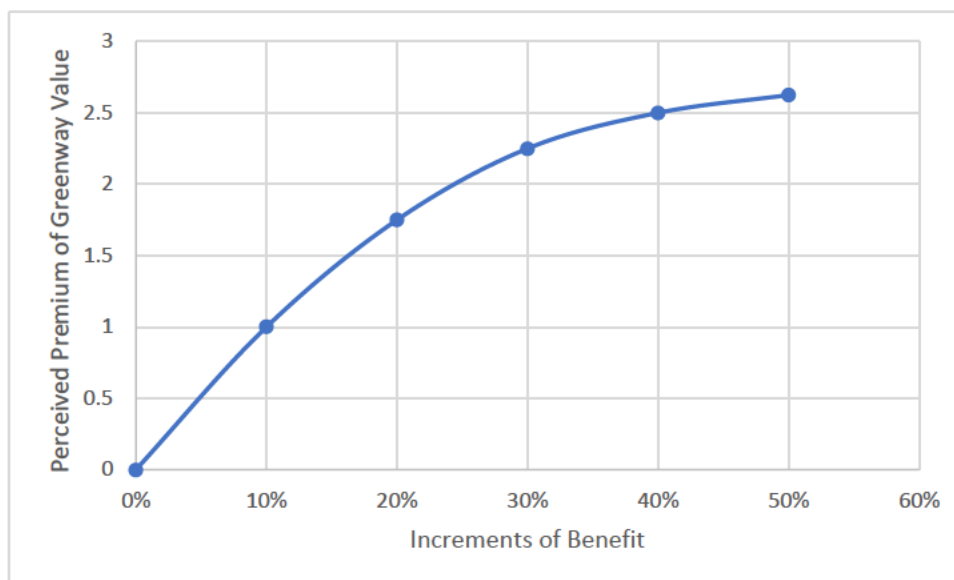
It appears reasonable to conject that similar large premiums to those reported at Bellingham and Cuyahoga County apply to properties with a water view in the LID. Further, given the fixed supply of water view properties it seems likely that premiums will rise even higher in the future.

A consequence of water premiums of this magnitude is likely to be a diminished marginal valuation of the additional units of benefit premium that may be anticipated from the new greenway.

The exposition of this principle is enshrined in Prospect Theory which was first articulated in 1979¹⁷. Its influence has been extensive and profound. It has been empirically validated in numerous contexts, and the theory is now widely accepted as being unusually robust in its ability to predict outcomes in human decision-making.

Since the article describing Prospect Theory was published, it has been one of the three most cited papers in the Economics literature; it was a foundation for the evolution of behavioral economics, which has transformed the economics discipline; and its authors (who were psychologists) received the Nobel Prize for economics in 2002.

One of Prospect Theory’s principles is that each additional increment of benefit has a smaller impact on perceived value (premium) than the equal increment preceding it. The concave value function expressing this phenomenon is shown below:



The curve shows that the perceived value of each 10% increase in benefit is lower than the perceived value of the previous increment of benefit. For example, the increase in benefit from (say) 40% to 50% is perceived to be much less valuable than the increase from 0% to 10%. One of the authors of Prospect Theory used the following analogies to illustrate the point:

Turning on a weak light has a large impact in a dark room. The same increment of light may be undetectable in a brightly illuminated room. Similarly, the subjective difference between \$900 and \$1,000 is much smaller than the difference between \$100 and \$200 (p. 282).¹⁸

In the context of the LID, Prospect Theory predicts that the incremental effect of the new “park improvements” on the value of properties which already have a large premium stemming from their view of the water is likely to be very small or perhaps non-existent.

Concluding Comments.

My brief was to evaluate whether the Appraiser properly applied my work in his study and whether the benefit areas and assigned special benefits are supportable or speculative. My evaluation has relied on secondary sources, primarily the Appraiser’s report. I have not had the opportunity to visit the LID site.

The Appraiser appears to rely on my work to justify the assignment of increment increases of 0.5% to 4%. Presumably, the credibility of his judgements is enhanced by the suggestion that they have a scientific basis, rather than relying on his expertise, experience, judgement and intuition. However, the Appraiser has misinterpreted and/or misapplied eight dimensions of my work:

- The Appraiser did not have access to the recent updated findings of my original work, because their publication in the scientific literature occurred only recently after he had completed his study.

- Both the 2001 and 2020 JLR reviews pertained to residential dwellings, predominantly to single-family homes. They did not relate to commercial properties such as high-rise office buildings, retail uses, hotels et al. The Appraiser inappropriately extended the reviews' findings to all properties in the LID.
- The LID "park improvements" manifest the characteristics of a parkway, not a park. My JLR review cited by the Appraiser related to the impact of *parks* on property values. It is inappropriate to apply the findings to parkways, since they are a qualitatively different amenity.
- My review indicated most of a park's impact occurs within a 500-foot range. The Appraiser's measure of distance to which impact of the LID "park improvements" extended was three blocks, which a network analysis showed was significantly further than 500 feet.
- The conclusion from the JLR reviews that often a small increment of impact extended out to 2,000 feet was derived from "community parks". The enhanced array of amenities included in community parks accounts for them often adding a small increment of value to properties within 2,000 feet. The proposed "park improvements" in the LID do not incorporate such an array of amenities, so the 2,000-foot distance has no merit in the context of the LID.
- Even if the 2,000-foot metric had merit, where it is applied to measure distances from the "park improvements" using network analysis which is the measure used in the scientific literature, the geographic area of the LID is substantially smaller than the Appraiser shows.
- The Appraiser inappropriately adapted the Park Quality Scale that was developed for parks. He used different ratings and failed to relate them to the descriptive characteristics of parkways; used blocks rather than network feet as a distance measure; inappropriately extended the impacted distance to 12 blocks; and created "green premium" percentages that lacked any scientific foundation.
- The Appraiser's treatment of "nuisances" does not appear to consider the disamenity value of either loss of parking or additional congestion accruing from the net increase in visitors that he projects will occur.
- The perceived benefits emanating from proximity to the "park improvements" are likely to be relatively small on properties that already enjoy large premiums attributable to high-quality water views. The Appraiser does not appear to consider the diminishing marginal value of additional amenity benefits he assumes will accrue on those properties.

The Appraiser's reliance on judgment rather than on empirical evidence is evident throughout the narrative, since his critical decisions relating to premiums are frequently preceded by the word "reasonable". Consensus as to what constitutes "reasonable" is much more difficult to obtain within any given population than when there is empirical verification.

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Appendix 1

Extracted from *The Impact on Property Values of Parks, Trails, Golf Courses and Water Amenities*

Government agencies usually provide the additional level of service which is paid for by special assessment districts, but in some large cities it has been initiated by business leaders and such areas are termed business improvement districts (BIDs). There are more than 1,000 BIDs in the United States and Canada. These districts frequently elect their own boards, which take responsibility for the annual budget, hire staff, let contracts, and generally oversee operations. Much of their effort goes into cleaning up, landscaping, maintaining trees and flowers, and enhancing security. Bryant Park, one of the country's great urban park success stories, is the result of a BID. Exhibit 8-2 briefly describes how the BID worked.¹³⁻¹⁵

Exhibit 8-2

Using a Business Improvement District to Resuscitate Bryant Park¹³⁻¹⁵

In less than 15 years, Bryant Park went from a textbook example of an urban park gone bad to an urban treasure that plays a strong role in the revitalization of Midtown New York City and especially 42nd Street. Bryant Park, beside the New York Public Library, was a neglected, vandalized facility that by the late 1970s had become a haven for drug dealers in the city of New York and was widely referred to as "Needle Park." A business improvement district was formed to maintain the eight-acre park and make ongoing park improvements. The park has been restored with tall shade trees, lush green grass, flower beds, pagodas, and a thriving restaurant, and is now considered a model park. At its summer peak, there are 55 employees working in Bryant Park in security, sanitation, gardening, and special events, all of them work for the Bryant Park Restoration Corporation, which is a nonprofit private management company supported by the Rockefeller Brothers Fund and a cooperative business improvement district of neighboring property owners. On some days, the park attracts more than 4,000 office workers and tourists, and more than 10,000 people attend some special events.

The city paid one-third of the \$18 million restoration costs, and foundations, philanthropists, and surrounding businesses financed the rest through the business improvement district. The businesses assess themselves approximately 33% of Bryant Park's \$2 million annual maintenance bill, while the remainder of the bill is raised in rental and concession fees from restaurants (33%) and special events (33%) held in the park. Businesses recognized that property values and, hence, lease rentals, were closely tied to conditions in the park.

Rents in nearby buildings increased dramatically after the park was redesigned and secured. Results of a 2003 analysis of the impact of the renovations on office buildings bordering Bryant Park are shown in the following table. The rents increased by between 114% and 225%. A second table shown below confirms that other submarkets within a half-mile of Bryant Park also experienced rental increases over this period, but they were substantially less than those shown around the park. Owners of the properties around Bryant Park also reported that the quality of

tenants improved, that there was reduced downtime between leases, and the buildings' credit profiles and market values increased.

To a primary organizer of the Bryant Park effort, the lesson was clear: "If building owners and the agents help protect urban open space, they will be more than paid back for their efforts, both in increased occupancy rates and in increased rent—all because their building has this attractive new front yard."

Exhibit 8-2 continued
Changes in Per Square Foot Rentals in Four Buildings Facing Bryant Park 1990-2002

	1990	2002	Percentage Increase
Grace Building	\$29.50	\$49	114%
Beaux Arts Building	\$18	\$60	225%
London Fog Building	\$20	\$45	125%
1065 Avenue of the Americas	\$20	\$50	150%

Rental Changes in Comparable Buildings in Surrounding Submarkets of New York City

Grand Central	55%
Times Square	67%
Penn Plaza/Garment District	73%

Following the success of Bryant Park, the Central Park Conservancy in New York City suggested a similar model for assisting with the funding needed to maintain Central Park. The Conservancy had accepted responsibility for most of the park's maintenance. Its annual budget for this task was over \$20 million, and it was concerned that the park's needs were "increasing beyond the capability of private philanthropy." Accordingly, the chairman of the Conservancy's Board stated:

Our concept for the future is to empower, by statute, all neighborhoods in the city, if they choose to do so, to support their local open space with a further revenue stream. We propose park enhancement districts similar to the business improvement districts that are improving the Grand Central area, Bryant Park and many other neighborhoods.

Each neighborhood would be enabled voluntarily to organize itself, decide whether to impose a small surcharge on its local real estate to supplement city support and private philanthropy, set the amount of the surcharge and then use it for its own park, playground or other open space. (p. 14)¹⁶

A study of the impact of Hudson River Park on proximate property values concluded: "Up to 20% of the value of properties within three blocks of the Park is attributable to the Park." This led to a recommendation:

To establish a Business Improvement District for the Hudson River Park, through which adjacent property owners would be assessed a fee and the funds dedicated specifically to the maintenance and programming of the Park...The principle of assessing neighboring property owners seems sound, as these landowners benefit most from the added value of the Park and stand to lose most if the Park were to fall into disrepair.¹⁷

Other downtown parks that have revitalized surrounding property values include:

- The \$50 million renovation of the 2.5-acre Campus Martius Park in the heart of downtown Detroit undertaken by a nonprofit coalition of business and civic leaders to celebrate the 300th anniversary of the city of Detroit. Its renovation stimulated over \$500 million of new property investment in the adjacent neighborhood.¹⁸
- Discovery Green in downtown Houston was a 12-acre park built at a cost of around \$70 million by a nonprofit that also operates it. Its impact on the assessed values of surrounding property is shown in Exhibit 8-3. In the four-year period from before the Park was announced in 2005 to when it was completed in 2008, the assessed values of property abutting it increased by 51%.
- Three park sites totaling 18.5 acres, anchor redevelopment of the 36-acre Hemisfair site in downtown San Antonio: 4-acre Yanaguana Garden, costing \$10 million which opened in 2015; 9-acre Civic Park, estimated at \$60 million; and 5.5-acre Tower Park, estimated at \$12.5 million. The Hemisfair Plaza Area Redevelopment Corporation (HPARC) is a 501(c)(iii) charged by the city of San Antonio Council with oversight of the redevelopment. It negotiates ground leases with the commercial, office, retail and hotel elements that surround the parks on the remaining 18.5 acres of the site. These revenues are funneled back into HPARC which also collects the sales taxes accruing from within the site. These funds are used to support future operations on the site. The master plan projects the site will attract \$540 million in private investment and generate \$13 million in tax revenue annually to local entities.¹⁹
- **Exhibit 8-3**
Changes in Assessed Valuations in Response to Discovery Green Park

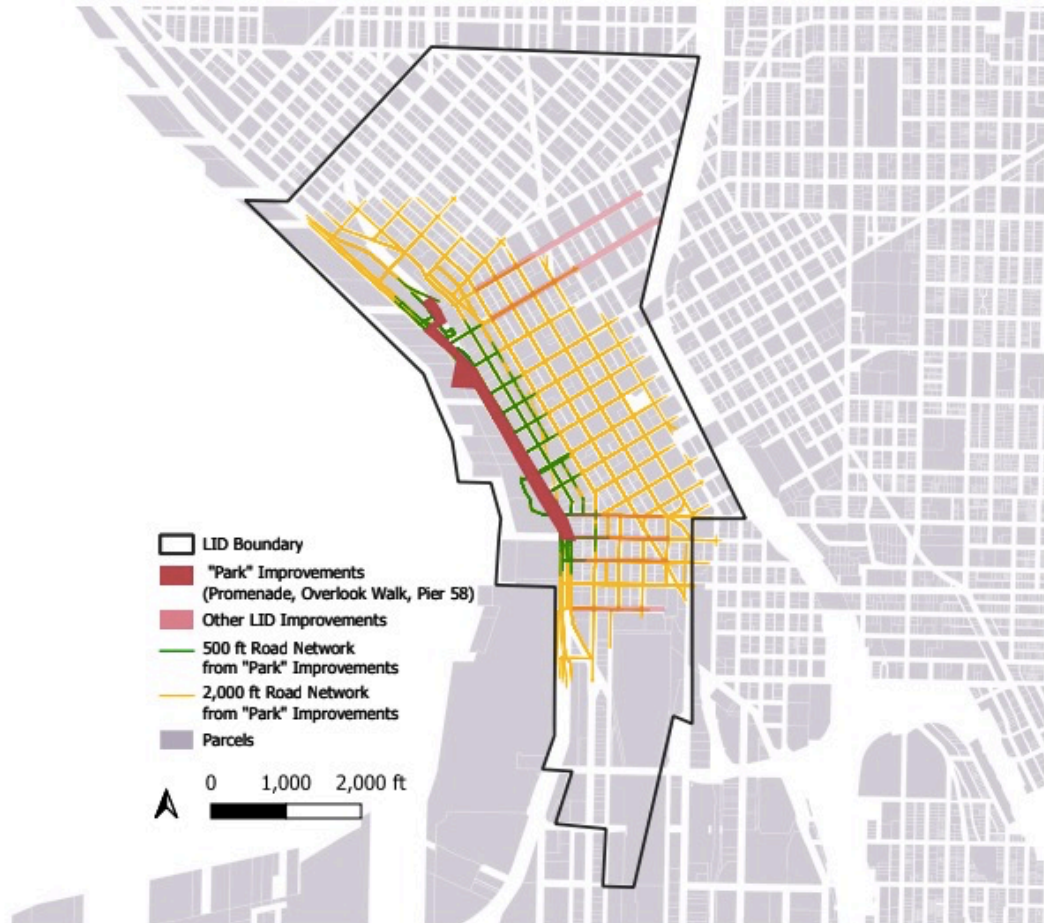
Year	Average per square foot (\$'s)
2005	87.87
2006	102.68
2007	116.77
2008	133.08

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Appendix 2

GIS Map of the LID Using Network Analysis



Crompton Model (Crompton 2004, pp 19-21)

1. The area of proximate impact of a park should be limited to 500 feet or three blocks. The empirical results suggest this is likely to capture almost all the premium from small neighborhood parks and 75% of the premium from relatively large parks. The remaining 25% is likely to be dissipated over properties between 500 and 2000 feet. Disregarding this will lead to an underestimate of the proximate impact of large parks which may be substantial because while the premiums at these distances are relatively low, the number of properties within these parameters is relatively high. However, adopting this 500-foot parameter substantially simplifies the estimation task.
2. Grade each park in the system on the five-point scale shown in Exhibit A ranging from “unusual excellence” to “dispirited, blighted.” The grading can be done either by park staff or by a panel of residents familiar with each of the sites. This scale is defined primarily by the emotional response of people in a park’s area of influence. It recognizes that a park’s quality is defined by people’s emotional response to it, rather than only by its physical and tangible qualities. In every community there are fine, physically attractive parks that receive little use, either because the infrastructure or/and land uses around it do not encourage use, or because the behavior of existing users discourages others from using it. Such parks should not score highly on this scale and are likely to be assigned to the “average” category.

Exhibit A Park Quality Scale for Determining Proximate Premiums

Unusual Excellence: A signature park; exceptionally attractive; natural resource based; distinctive landscaping and/or topography; often mentioned in sales advertisements for nearby properties; well maintained; genuine ambiance; engenders a high level of community pride and “passionate attachment.”

Above Average: Natural resource based; has charm and dignity; regarded with affection by the local community; pleasant, well maintained.

Average: Rather nondescript; not really “noticed” by the local community; adequately maintained; no distinguishing features.

Below Average: Sterile; absence of landscaping or trees; athletic fields with noise, lights, congestion; intensive use.

Dispirited, Blighted: Dilapidated, decrepit facilities; broken equipment; unkempt, dirty; unofficial depository for trash; noisy; undesirable groups congregate there; rejected and avoided by the community.

3. Based on the results reported in the monograph, the suggested premiums applied to all single family home properties within the 500 foot proximate area for each of the three highest categories shown in Exhibit A are:

Unusual excellence: 15%

Above average: 10%

Average: 5%

After reviewing the monograph, these may appear low to some readers because several of the most recent, technically strong studies reported premiums in the 16%-22% range. However, these were for the first block immediately adjacent to the park and the premiums declined for properties in the second and third blocks. The proportionate premiums suggested here in stage 3 are averages to be used for all properties within the 500-foot (three block) radius.

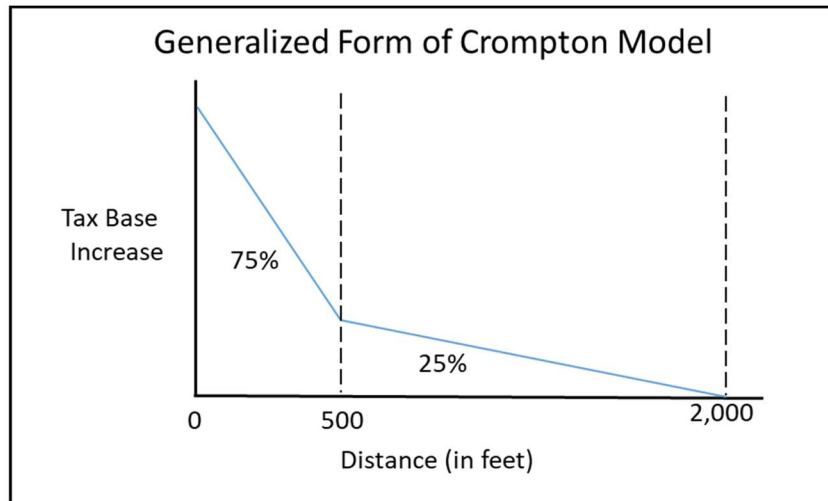
4. Apply the percentage premiums suggested above (15%, 10% or 5%) to the aggregate value calculated in step 3.
5. Aggregate the premiums calculated for each park in step 4. This figure represents an estimate of the overall change in property value attributable to the parks and open spaces examined.

With regard to step 3 above, I would also direct you to Crompton, Chapter 1: Context of the Issue, the section titled Factors Influencing Capitalization (page 34).

“It may take 30 to 40 years for new parks to *mature*. In the beginning trees are small and spindly, plantings are scattered and immature, shade is scarce, and the landscaping often is not aesthetically pleasing. Hence, the capitalized premium initially may be relatively small, but if the park is well maintained the premium is likely to increase over time.”

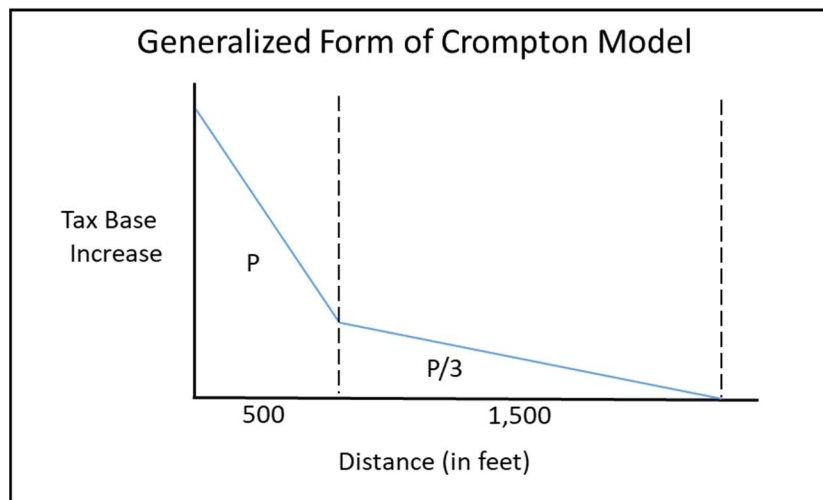
Analyzing the Crompton Model

The Crompton Model can easily be reverse engineered to generate the underlying price increases by property layer within both the 500 feet and the 500 to 2,000 feet zones described by Crompton.



The 25% tail provides an anchor for grading the run-off of value over the initial 500' zone. The calculations for deriving the relative points on the graph above are as follows:

Assuming that the LID improvements constitute a large park, take the premium (P) calculated in step 3 on the prior page. It is equal to 75% of the total price increase. One-third of amount, $P/3$ is equal to 25% of the price increase and is the area of the low zone triangle.



The generalized form is confirmed in several places in John Crompton's work. In his paper *The Impact of Parks on Property values: Empirical Evidence from the Past Two Decades in the United States* (Managing Leisure 10, 203-218 (October 2005)) shows this graph.

208

Crompton

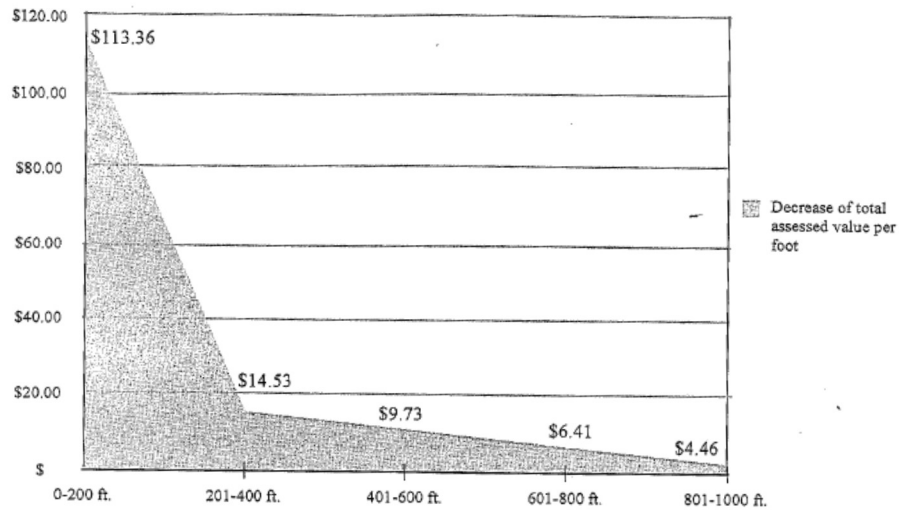
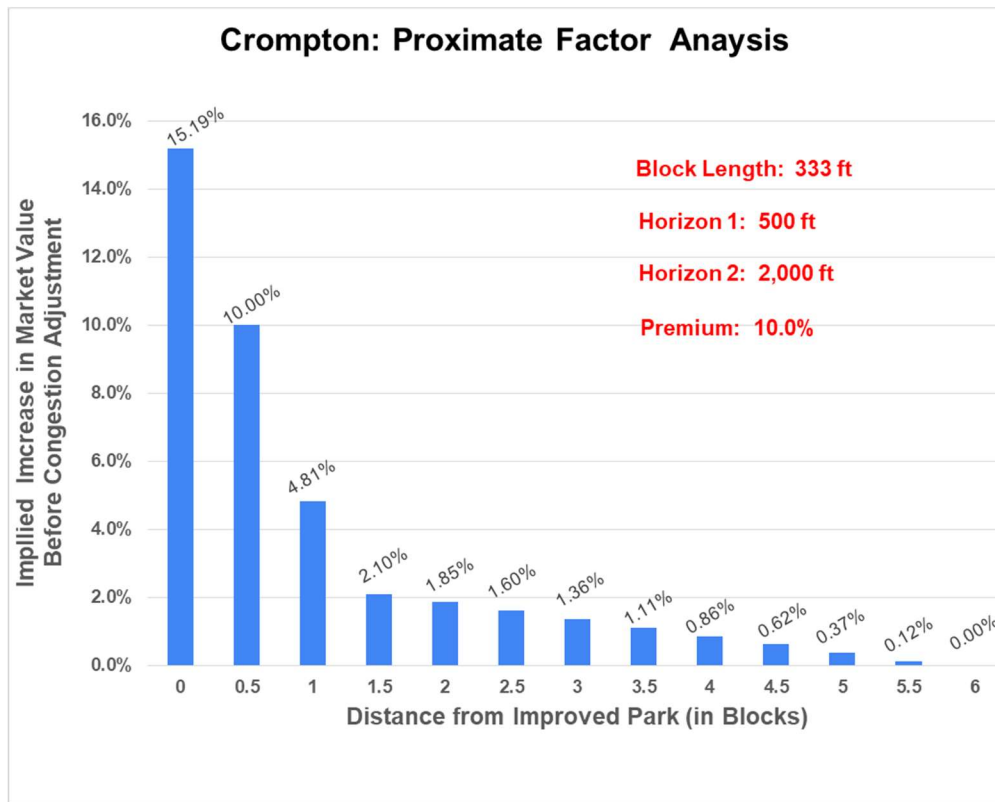


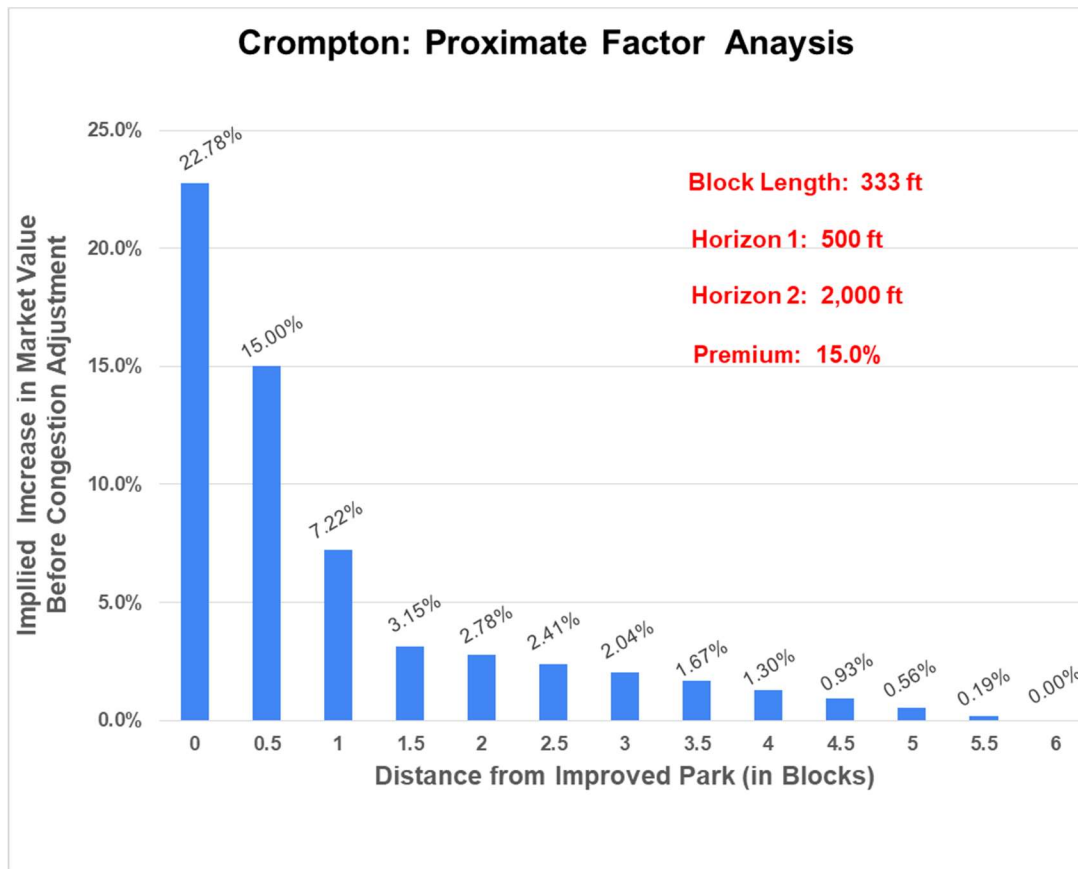
Fig. 2. Decrease of total assessed value per foot (Jackson Park)

Without even going into all of the mathematics, here is a spreadsheet generated version of the model for a 10% capitalization premium (Above Average).



It can easily be verified by checking to see that (1) the average over the first three property layers (500 feet) is 10% and (2) the amount in the tail is 10%, which is one-third of the total amount in the high zone. There is no other continuously reducing piecewise linear solution.

Similarly, here is the spreadsheet generated model for a 15% capitalization premium (Excellent).



The average premium over the first 500 feet is 15%. The total premium over the first 500 feet is 45% and the total premium over the last 1,500 feet is 15%, one-third of 45%.

It is also worth noting that the first block premiums in these two models are 15% and 23% which is in line with Crompton noting studies showing 16% to 22% in the first block.

The outstanding question is what did Crompton mean by “500 feet (3 blocks)”? Extending the high range of the proximate effect would dramatically increase estimated values further from the park. I contend that Crompton meant layers of parcels that could easily be picked up off a mapping system like the KCA parcel viewer. Since downtown Seattle typically has alleys that separate parcels in each of its 320'x340' blocks, I contend Crompton indicates that the best choice for demarcation of a first horizon would be 3 property layers, 1½ Seattle city blocks or 480 feet, the closest demarcation for a 500' boundary. The correct answer to the question has significant impact both on the ABS condominium valuations and on their setting of the LID boundaries.

In order to confirm my view I contacted John Crompton via email and on February 6th, 2020. I subsequently sent him a copy of (1) the Study, (2) my submitted objection with pertinent exhibits and (3) a spreadsheet generated output of an earlier version of the model shown above adapted to a first horizon of 640 feet or 2 Seattle city blocks (at this point I had not considered using the alleys as a logical break point) and a 5% capitalization premium. Mr. Crompton responded that “I see nothing inappropriate in the calculations that accompany your submission, but I simply do not have the time to engage in a detailed analysis of them.”

I emailed him back, thanking him taking the time to look at my work and asking him to confirm two points: “(1) that 500’ feet was the appropriate first horizon, and that his comment on my submission included the chart that was attached as Crompton Analysis.pdf. “ He responded on February 8, “I confirm your interpretation of the two points you mention are correct.”

I can supply copies of those emails and the associated attachments for you.

Variables Considered

Horizons

I tested three sets of horizons;

1. 480’ first horizon and 1,980’ second horizon
2. 640’ first horizon and 1,980’ second horizon
3. 640’ first horizon and 2,080’ second horizon

Distance

I tested four distances from 1½ to 3 Seattle blocks in ½ block increments

Capitalization Premiums

I tested 3 different capitalization premiums.

1. 2% (ABS’ 3.0 % high range for condominiums)
2. 2½% (5% adjusted down for 50% maturity)
3. 3% (ABS’ raw pick)

Matching of the 2% and 3% capitalization premiums to ABS is shown in Appendix 3

Results

	3% Maximum Premium		3% Average Premium
Special Benefit % @ 3 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.27%	0.34%	0.41%
640'	0.46%	0.57%	0.69%
640'/2,080'	0.43%	0.55%	0.64%

Special Benefit % @ 2 1/2 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.32%	0.40%	0.48%
640'	0.54%	0.68%	0.81%
640'/2,080'	0.49%	0.63%	0.74%

Special Benefit % @ 2 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.37%	0.46%	0.56%
640'	0.63%	0.78%	0.94%
640'/2,080'	0.56%	0.71%	0.84%

Special Benefit % @ 1 1/2 Blocks			
	Capitalization Premium		
Horizon	2.0%	2.5%	3.00%
480'	0.42%	0.52%	0.63%
640'	1.00%	1.25%	1.50%
640'/2,080'	0.94%	1.18%	1.42%

Conclusions

My analysis confirms John Crompton's conclusions that the estimated impact on property prices from proximity to a park is relatively small beyond the 500' range.

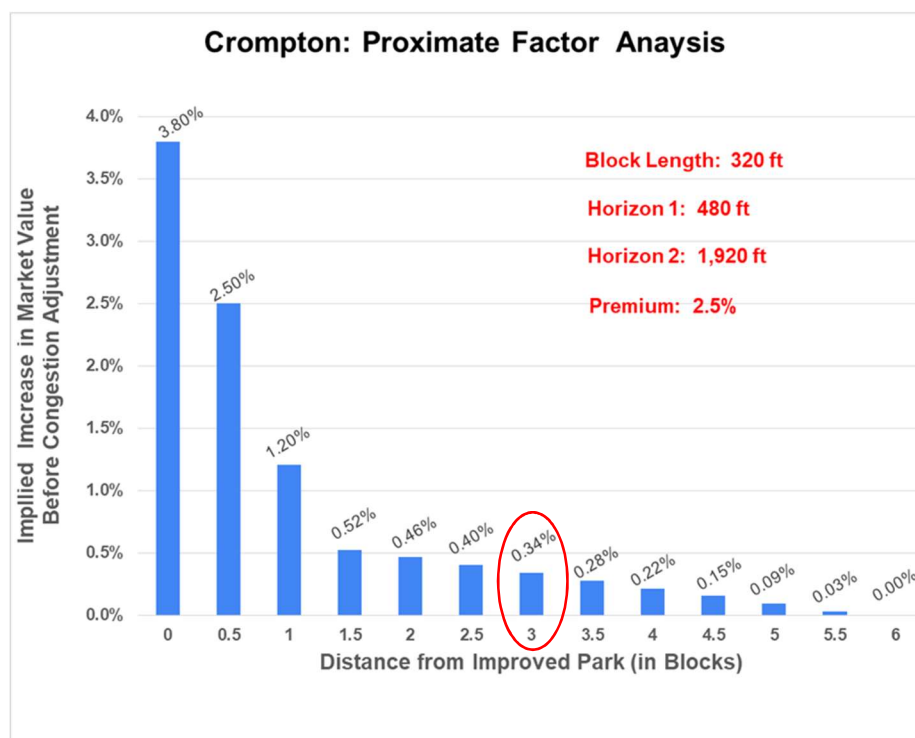
My conclusion is that a 2½% capitalization premium is appropriate. This is based on the LID Improvements raising the before condition of the park from "Average" to "Above Average" and reducing the implied capitalization by 50% for immaturity of the new "park". The "with LID" condition will provide an amenity that is "Natural resource based; has charm and dignity; regarded with affection by the local community; pleasant, [and hopefully] well maintained". It will never reach the level of Seattle's other great parks like Green Lake/Woodlawn Park, Seward Park, Washington Park/Arboretum or Discovery Park.

I considered two different distance measurements:

1. Line of sight to the waterfront (west side of Alaskan Way)
2. Line of sight to the nearest LID amenity (Central Waterfront Park, Pier 58)

Both of these scenarios put Fifteen Twenty-One in the 3 block tier of Crompton's model (maps are provided in Appendix 1. I did not consider distance to the Overlook Walk, which would have moved Fifteen Twenty- One to the 2 block tier. I believe that from a market perspective, neither a prospective buyer nor seller, would consider the Overlook Walk an amenity. It is additional and redundant access. Support for that conclusion is in Appendix 4.

I concluded that the most appropriate first horizon is 480' (1½ Seattle city blocks) and the most appropriate second horizon is 1,980 feet (6 Seattle city blocks). These are that horizons that most closely line up with the Crompton horizons. Model results showed that extending the second horizon lowered the resulting Special Benefit %. Using the tables provided above, I concluded that the appropriate Special Benefit % should be 0.34%.for all Fifteen Twenty-One condominiums.



For my home, tax parcel # 258830850, this yields:

Market Value Without LID		\$2,412,200
Special Benefit	0.34%	\$8,201
Market Value With LID		\$2,420,401
Total Assessment %	39.18%	
Pike /Pine Adjustment	.9375	
Revised Assessment %	36.73%	\$3,012

In my objection I have argued that the cost and special benefit of each of the discontinuous improvements (Central Waterfront, Pike and Pine) should have been considered separately. Consistent with that argument my Revised Assessment % reflects the adjustment to remove \$10 million of Pike and Pine expenses from the total LID expense of \$160 million (both numbers are before any financing and guarantee fund expenses).

This value also disregards any adjustments for the impact of pedestrian and vehicle traffic in the area which I have included in the Pike and Pine Improvements. I value the Pike and Pine improvements as having zero to negative impact of homes in Fifteen Twenty-One. Support for that is provided in Appendix 3 – Pike/Pine.

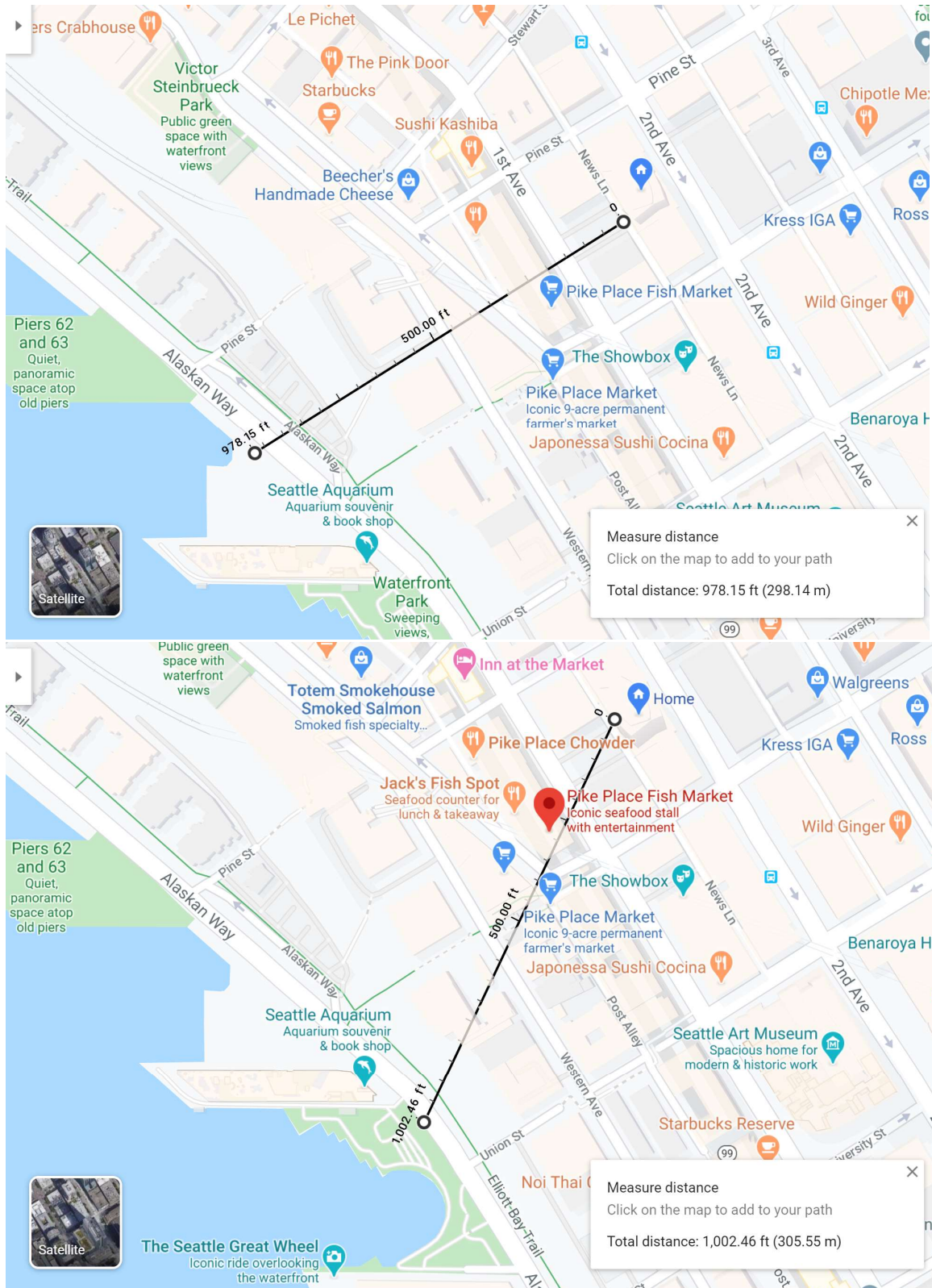
The Waterfront LD Improvements are primarily designed to aid Seattle's tourism business. Even the City's own work shows that there will be no additional utilization of the waterfront by nearby residents. Page 84 of the HR&A study done for the Friends of the Waterfront (provided in Appendix 5) shows the expected usage of the Waterfront by downtown residents at <1%. It shows the net new visitor days for downtown residents at zero. Even for city residents the net new visitor days is .11, which translates to one visit roughly every 9 years. Crompton's model was for community parks and based on their utility to proximate residents. Applying it here, even correctly applied, is generous. How ABS can posit any increase is baffling.

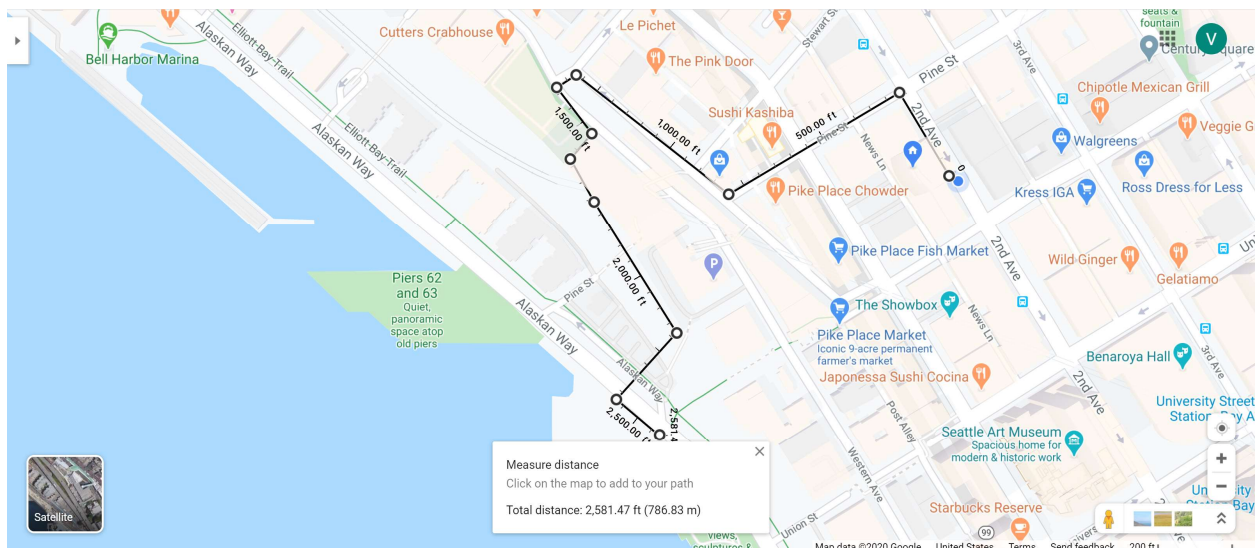
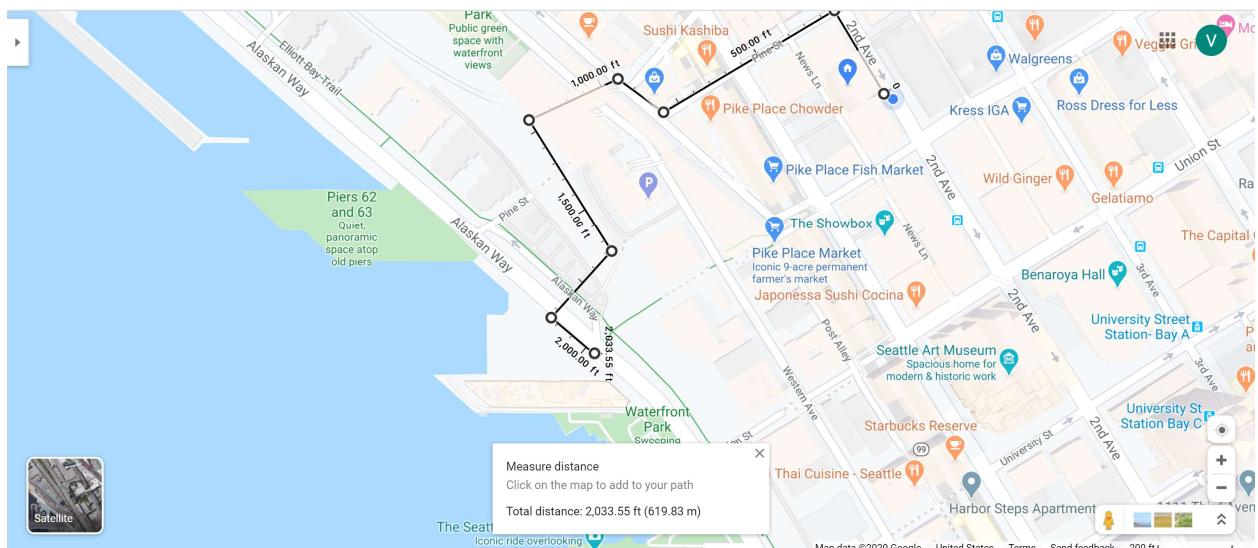
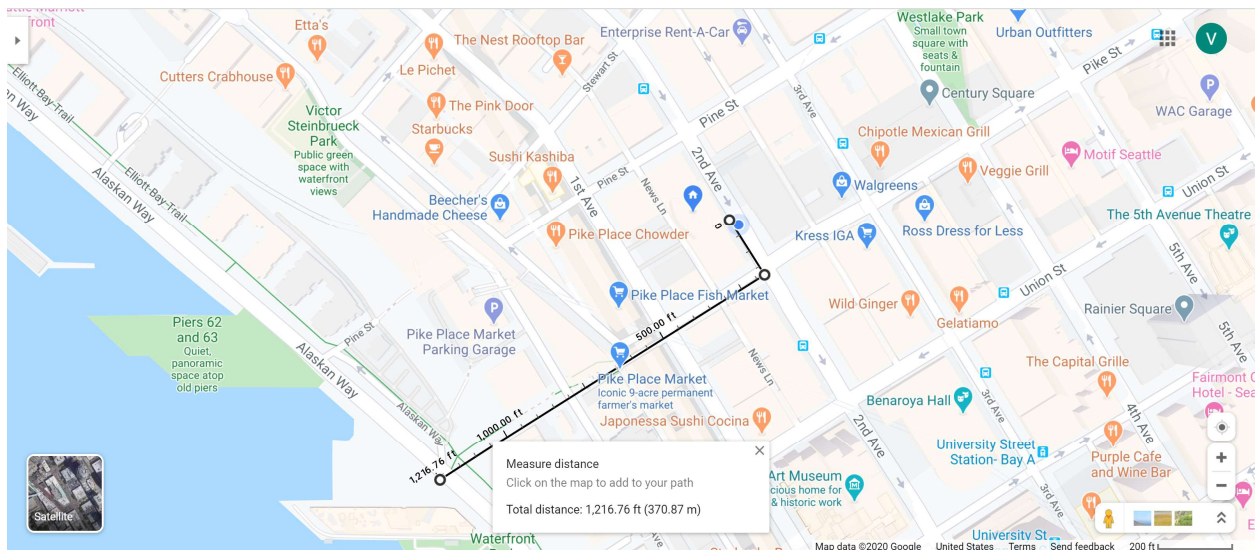
In addition, Crompton prefaced his work with this caveat (my emphasis added):

"Nevertheless, many agencies seek a method of applying a valuation to parks that they can adapt for use in their own communities. An approach is offered here for doing this, **but it is emphasized that this approach can only offer a rather crude "best guess."** The empirical findings from the studies reviewed in this monograph provide a basis for developing a relatively simple "plug and chug" formulary approach that can be used to derive an estimate of the proximate premium in a community.

This model was never intended to be used as an assessment tool. If it indicates material increases in prices then, as it was intended, it generates an increased tax base and proximate residents will pay those taxes if and when the estimated price increases are actually realized.

Appendix 1 - Maps





Appendix 2 - Overlook Walk

The Overlook walk connects the market to the waterfront. That much is clear. It will also provide some expansive views of Seattle's harbor as walk down. However from a market value perspective, whether it constitutes an amenity or not depends on the value attached to it by the user. As the owner of home 2304 in Fifteen Twenty-One, I have this view of the Seattle Harbor.



It stretches from Mt Rainier to Magnolia (I can't see the Space Needle. So would I, or a prospective buyer make a trip to the Overlook walk to enjoy the view? My perspective is that they would not.

In addition, the pictures of the Overlook Walk are misleading. They include the Aquarium Pavilion which has not been built and is not funded by the LID. It must be treated like all of the other in development projects that are in various stages of design, permitting construction within the LID. From a LID perspective the Pavilion doesn't exist. This significantly reduces the claimed open space of the Walk and emphasizes that it is just a path from the waterfront to the market. It is designed to funnel the increasing number of cruise ship passengers from Bell Harbor terminal to the Market and back.



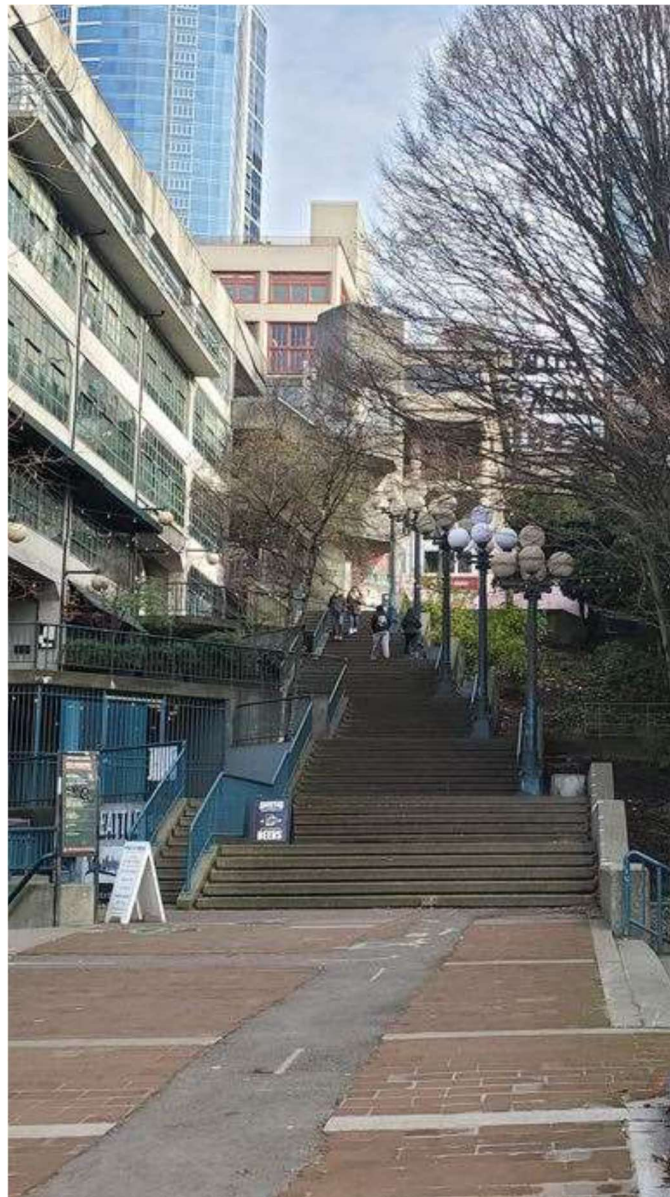
Walking Distance to Waterfront from Fifteen Twenty-One (line of Sight ~1,000')

Pike Street Hill Climb	1,216'
Overlook Walk (Market open)	~2,033'
Overlook Walk (Market closed)	~2,581'

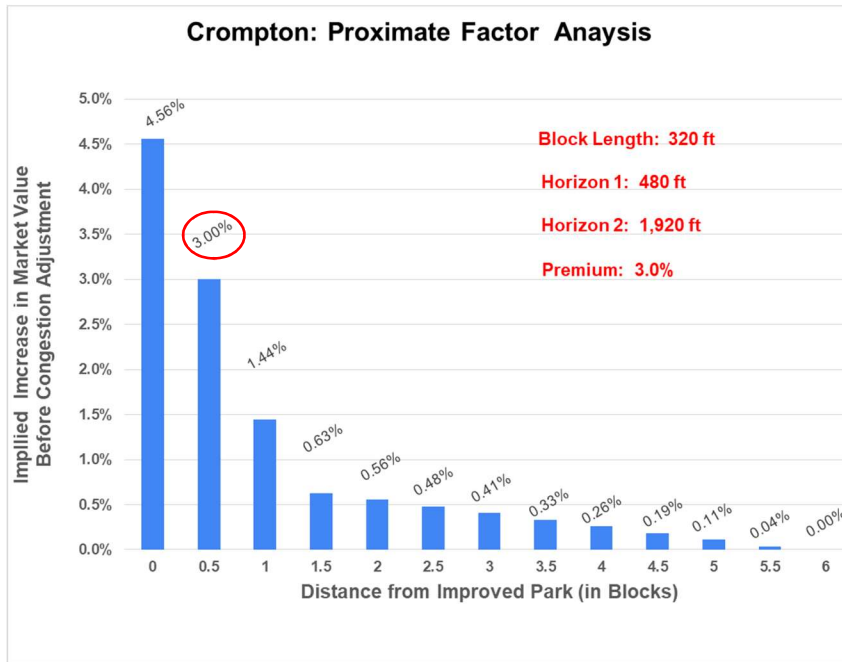
The Overlook Walk is redundant inefficient access.

Pike Street Hill Climb

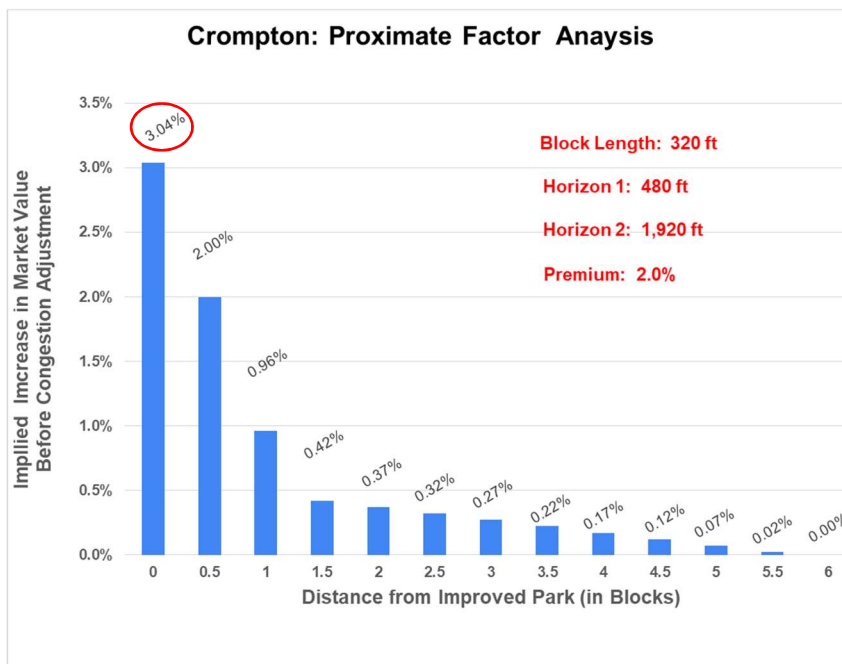
Current access to the waterfront from the Pike Place Market is the Pike Street Hill Climb, a series of steps or by elevators from the Skybridge to the Market Garage. These access points remain unchanged in the after condition.



Appendix 3 – ABS Valuation Premiums



Assuming 3% Average Capitalization Premium

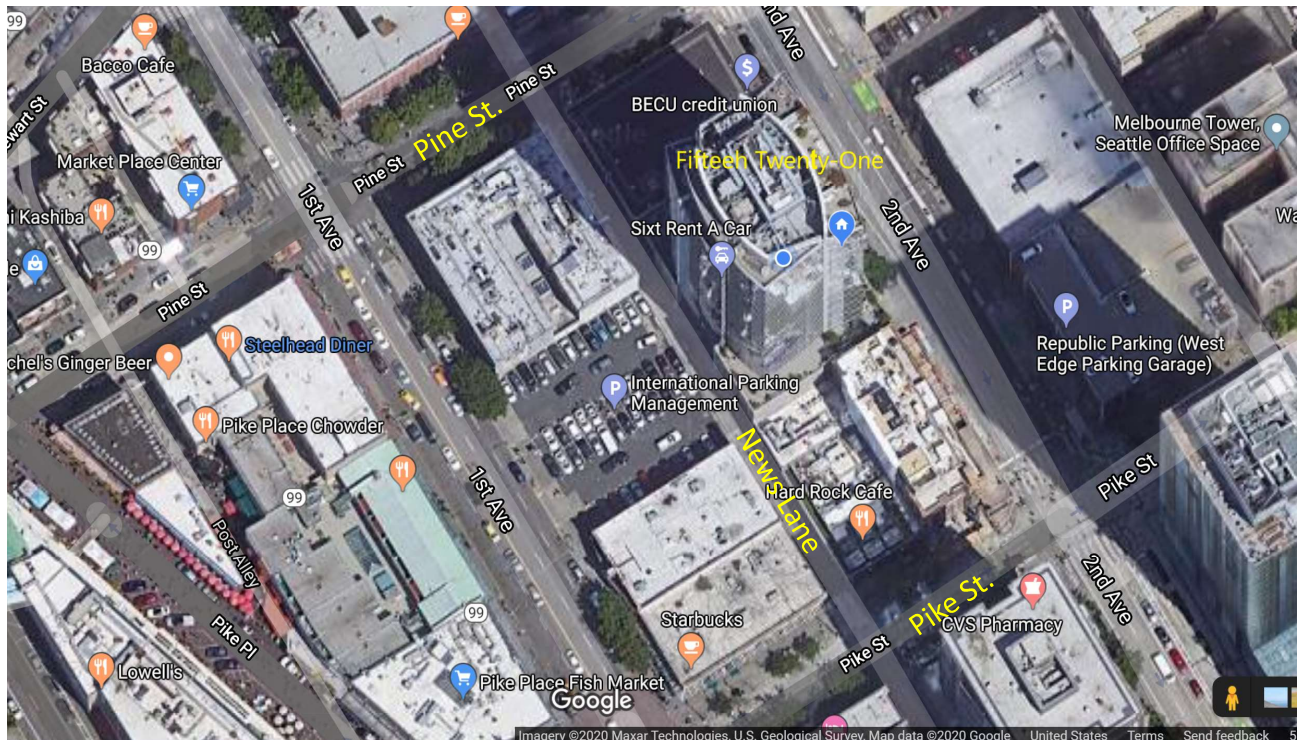


Assuming 3% Maximum Capitalization Premium

Appendix 4 – Pike and Pine

The Study has no cites providing evidence that street beautification projects, such as the Pike and Pine improvements generate any increase in residential properties. The Economic Benefits of Sustainable Streets” published in 2014 by the New York City Department of Transportation, provides only information on retail sales levels and does attempt to estimate changes in real estate prices. I conclude that there is no price appreciation for homes in Fifteen Twenty-One. If the city prevails in consolidating the costs and special benefits of the discontinuous LID Improvements, the negative value of Pike and Pine will have to be quantified and considered in the consolidated assessment.

However, there is a material negative effect that is unique to the location the building. It has two parking garages, totaling 297 parking spaces, with entry/exit at the rear of the building. The upper garage entry/exit is directly onto News Lane, the alley behind the building. The lower garage entry/exit is onto a breezeway with access to News Lane. The Pike and Pine Improvements will turn the streets at both end of News Lane into “shared space” pedestrian plazas.



Access in and out of our garages is already an issue. These changes will further constrict access to and from our garages. Service trucks use the alleys and traffic on Pike is heavy, especially at rush hour when traffic coming north on First Avenue turns east up Pike heading for the express lane entrance to I5. On weekends and in summer it will be much more difficult for us and dangerous for the cyclists and pedestrians that we have the responsibility to avoid.

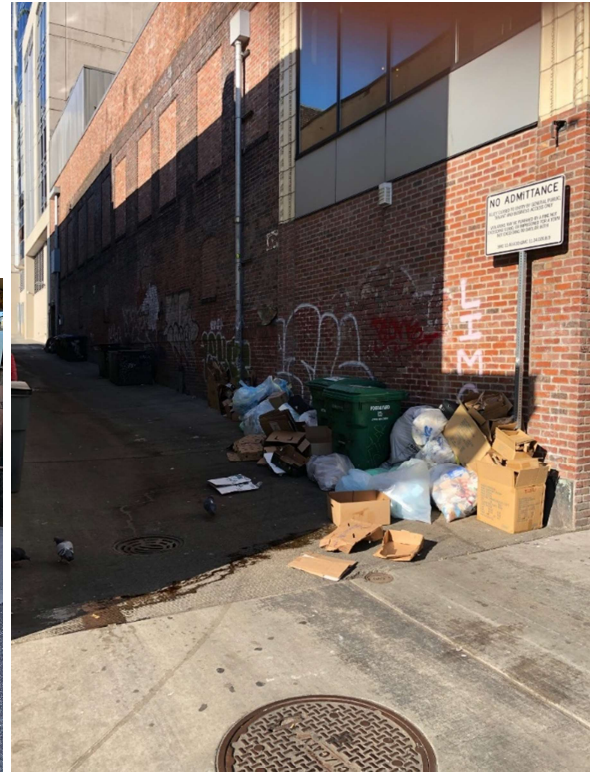
These changes are viewed as a substantial net negative by current residents. Attached is a copy of a recent Seattle Times article on the current importance of parking in downtown luxury condominiums.



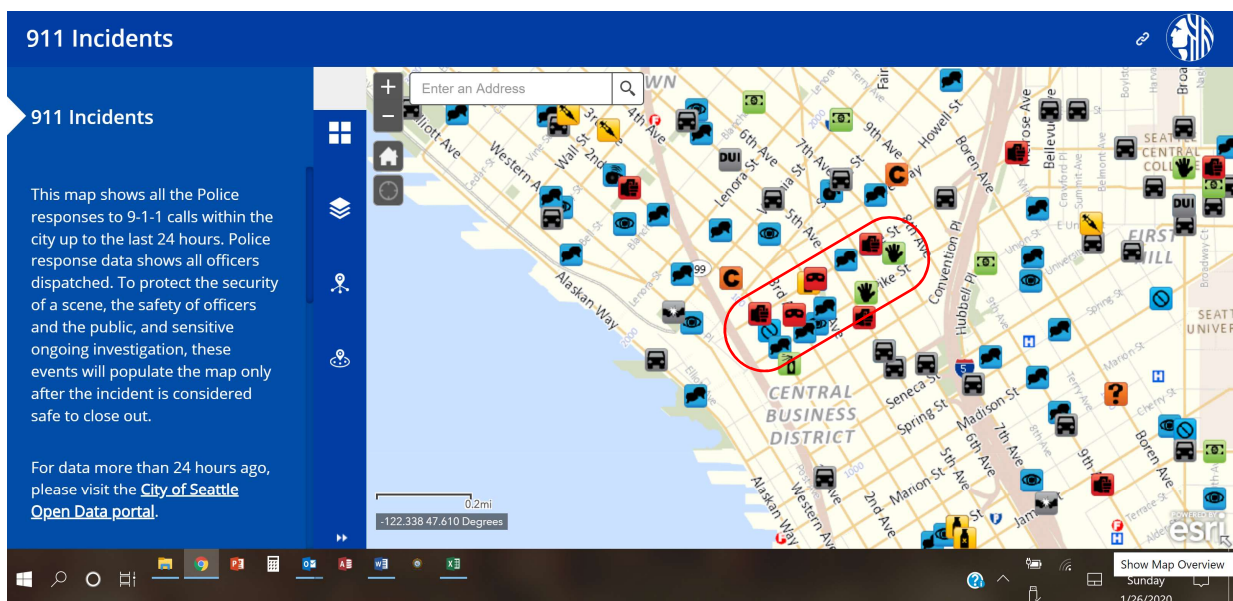
Pike St. looking west from Second Ave. It will be many years before the trees mature to look anything this.



Pine Street looking west from Second Avenue. The reality of the Pike/Pine corridor is much different than pictured above.



Pike St South Side 2/18/2020



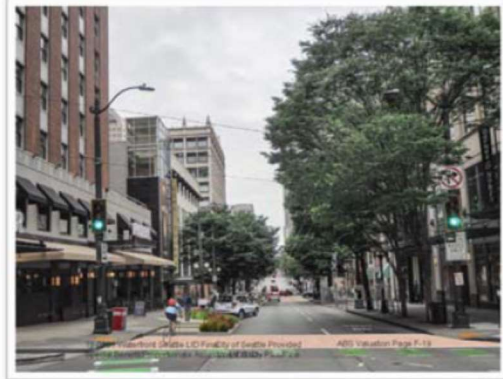
No material visual differences looking east on either Pike or Pine.

Pine Between Fourth and Ninth

Without LID



With LID

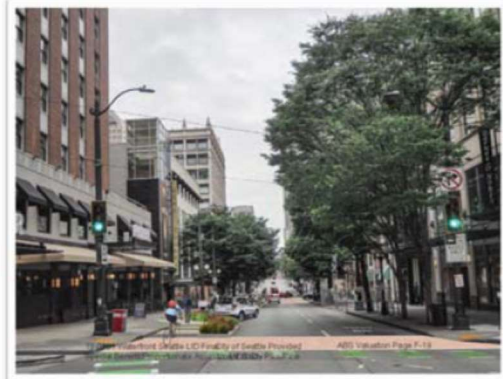


Pine Between Fourth and Ninth

Without LID



With LID



Appendix 5 - HR&A Study

ECONOMIC & FISCAL IMPACTS | NET NEW VISITATION METHODOLOGY

HR&A then estimated the share of regional vs. out-of-town visitors, and how much time these visitors might spend in the park.

Visitor Type	Share of 8M Projected Visitors	Net New Visitor Days Per Person	Net New Visitor Days
Regional Residents			
Downtown (park adjacent)	<1%	0	0
City Residents (non-adjacent)	8%	.11	69K
Metro Residents (non-city)	37%	.11	327K
Subtotal	45%		396K
Tourists			
Day Visitors	28%	.25	566K
Overnight	27%	.25	539K
Subtotal	55%		1.1M
Total			~1.5M

Note: Distribution of visitors, % regional v. tourists, is based on comps from the High Line and Hudson River Park. Distribution of regional residents is based on population distribution. Distribution of day v. overnight tourists is based on 2016 Longwood Tourism Study for Seattle. Net new visitor days per person is based on precedent research on time spent in open spaces by residents and out-of-town visitors, based on an 8-hour day.

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Kymberly K. Evanson
kymberly.evanson@pacificallawgroup.com

February 16, 2021

VIA EMAILCity of Seattle
Office of the City Clerk
Attention: Waterfront LID Appeal, CWF-0392
P.O. Box 94728
Seattle, WA 98124-4728Email: cityclerkfiling@seattle.gov**Re: Local Improvement No. 6751**
CWF-0392: Notice of Appeal of Final Decision of Hearing Examiner**Property Owner: Pike Place Market Preservation and Development Authority**
85 Pike Street, #500
Seattle, WA 98101**Stewart House**
Parcel Numbers 800855-0000
(B-198-001, B-198-002, B-198-003,
B-198-004)**North Arcade**
Parcel Number 1977200385
(B-188)

To the Members of the Seattle City Council:

On behalf of the Pike Place Market Preservation and Development Authority (“PDA”), we respectfully submit the following appeal of the Hearing Examiner’s recommended resolution of the PDA’s objections to the proposed final assessment roll for Local Improvement District No. 6751 (the “Waterfront LID”).

The purpose of this appeal is to request consistency in the treatment of LID assessments of two properties owned by the PDA. As the Council is aware, the PDA-owned and managed Pike Place Market (“the Market”) is a special community within the heart of Seattle’s downtown. More than just the city’s beloved public market, the Market is a vibrant neighborhood comprised of hundreds of farmers, craftspeople, small businesses and residents. In addition to preserving and protecting the historic buildings and character of the Market’s nine-acre historic district and serving as an incubator and supporter of farmers, artisans and small businesses, the PDA

operates under a Charter of the City of Seattle to provide housing and services for low-income individuals.

Under this Charter, the PDA has developed and retains management of 373 apartments affordable to low and moderate income tenants. Consistent with the City Council's previous determination concerning the LID, such housing is exempt from LID assessments. The PDA has requested exemption from LID assessments only for the five properties which are subject to long-term contracts with governmental entities to provide this housing. Exemptions have been granted for four of these properties: the LaSalle, Pine, Western Avenue Senior Housing and PC-1 South Condominium buildings. Yet, for reasons that remain unexplained, the City and the Hearing Examiner have refused to extend the same exemption to Stewart House.

Accordingly, the PDA has filed this appeal to again request that the exemption for low-income housing also apply to Stewart House. Stewart House was built for the purpose of providing low income housing under contracts with the United States Department of Housing and Urban Development ("HUD"), has been operated as such continuously for 40 years, and remains under contract to continue to operate with federal subsidies in this manner until at least 2032. Despite this long record as a housing provider, the City (through the LID Appraiser) and the Hearing Examiner ask the Council to ignore this reality, and assess the PDA's low-income housing property as if it were a residential building, unrestricted in rents and income levels.

In other words, the City asks the Council to not only ignore the actual and historical use of the property, but to assess the PDA on a use that is contrary to the PDA's mission, and is in fact foreclosed by the many legal restrictions on Market property. The City's assessment has no basis in fact or law and should be overturned.

Similarly, the City's assessment of the North Arcade parcel continues to overstate its value and ignore its actual use, along with the significant legal and practical restrictions on any future use. The North Arcade assessment should likewise be further reduced.

I. Procedural History

The PDA is the owner of 14 properties (32 assessed tax parcels) within the Waterfront LID, however, it filed specific formal objections only to the assessments of two Market properties: Stewart House Condominium and the property referred to as the North Arcade of Public Market ("North Arcade").

On February 3, 2020, the PDA filed objections to the Waterfront LID concerning these two properties. A component of the PDA's objection to the North Arcade assessment was to direct the City to correct the ownership of the North Arcade parcel; the assessment roll had indicated the property was owned by the Seattle Department of Transportation ("SDOT"), not the PDA. The PDA raised this issue even though the result of this objection would be to increase its overall LID burden.

On August 13, 2020, the City submitted amended assessments to the final assessment roll for certain properties, including correcting the ownership of the North Arcade. The amended assessment proposed a reduction to the special benefit estimate for the North Arcade parcel consistent with the change in ownership to reflect the special restrictions on Market property in the historic district. The North Arcade assessment was thus reduced from \$103,833 to \$71,736, and added to the PDA's total LID share. The City did not recommend changes to the Stewart House assessment at that time.

On September 8, 2020, the Hearing Examiner issued a report recommending that the PDA's objections be remanded for further consideration. Specifically, the Hearing Examiner observed that the City's amended assessment for the North Arcade had been submitted after the close of the record and that the PDA had not had the opportunity to respond to it. With respect to Stewart House, the Hearing Examiner found that the City had failed to respond to the PDA's objections pertaining to the Stewart House assessment, and as such, the Hearing Examiner was without sufficient information to make a recommendation as to the merits. As such, the PDA's objections were remanded for further consideration by the City's appraiser.

On December 4, 2020, the City provided its revised valuation. The City made no further changes to the North Arcade assessment beyond the City's August amendments and again provided no response to the PDA's objections relating to Stewart House.

On December 22, 2020, the PDA participated in the deposition of the City's appraiser, Robert McCauley. Mr. McCauley testified that he rejected the PDA's objection because he was not aware of any contractual or deed restrictions related to the provision of low-income housing at Stewart House. *See* Appendix at 49.¹ However, the PDA had provided the City with its HUD contract to provide low-income housing in conjunction with its prior objection. Appendix at 16. Regardless, as a component of its briefing on remand, the PDA resubmitted its 20-year contract with HUD that restricts the use of Stewart House Units 1 and 3 to low-income housing until 2032.

Consistent with the schedule set by the Hearing Examiner, on January 8, 2021, the PDA filed objections on remand to City's revised valuation. The City filed a response on January 12, 2021 recommending the Hearing Examiner deny the PDA's objections. The City opined only that the PDA could theoretically terminate its contract to provide low-income housing before 2032, and as such, no exemption for Stewart House Units 1 and 3 should apply. The City's January 12 filing was the first time the City had articulated a response to the PDA's Stewart House objection, over a year after the PDA first raised it. On January 15, 2021, the PDA filed its Closing Statement. On January 29, 2021, the Hearing Examiner issued its Final Recommendation, recommending the denial of the PDA's objections.

¹ For ease of reference, the PDA has included selected supporting materials in the attached Appendix. The PDA incorporates by reference the materials filed in this matter to date, including those filed by the City.

II. The Pike Place Market

Listed on the National Register of Historic Places, the Market is a nine-acre historical district located adjacent to the Seattle Waterfront that is home to hundreds of small businesses, craftspeople, farmers, and residents. As noted, the Market is owned and managed by the PDA, a City-chartered not-for-profit self-sufficient governmental entity tasked with preserving, rehabilitating, and protecting the Market's buildings, increasing opportunities for farm and food retailing within the Market, incubating and supporting small and marginal businesses; and providing services for low-income people, including supportive housing.² Under its charter, the PDA owns and manages 14 distinct properties in the Pike Place Market Historical District, including commercial properties, housing and public parking. The PDA relies on income from its property management for its operations and receives no operational funding from the local or state government.

With respect to housing, the PDA owns three HUD-subsidized buildings located directly within the Market, which provide income-qualified housing to low-income people. Appendix at 54-55 (Declaration of Mary Bacarella ¶ 2). One of those buildings is Stewart House, which provides 48 HUD-subsidized "Section 8" units and 38 Single Room Occupancy ("SRO") apartments. The SRO units provide limited amenities and are affordable to tenants at below 50% of Seattle's area median income. *Id.*; Appendix at 2.

Consistent with its mission, the Market is subject to multiple regulatory schemes governing the development, use, and operation of Market properties. These regulatory overlays, while crucial to the Market's community-strengthening public purposes, also significantly restrict the ability of the PDA to realize the incremental value created by the Waterfront LID project. Specifically, the Market is subject to the following regulatory regimes generally not applicable to similarly situated private property:

- 1) Limitations on the Adaptability of PDA-Owned Property:** The PDA's operations are governed by a City-issued Charter,³ which constrains changes in use of PDA property by describing the public market mission in terms that effectively prohibits the replacement of traditional uses with more lucrative retail operations and generally prohibiting the sale of real property.
- 2) Pike Place Urban Renewal Plan:** Adopted by the City Council in 1974 and extended indefinitely by Council action in 2013, the Pike Place Urban Renewal Plan (the "Plan") functions as a zoning overlay over all PDA real property.⁴ The Plan imposes rehabilitation standards for buildings, prohibits demolition of any building without City Council approval, and requires at least 20% of the residential units or 350 units

² See <http://pikeplacemarket.org/governance>. PDA staff has knowledge of the facts set forth herein and can be made available to testify to the same if necessary.

³ <http://pikeplacemarket.org/sites/default/files/Charter%20Pike%20Place%20Market%20PDA.pdf>

⁴ <https://www.seattle.gov/Documents/Departments/SDCI/Codes/PikePineUrbanRenewalPlan.pdf>; see also Seattle Ordinance No. 124361 (extending renewal plan).

(whichever is greater) for low-income households in the residential development within the Plan area.

- 3) **Pike Place Market Historical District:** The Pike Place Market Historical District, which includes all PDA-owned property, imposes Historic Commission review and approval requirements for any proposed construction or change to PDA properties.⁵ The Commission has broad discretion to determine if the “buildings and continuance of uses in the Historical District [have] architectural, cultural, economic, and historical value.” The Commission’s guiding criteria relies on the historic role of the Pike Place Market as: the center of local farm marketing, a gathering place for people of varying backgrounds, a provider of housing for a community of low-income residents, an example of small independent businesses operations, and a distinctive area in which humble buildings have serviced and adjusted to a variety of marketing activities. The Commission must also plan for the perpetuation of the Market and historic Market activities.
- 4) **Deed Restrictions on Specific Properties Further Limit Their Adaptability:** The PDA acquired certain properties subject to various deed restrictions, covenants and conditions that further limit the uses to which the subject property is adaptable.

In light of the applicable regulatory schemes, the PDA’s properties are in general not reasonably adaptable to uses other than their current use. Importantly, an action by the PDA that has the effect of changing traditional uses of its property and imposing market-rate rents would be *ultra vires*, outside the legal power of the PDA, and therefore void.

These are important constraints. They are not traditionally expressed in recorded restrictions and covenants on the use of property. They are not easily researched. It is understandable that they may have not surfaced in an appraisal involving thousands of separate properties, or that they are not easily understood. However, these constraints are not theoretical: they are evidenced through the documents and practice the PDA presented in its objections over the course of the past year, yet they have inexplicably been disregarded by the City and the Hearing Examiner.

III. The Assessments

The PDA formally objected to the assessments on only the North Arcade and Stewart House out of the PDA’s 32 assessed parcels included in the Waterfront LID. The North Arcade objection was granted in part, but the Stewart House objection was denied in full. As detailed below, the Council should reject the Hearing Examiner’s recommendations with respect to both properties and grant the PDA’s objections. See *Hasit LLC v. City of Edgewood (Local Improvement Dist. #£1)*, 179 Wn. App. 917, 949, 320 P.3d 163 (2014) (City Council’s review of hearing examiner’s report is de novo).

⁵ See Seattle Ordinance No. 100475; see also <http://www.seattle.gov/neighborhoods/programs-and-services/historic-preservation/historic-districts/pike-place-market-historical-district#pikeplacemarkethistoricalcommission>

A. The Stewart House Assessment Should be Reduced to Account for the Provision of Low-Income Housing.

1. The PDA has provided low-income housing at Stewart House since 1982 and will continue to do so.

The Stewart House Condominium building is located at 80 Stewart Street, within the Pike Place Market Historical District. *See* Appendix at 2. Stewart House is comprised of three condominium units. *Id.* Unit 1 contains 48 housing units restricted to low-income seniors participating in the HUD Section 8 program. Of the 48 apartments, 46 are studio apartments and two are one-bedroom units. Unit 2 is a commercial space containing retail tenants. Unit 3 contains 38 single room occupancy (SRO) units with shared bathrooms. *Id.* at 2-5. The residential units in Unit 1 are included in the Housing Assistance Payment contract with HUD for the provision of low income housing. This contract is currently in effect until 2032. *Id.* at 23. Although no rental subsidies are provided for the units in Unit 3, the SRO units function as low-income housing as a result of their rent structure and lack of market-rate amenities. Appendix at 16, 54.

The Market has provided low-income housing at Stewart House since 1982 and is under contract with HUD to do so through at least 2032. Appendix at 23. Further, as noted above, the PDA is effectively prohibited via its Charter and the restrictions in the Market Historical District from changing the current use of any Market properties. Finally, the PDA has no intention or desire to convert Stewart House Units 1 and 3 to any other use, as doing so would be contrary to its mission. Appendix at 54-55. There is no evidence in the record to the contrary.

2. The City's assessment of Stewart House ignores its historical, current, and future use as low-incoming housing.

The total proposed final LID assessment for Stewart House is \$197,869, which is divided on the proposed final assessment roll between four separate parcels. *See* Final Assessment Roll. Each of the three units at Stewart House is assigned a separate parcel number, with the fourth parcel number assigned to an undivided interest in the Stewart House land. The PDA objected to the special benefit analysis for Stewart House because the assessments for Units 1 and 3 (and their corresponding share of the land value value) do not reflect the fact that both parcels are used to provide low-income housing.

The City did not dispute that the PDA is a party to a 20-year contract with HUD for the provision of these services. Nor did the City dispute any of the factual information provided by the PDA relating to the population served by Stewart House, the restrictions on the development of Stewart House arising both from the HUD contract and the Market's charter, the limitations imposed by the Market Historical District, or the corresponding lack of special benefit as a result. Rather, the City's only response to the PDA's objection was that the PDA could

theoretically terminate the HUD contract at some unspecified point in the future.⁶ Specifically, the City's appraiser summarily stated that "Section 8 of [the HUD] contract indicates that the contract can be terminated prior to 2032 and, as a result, is not the type of restrictive covenant that warrants a zero assessment." McCauley Decl. ¶ 34. But the cited section of the HUD contract does not bestow early termination rights upon the PDA. Rather, section 8 merely states that before the contract is ultimately terminated (presumably in 2032, unless it is renewed again), the PDA is required to provide notice to residents. *See* Appendix at 30. Despite the City's misunderstanding of the contract language, the Hearing Examiner nonetheless adopted the City's argument, concluding "Where the HUD contract is not an absolute restriction on use, and because it is possible for the owner to use it as something other than low-income housing, a zero assessment for the two units of Stewart House Condominiums is not warranted." Final Order at 102. The Council should reverse the Hearing Examiner's decision for multiple reasons.

First, the City is wrong that the PDA could discontinue the provision of low-income housing at Stewart House. The PDA built and renovated Stewart House for that express purpose with City funding 40 years ago. The PDA secured that operation with a 20-year contract with HUD to provide Section 8 housing in 1982. The PDA has repeatedly renewed that contract, the latest iteration of which runs through 2032. Appendix at 23 ("The Renewal Contract begins on August 11, 2012 and shall run for a period of twenty (20) years."). No provision of the contract grants the PDA early termination rights, and no evidence in the record even suggests the PDA would want to terminate the HUD contract if it could. The evidence in the record demonstrates the contrary. *See* Appendix at 54-55 (Bacarella Decl. ¶¶ 4-6).

Second, even if it theoretically could, there is no basis on which the City should assume that the PDA would terminate its contract with HUD prior to 2032 and cease to provide low-income housing at Stewart House. To the contrary, the PDA's Charter expressly provides that the provision of low-income housing is central to the PDA's purpose.⁷ Stewart House was constructed for this purpose, which is consistent with the PDA's long history of providing housing to low-income residents via numerous different PDA properties. *See* App. at 1-3. Moreover, the limitations on the PDA's properties in the Market Historical District prohibit the sale or further development of Stewart House. Neither the City nor the Hearing Examiner acknowledged this amalgamation of restrictions, which has the effect of assuring the continued provision of low-income housing at Stewart House, nor do they explain why they should not be

⁶ Moreover, the City's delay in providing this rationale was prejudicial to the PDA. Mr. McCauley's December 22, 2020 deposition testimony suggested only that he had overlooked the HUD contract and other information provided by the PDA when refusing to apply the low-income housing exemption to Stewart House and that he would consider such information upon remand. Appendix 49 (McCauley Dep. 20:6-21:13). It was not until the City's January 12, 2021 response brief that the City articulated the actual basis for the denial, namely, the City's unfounded assumption that the PDA would terminate its HUD contract before 2032 and take up commercial activity in Stewart House. The PDA's closing statement was due just three days later. Though the PDA disputed the City's assumption with ample record evidence of the actual and future use of Stewart House, the Hearing Examiner nonetheless accepted the City's assumption without elaboration. *See* Final Order at 102.

⁷ *See* Pike Place Market Preservation and Development Authority Charter, page 2.

<http://pikeplacemarket.org/sites/default/files/Charter%20Pike%20Place%20Market%20PDA.pdf>

credited in a manner consistent with other PDA properties providing commensurate residential services to low-income residents.

Third, the City has inexplicably singled out Stewart House for disparate treatment from other PDA properties that provide low-income housing. The PDA raised these disparities in both its February 3, 2020 and January 8, 2021 objections, and yet the City failed to respond to these facts until its final response on remand. *See City Response*, January 12, 2021. Specifically, the City's valuation properly recognized that no assessment should apply to similar PDA properties that provide low-income housing, including the Lasalle Building, Pine Building, PC-1 South and MarketFront. *See Final Assessment Roll*; *see also* Appendix at 51-53. Each of these buildings has condominiums with specific units dedicated to low income housing, each governed by a variety of agreements, including contracts with HUD under section 8, extended use agreements with the Washington State Housing Finance Commission or contracts with the City of Seattle. Yet Stewart House alone was levied an assessment that ignores its historical, current, and future actual use as low-income housing. The City's speculation about "possible" future commercial use in the face of contrary evidence is error.⁸

Finally, the Council should consider the fact that the PDA has an exemption from property taxes for all properties in the Market Historical District, regardless of use, as all uses are constrained by the PDA Charter. Despite this, the PDA appealed the LID assessment levied against only Stewart House and North Arcade, out of its 32 impacted parcels. Where the undisputed record demonstrates that the PDA has and will continue to provide low-income housing at Stewart House long into the future (and further is prohibited from developing Stewart House to a use inconsistent with the PDA Charter), a zero assessment for the impacted units and corresponding land value is equitable and should apply.

⁸ "An expert's prediction of future highest and best use must be reasonable. It cannot be based on speculation." *Bellevue Plaza, Inc. v. City of Bellevue*, 121 Wn. 2d 397, 417-18, 851 P.2d 662 (1993) (citations omitted). Moreover, as the Supreme Court observed in *Doolittle v. City of Everett*:

An owner who is assessed for LID improvements based upon potential highest and best use is forced to pay an assessment on a valuation which may or may not become a reality. Many factors, other than the market, influence the actual and potential use of any parcel of real estate. Not the least of those nonmarket factors are personal considerations and familial relationships, plus the ever-present tax consequences. When the governmental unit assesses its LID charges on a theoretical, compared to existing use, it is forcing the owner to pay on the basis of what an expert says the owner *should* do with his property. These facts must be considered in an assessment proceeding in application of the principle that future use to which property is reasonably adapted within a reasonably foreseeable time may be considered. This case illustrates the hazard of full application of the highest and best use principle. The City's principal appraiser proceeded on the basis that all improvements would be removed, the parcels combined, access changed and existing rental incomes destroyed. The owner's present use cannot dictate entirely the calculation of special benefits. However, potential highest and best use considerations must take into account the limitations expressed.

114 Wn.2d 88, 105-06, 786 P.2d 253 (1990) (second emphasis added).

3. Applying the low-income housing exemption, the Stewart House assessment should be reduced to \$77,397.

The elements of the Stewart House assessment as recommend by the Hearing Examiner are set forth in the table below.

Parcel ID/LID Map Number (Description)	Market Value w/o LID	Market Value with LID	Special Benefit	Total Assessment
8008550000/ B-198-001 (Land)	\$10,091,000	\$10,343,000	\$252,000	\$98,739
8008550000 B-198-002 (Unit 1)	\$5,988,000	\$6,093,000	\$105,000	\$41,141
8008550000 B-198-003 (Unit 2)	\$5,642,000	\$5,741,000	\$99,000	\$38,790
8008550000 B-198-004 (Unit 3)	\$2,799,000	\$2,848,000	\$49,000	\$19,199
Total:	\$24,520,000	\$25,025,000	\$505,000	\$197,869

The special benefit assessment for Stewart House should be reduced by the amount allocated to the low-income housing Units 1 and 3, on the established principle that such properties are exempt from assessment for LID improvements. Unit 1 is assessed at \$41,141 and Unit 3 is assessed at \$19,199; both of these amounts should be subtracted from the Stewart House assessment.

Further, the undivided interest in land should be further reduced by the amounts allocated to Units 1 and 3. Specifically, according to the King County Assessor, Stewart House Unit 1 is assessed at 41.5 % of the improvement value, and Unit 3 is assessed at 19.4 % of the improvement value. As such, Units 1 and 3 are jointly allocated 60.9 % of the land value of Stewart House and Unit 2 is allocated 39.1%. *See Appendix 50.* Reducing the land value assessment to remove the portions allocated for low-income housing would further reduce the assessment by \$60,132. In total, the result of removing assessments associated with low-income housing would reduce the assessment on Stewart House from \$197,869 to \$77,396, as illustrated below.

Parcel ID/LID Map Number (Description)	Market Value w/o LID	Market Value with LID	Special Benefit	Total Assessment
8008550000/ B-198-001 (60.9 % of Land for Units 1 and 3)	\$6,145,419	\$6,145,419	\$0	\$0
8008550000/ B-198-001 (39.1% of Land for Unit 2)	\$3,945,581	\$4,044,113	\$98,532	\$38,606
8008550000 B-198-002 (Unit 1)	\$5,988,000	\$5,988,000	\$0	\$0
8008550000 B-198-003 (Unit 2)	\$5,642,000	\$5,741,000	\$99,000	\$38,790
8008550000 B-198-004 (Unit 3)	\$2,799,000	\$2,799,000	\$0	\$0
Total:	\$24,520,000	\$24,717,532	\$197,532	\$77,396

Applying the low-income housing exemption to Stewart House is consistent with both the actual use of the property and the highest and best use of the property, which is for the continued provision of low-incoming housing in the Market, consistent with the PDA's Charter and Historical District requirements. Appendix 54-55. The City's appraisal (and Hearing Examiner's approval thereof) is based upon a counterfactual set of events that simply do not exist. Stewart House should not be assessed like a commercial property when it is not, and cannot be, a commercial property. The City presented no evidence to the contrary, nor could it.

Ignoring present use in favor of an entirely speculative (and in this case impossible) future use is both fundamentally wrong and arbitrary and capricious. *See Bellevue Plaza*, 121 Wn.2d at 412-13 (assessments overturned where appraiser ignored present uses and restrictions on property and assessed on the basis of speculative future uses). "Present use should be considered, as well as future use to which the property is reasonably well adapted." *Doolittle*, 114 Wn.2d at 93. The Hearing Examiner did not find that Stewart House is "reasonably well adapted" to commercial use "within a reasonably foreseeable time." *Doolittle*, 114 Wn.2d at 104-05. Nor did the City's appraiser. *See McCauley Declaration* ¶ 34. Rather, the Hearing Examiner merely opined that because a use other than low-income housing was not "absolutely prohibited," then such use was "possible" at an unspecified point in the future. Final Order at 102. This determination is insufficient under well-established Washington law governing special assessments.

The Council should grant the PDA's objection and exempt the low-income housing units at Stewart House from assessment.

B. The Assessed Land Value of the North Arcade Should be Reduced.

With respect to the North Arcade, in its amended assessment, the City corrected the ownership of the North Arcade parcel from SDOT to the PDA (thus increasing the PDA's overall LID burden). In its revised assessment, the North Arcade parcel is valued at \$700 per square foot. The City also applied the \$700 per square foot rate as the pre-LID price for the nearby PC-1 South Condominium. *See* Appendix 51. Similarly, the LaSalle Building was assigned a pre-LID land value of \$675 per square foot and \$688.50 with the LID. *Id.* at 52. But both the PC-1 South Condominium and the LaSalle Building parcels contain fully developed buildings near their maximum development height of 85 feet. *Id.*

By contrast, the North Arcade is a unique piece of property with an iconic one-story open-air enclosed walkway at street grade. Appendix at 55-56. This configuration dates from over a century ago and is registered on the National Register of Historic Places.⁹ The North Arcade can never be sold or developed to host a taller structure, yet it is priced similarly to nearby parcels built to their maximum development height of 85 feet. *See* Appendix 51-53. Thus, valuation of the land at \$700 per square foot greatly overestimates its worth in comparison to other PDA properties.

The PDA does not dispute the City's calculation of added land value by a factor of up to 2% as a result of the LID improvements or the assumption of increased property value due to the proximity to LID improvements. The PDA does, however, contest the appropriateness of using a standard \$700 per square foot to estimate the existing land value for all properties in the PDA portfolio. As noted in the Declaration of Robert McCauley submitted in support of the City's revised valuation, the properties of the Pike Place Market, owned by the PDA and within the Market Historical District, are subject to design and use restrictions that limit and reduce their value in comparison with "market rate" and unregulated properties. This has been reflected in the appraiser's reduction of the North Arcade assessment based on improvements on the property after the error in ownership was corrected from SDOT to the PDA. *See* Final Order at 102.

What has not been reflected, however, is the impact that physical, regulatory and geographic constraints have upon the value of the land itself, and the variation in land value based on specific property characteristics within the district. Thus, the Hearing Examiner should have rejected the City's premise that existing inherent land values are assumed to be equivalent to other PDA properties not subject to the same physical and regulatory constraints.

To be clear, this element of the PDA's objection is related to existing land valuations of the County Assessor and LID appraisal. The PDA has not challenged nor objected to valuations by the County Assessor in the past for two reasons – in the case of the North Arcade, it was not

⁹ <https://catalog.archives.gov/id/75612297>

notified of the valuations nor identified as a property owner in the official records until this last year. Moreover, statutory exemption from real estate taxes of all PDA-owned properties within the Market Historic District has until now obviated any need of the PDA to examine the Assessor's assumptions.

To that end, the land values for PDA properties in the Pike Place Market Historical District are arguably significantly less than \$700 per square foot due to the restrictions that prohibit the sale of the property. There is no fair market comparison. Development density and potential return on investment are highly variable by property and limited by regulation. In effect, this has been acknowledged in the exemption of such values from property taxes. Nevertheless, the PDA concedes for the purpose of this objection that the use of a base value is appropriate, as a benchmark for evaluation of relative property values among its holdings. For the reasons detailed above, however, the basis used for the determination of current land values for the North Arcade should be reduced by 50%, to \$350 per square foot, to better account for the exceptional restrictions on this parcel. Applying this proposed valuation, the North Arcade assessment should be reduced to \$35,868.

IV. Summary and Conclusion

For the reasons stated above, the City's assessments of Stewart House and the North Arcade land value do not accurately reflect the special benefits occasioned by the LID improvements. The Stewart House assessment must be reduced to accurately reflect its actual and future use as low-income housing, consistent with the exemption applied to other PDA housing properties. The North Arcade land value assessment should likewise be reduced to account for the unique limitations on this parcel.

The PDA respectfully requests that the Stewart House assessment be reduced to \$77,396 and the North Arcade assessment be reduced to \$35,868.

Sincerely,

PACIFICA LAW GROUP LLP



Kymberly K. Evanson, WSBA #39973

1191 Second Ave, Suite 2000

Seattle, WA 98101

Telephone: 206-245-1725

Email: Kymberly.Evanson@pacificallawgroup.com

Attorneys for the Pike Place Market Preservation and Development Authority



Residential

Pike Place Market is more than a public market; it's a vibrant neighborhood home of 500 residents, many of whom are low-income people. The Pike Place Market Preservation and Development Authority (PDA) has three HUD subsidized buildings located directly within Pike Place Market, just steps away from the famous fish guys, Rachel the Piggy Bank and the neon Public Market Center clock.

The Market also has affordable market rate studio, one-bedroom, and two-bedroom apartments. There are also Single Resident Occupancy apartments with a kitchenette and shared bathroom.

Some of our buildings have sun and patio decks and offer spectacular views of Puget Sound. Our buildings offer easy access to the Market's many businesses.

If interested in Pike Place Market residential opportunities, please fill out a [Guest Housing Inquiry Form](#).

Affordable Housing Properties

Western Avenue Senior Housing

The Western Avenue Senior Housing building features 40 studio apartments, at 100% tax credit.

The new 40 studio apartments are being rented to low income persons, 55 years of age or older, with incomes 50% below area median income (called AMI).

Seven of the apartments on the west public plaza of the new MarketFront are intended for practicing artists and crafts persons willing to participate in active use and programming of the area.

For more information, contact:

Kim Barreto
Residential Manager
Phone: 206.774.5304
Fax: 206.774.5295
Email: Kim.Barreto@pikeplacemarket.org



HUD

La Salle Building – *Waiting list closed*

The La Salle building is a blended property. There are 40 HUD subsidized units with 100% tax credit. The waitlist is currently closed.

Property Description

La Salle property is a historic structure composed of four buildings. The original building, the La Salle Hotel, was built in 1907. The fourth building was completed in 2006. All units were modestly renovated in 2006.

Project Eligibility

- The head of household, co-head or spouse must be 62 years of age or older and/or "disabled"; Income restriction applied – (HUD requirement)
- The head of household, co-head or spouse must be 55 years of age and/or disabled; Income restriction applied. First come, first served basis – (Tax credit requirement)

La Salle Apartments Features

- 64 units: 44 studio and 20 one-bedroom
- Some units have gorgeous views of Elliott Bay and the Olympic Mountains



2/3/2020

Residential | Pike Place Market

- Pike Place Market Community Garden
- La Salle building houses the Pike Place Senior Center
- Proximity to the Market, restaurants and bus stops

Address:
85 Pike St. #500
Seattle, WA 98101

For more information, contact:
Verna Portugues
Residential Manager
Phone: 206.774.5228
Fax: 206.774.5295
Email: Verna.Portugues@PikePlaceMarket.org

Market House – *Waiting list closed*

Market House is a family project. It is 100% HUD subsidized units. The waitlist is currently closed.

Property Description
Market House was built in 1984. It was originally owned and managed by Seattle Housing Authority. Pike Place Market PDA acquired this project in 2005.

Project Eligibility
A family property. Anyone over the age of 18 can apply. Income restriction is applied.

Market House Features

- 51 units: 40 one bedroom and 11 studio
- Some units have gorgeous views of Elliott Bay and the Olympic Mountains
- Courtyard
- Proximity to the Market, restaurants and bus stops

Address:
1531 First Avenue
Seattle, WA 98101

For more information, contact:
Kim Hao
Residential Manager
Phone: 206.774.5229
Fax: 206.774.5290
Email: Kim.Hao@PikePlaceMarket.org

Stewart House – [Click here for SRO Pre-application](#) | [Click here for Section 8 Subsidized Housing Pre-application](#)

The red brick side of the building is an elderly property. It is 100% HUD subsidized units. The Stewart House waitlist is currently open and applications are being accepted. The wait time is six months to two years.

Property Description

- Stewart House was built in 1986. In 2012, this building was renovated with funding from the levy passed by the City of Seattle constituency.

Project Eligibility

- An elderly property. The head of the household must be 62 years of age. Income restriction is applied.

Stewart House Features

- 48 HUD units: 46 studio apartments and two, one-bedroom units. There are also 38 single room occupancy (SRO) units with shared bathrooms
- Some units have gorgeous views of Elliott Bay and the Olympic Mountains
- Courtyard
- Proximity to the Market, restaurants and bus stops

Address:
80 Stewart Street
Seattle, WA 98101

For more information, contact:
Kim Barreto
Residential Manager
Phone: 206.774.5283
Fax: 206.774.5284
Email: kim.barreto@pikeplacemarket.org

Conventional Market Rate Housing

Conventional Housing does not maintain a waitlist. Applications are accepted on a first come, first served basis. [Click here for Pre-application.](#)

Livingston Baker Apartments (90 units)
1925 First Ave
Seattle, WA 98101

Bryan Houghton
Residential Manager
Phone: 206.774.5281
Fax: 206.774.5282
Email: Bryan@pikeplacemarket.org



Sanitary Market (22 units)

1522 Post Alley
Seattle, WA 98101

Kim Hao
Residential Manager
Phone: 206.774.5229
Fax: 206.774.5290
Email: Kim.Hao@pikeplacemarket.org

**Leland Apartments (14 units)**

1501 Pike Place
Seattle, WA 98101

Bryan Houghton
Residential Manager
Phone: 206.774.5281
Fax: 206.774.5282
Email: Bryan@pikeplacemarket.org

**Triangle Apartments (7 units)**

91 1/2 Pine Street
Seattle, WA 98101

Bryan Houghton
Residential Manager
Phone: 206.774.5281
Fax: 206.774.-5282
Email: Bryan@pikeplacemarket.org

**Housing Pre-applications Forms**

- [Guest/Housing Inquiry Card](#)
- [Pre-application for Conventional/Market Rate Housing.](#)
- [Pre-application for Stewart House Section 8 Subsidized Housing](#)
- [Criteria for Residency.](#)



Pike Place Market PDA is an equal housing access provider. We are open to all eligible individuals and families, regardless of actual or perceived sexual orientation, gender identity or marital status.

Pike Place Market PDA is an equal opportunity housing provider. We do not discriminate against any person because of race, color, religion, sex, handicap, familial status or national origin.

In addition, we also give equal access and housing opportunity to all individuals, regardless of age, political ideology, creed, ancestry, military status, Section 8 or other subsidy programs, alternative sources of income and association. This property does not condone any harassment or retaliatory actions against anyone, including housing applicants, tenants or PDA staff.

Community

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- [Market Foundation](#)
- [Residential](#)
- [Social Services](#)
- [Organizations](#)
- [Volunteer Opportunities](#)

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PARCEL DATA

Parcel	800855-0000	Jurisdiction	SEATTLE
Name		Levy Code	0011
Site Address	80 STEWART ST 98101	Property Type	K
Geo Area	30-80	Plat Block / Building Number	
Spec Area		Plat Lot / Unit Number	POR
Property Name	STEWART HOUSE CONDOMINIUM	Quarter-Section-Township-Range	SE-31-25-4

Legal Description

PLat Block:
 Plat Lot: POR

LAND DATA

Highest & Best Use As If Vacant	MULTI-FAMILY DWELLING	Percentage Unusable	
Highest & Best Use As Improved	PRESENT USE	Unbuildable	NO
Present Use	Condominium(Residential)	Restrictive Size Shape	NO
Land SqFt	14,416	Zoning	PMM-85
Acres	0.33	Water	WATER DISTRICT
		Sewer/Septic	PUBLIC
		Road Access	PUBLIC
		Parking	ADEQUATE
		Street Surface	PAVED

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Views

Rainier	
Territorial	
Olympics	AVERAGE
Cascades	
Seattle Skyline	
Puget Sound	GOOD
Lake Washington	
Lake Sammamish	
Lake/River/Creek	
Other View	

Waterfront

Waterfront Location	
Waterfront Footage	0
Lot Depth Factor	0
Waterfront Bank	
Tide/Shore	
Waterfront Restricted Access	
Waterfront Access Rights	NO
Poor Quality	NO
Proximity Influence	NO

Designations

Historic Site	
Current Use	(none)
Nbr Bldg Sites	
Adjacent to Golf Fairway	NO
Adjacent to Greenbelt	NO
Other Designation	NO
Deed Restrictions	NO
Development Rights Purchased	NO
Easements	NO
Native Growth Protection Easement	NO
DNR Lease	NO

Nuisances

Topography	YES
Traffic Noise	
Airport Noise	
Power Lines	NO
Other Nuisances	NO

Problems

Water Problems	NO
Transportation Concurrence	NO
Other Problems	NO

Environmental

Environmental	NO
---------------	----

BUILDING


Building Number	1
Building Description	CONDO MIXED RETAIL W/RES UNITS
Number Of Buildings Aggregated	1
Predominant Use	MIXED RETAIL W/RES. UNITS (459)
Shape	Rect or Slight Irreg
Construction Class	WOOD FRAME
Building Quality	AVERAGE/GOOD
Stories	3
Building Gross Sq Ft	43,248
Building Net Sq Ft	24,845
Year Built	1904
Eff. Year	1990
Percentage Complete	100
Heating System	ELECTRIC
Sprinklers	Yes
Elevators	No

Section(s) Of Building Number: 1

Section Number	Section Use	Description	Stories	Height	Floor Number	Gross Sq Ft	Net Sq Ft
2	RETAIL STORE (353)	Unit 2	1	10	01	14,416	9,595
1	APARTMENT (300)	Units 1 & 3	2	10	2-3	28,832	15,250

Apartment / Condo Complex Data

Complex Type	Mixed Res Apt and Cml Use Condo
Complex Description	RETAIL & APTS
Value Distribution Method	Pont Land Val
# of Bldgs	1
# of Stories	3
# of Units	3
Avg Unit Size	177
Land Per Unit	4805
Project Location	AVERAGE
Project Appeal	AVERAGE
% With View	0
Construction Class	WOOD FRAME
Building Quality	AVERAGE
Condition	Average
Year Built	1904
Eff Year	1978
% Complete	100
Elevators	N
Security System	Y
FirePlace	N
Laundry	COMMON
Kitchens	Y
# of Meals	0
Founder's Fee	
Apt Conversion	Y
Condo Land Type	Leased Land

 Click the camera to see more pictures.

Picture of Building 1

**Unit Breakdown**

Unit Type	Number of This Type	Sq Ft	# of Bedrooms	# of Baths
Flat	86	177	S	1

☐ **Units in this condominium complex**

Parcel	Taxpayer Name	Building Number	Unit Number	Taxable Total
<u>8008550005</u>	PIKE PL MARKET PDA		POR	\$0
<u>8008550010</u>	PIKE PLACE MARKET PRESERVAT		UNIT 1	\$0
<u>8008550020</u>	PIKE PLACE MARKET PRESERVAT		UNIT 2	\$0
<u>8008550030</u>	PIKE PLACE MARKET PRESERVAT		UNIT 3	\$0

TAX ROLL HISTORY

SALES HISTORY

REVIEW HISTORY

PERMIT HISTORY

Permit Number	Permit Description	Type	Issue Date	Permit Value	Issuing Jurisdiction	Reviewed Date
<u>6263279</u>	Replace brick veneer/insulation as needed on portions of building; retrofit unit windows; replace insulation, waterproofing on roof, exterior decks and courtyard; replace skylight and railings and construct arbor per plans and DON approval.	Remodel	3/21/2011	\$2,500,000	SEATTLE	8/14/2013

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Department of Assessments

500 Fourth Avenue, Suite ADM-AS-0708, Seattle, WA 98104

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Mon - Fri
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4:30 p.m.

TEL: 206-296-7300
FAX: 206-296-5107
TTY: 206-296-7888

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- [Area Report](#)
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PARCEL DATA

Parcel	800855-0005	Jurisdiction	SEATTLE
Name	PIKE PL MARKET PDA	Levy Code	0011
Site Address	85 PIKE ST ROOM 500 98101	Property Type	K
Geo Area	30-80	Plat Block / Building Number	
Spec Area		Plat Lot / Unit Number	POR
Property Name	STEWART HOUSE CONDOMINIUM	Quarter-Section-Township-Range	SE-31-25-4

Legal Description

STEWART HOUSE CONDOMINIUM TOTAL CONDO LAND VALUE - MI 0010 THRU 0030 - AKA LOTS 9 & 12 BLK 37 A A DENNY'S 6TH ADD

Plat Block:

Plat Lot: POR

LAND DATA

Highest & Best Use As If Vacant	MULTI-FAMILY DWELLING
Highest & Best Use As Improved	PRESENT USE
Present Use	Condominium(Residential)
Land SqFt	14,416
Acres	0.33

Percentage Unusable	
Unbuildable	NO
Restrictive Size Shape	NO
Zoning	PMM-85
Water	WATER DISTRICT
Sewer/Septic	PUBLIC
Road Access	PUBLIC
Parking	ADEQUATE
Street Surface	PAVED

Views

Rainier	
Territorial	
Olympics	AVERAGE
Cascades	
Seattle Skyline	
Puget Sound	GOOD
Lake Washington	
Lake Sammamish	
Lake/River/Creek	
Other View	

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Waterfront Location	
Waterfront Footage	0
Lot Depth Factor	0
Waterfront Bank	
Tide/Shore	
Waterfront Restricted Access	
Waterfront Access Rights	NO
Poor Quality	NO
Proximity Influence	NO

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Historic Site	
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Nbr Bldg Sites	
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Adjacent to Greenbelt	NO
Other Designation	NO
Deed Restrictions	NO
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Native Growth Protection Easement	NO
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Topography	YES
Traffic Noise	
Airport Noise	
Power Lines	NO
Other Nuisances	NO

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Water Problems	NO
Transportation Concurrence	NO
Other Problems	NO

Environmental

Environmental	NO
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Building Quality	AVERAGE/GOOD
Stories	3
Building Gross Sq Ft	43,248

Reference Links:

- [King County Tax Links](#)
- [Property Tax Advisor](#)
- [Washington State Department of Revenue](#) (External link)
- [Washington State Board of Tax Appeals](#) (External link)
- [Board of Appeals/Equalization](#)
- [Districts Report](#)
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Building Net Sq Ft	24,845
Year Built	1904
Eff. Year	1990
Percentage Complete	100
Heating System	ELECTRIC
Sprinklers	Yes
Elevators	No

Section(s) Of Building Number: 1

Section Number	Section Use	Description	Stories	Height	Floor Number	Gross Sq Ft	Net Sq Ft
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1	APARTMENT (300)	Units 1 & 3	2	10	2-3	28,832	15,250

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# of Units	3
Avg Unit Size	177
Land Per Unit	4805
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Project Appeal	AVERAGE
% With View	0
Construction Class	WOOD FRAME
Building Quality	AVERAGE
Condition	Average
Year Built	1904
Eff Year	1978
% Complete	100
Elevators	N
Security System	Y
FirePlace	N
Laundry	COMMON
Kitchens	Y
# of Meals	0
Founder's Fee	
Apt Conversion	Y
Condo Land Type	Leased Land

+ Units in this condominium complex

Condo Unit

Unit	Minor	Building	Floor	Unit type	Regression	Quality	Location	Condition
LAND	0005	**		Leased Land				

Measurement	Size	Bed Room	1/2 Bath	3/4 Bath	Full Bath	Other Room	Fire Place	Top Floor	End Unit
		0	0	0	0				

Parking Open	Carport	Parking Basement	Parking Basement Tandem	Package Garage	Package Garage Tandem	Parking Other
0	0	0	0	0	0	0

View Mountain	View Lake/River	View City Territorial	View Puget Sound	View Lake WA / Lake Sammamish

TAX ROLL HISTORY

Account	Valued Year	Tax Year	Omit Year	Levy Code	Appraised Land Value (\$)	Appraised Imps Value (\$)	Appraised Total Value (\$)	New Dollars (\$)	Taxable Land Value (\$)	Taxable Imps Value (\$)	Taxable Total Value (\$)	Tax Value Reason
800855000504	2019	2020		0011	5,045,600	0	5,045,600	0	0	0	0	EX
800855000504	2018	2019		0011	4,252,700	0	4,252,700	0	0	0	0	EX
800855000504	2017	2018		0011	3,820,200	0	3,820,200	0	0	0	0	EX
800855000504	2016	2017		0012	3,243,600	0	3,243,600	0	0	0	0	EX
800855000504	2015	2016		0010	2,811,100	0	2,811,100	0	0	0	0	EX
800855000504	2014	2015		0010	2,666,900	0	2,666,900	0	0	0	0	EX
800855000504	2013	2014		0010	2,522,800	0	2,522,800	0	0	0	0	EX
800855000504	2012	2013		0010	2,162,400	0	2,162,400	0	0	0	0	EX
800855000504	2011	2012		0010	2,162,400	0	2,162,400	0	0	0	0	EX
800855000504	2010	2011		0010	2,162,400	0	2,162,400	0	0	0	0	EX
800855000504	2009	2010		0010	2,162,400	0	2,162,400	0	0	0	0	EX
800855000504	2008	2009		0010	2,162,400	0	2,162,400	0	0	0	0	EX
800855000504	2007	2008		0010	2,162,400	0	2,162,400	0	0	0	0	EX
800855000504	2006	2007		0010	1,765,900	0	1,765,900	0	0	0	0	EX
800855000504	2005	2006		0010	1,765,900	0	1,765,900	0	0	0	0	EX
800855000504	2004	2005		0010	1,765,900	0	1,765,900	0	0	0	0	EX

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PARCEL

Parcel Number	800855-0010
Name	PIKE PLACE MARKET PRESERVAT
Site Address	85 PIKE ST 98101
Legal	STEWART HOUSE CONDOMINIUM PCT OF VALUE 41.5 - IMP VALUE ONLY - SEE MI 0005 FOR TOTAL CONDO LAND VALUE

BUILDING 1

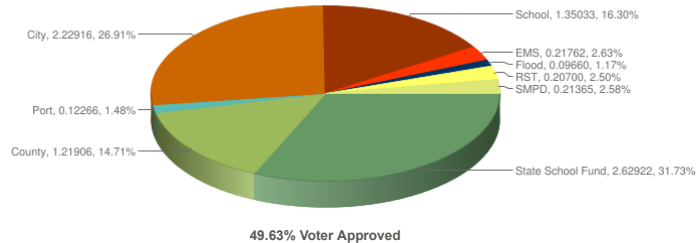
Year Built	1904
Construction Class	WOOD FRAME
Condition	Average
Building Quality	AVERAGE
Number of buildings	1
Number of units	3
Lot Size	14416
Present Use	Condominium(Residential)
Views	Yes
Waterfront	



+ Units in this condominium complex

TOTAL LEVY RATE DISTRIBUTION

Tax Year: 2019 Levy Code: 0011 Total Levy Rate: \$8.28530 Total Senior Rate: \$5.65180



[Click here to see levy distribution comparison by year.](#)

TAX ROLL HISTORY

Valued Year	Tax Year	Appraised Land Value (\$)	Appraised Imps Value (\$)	Appraised Total (\$)	Appraised Imps Increase (\$)	Taxable Land Value (\$)	Taxable Imps Value (\$)	Taxable Total (\$)
2019	2020	0	2,030,300	2,030,300	0	0	0	0
2018	2019	0	1,870,300	1,870,300	0	0	0	0
2017	2018	0	1,857,000	1,857,000	0	0	0	0
2016	2017	0	1,900,200	1,900,200	0	0	0	0
2015	2016	0	1,784,800	1,784,800	0	0	0	0
2014	2015	0	1,699,800	1,699,800	0	0	0	0
2013	2014	0	1,399,800	1,399,800	0	0	0	0
2012	2013	0	1,379,000	1,379,000	0	0	0	0
2011	2012	0	1,379,000	1,379,000	0	0	0	0
2010	2011	0	1,379,000	1,379,000	0	0	0	0
2009	2010	0	1,529,000	1,529,000	0	0	0	0
2008	2009	0	1,529,000	1,529,000	0	0	0	0
2007	2008	0	988,100	988,100	0	0	0	0
2006	2007	0	972,500	972,500	0	0	0	0
2005	2006	0	1,234,200	1,234,200	0	0	0	0
2004	2005	0	1,234,200	1,234,200	0	0	0	0
2003	2004	0	1,234,200	1,234,200	0	0	0	0
2002	2003	0	1,234,200	1,234,200	0	0	0	0
2001	2002	0	1,650,100	1,650,100	0	0	0	0
2000	2001	0	804,400	804,400	0	0	0	0
1999	2000	0	804,400	804,400	0	0	0	0
1997	1998	0	0	0	0	0	804,400	804,400
1996	1997	0	0	0	0	0	804,400	804,400
1994	1995	0	0	0	0	0	804,400	804,400
1992	1993	0	0	0	0	0	804,400	804,400

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King County Department of Assessments: eReal Property

1990	1991	0	0	0	0	0	595,000	595,000
1988	1989	0	0	0	0	0	595,000	595,000
1986	1987	0	0	0	0	0	595,000	595,000
1985	1986	0	0	0	0	0	595,000	595,000
1984	1985	0	0	0	0	0	595,000	595,000
1983	1984	0	0	0	0	0	1,054,200	1,054,200
1982	1983	0	0	0	0	0	535,500	535,500

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PARCEL

Parcel Number	800855-0020
Name	PIKE PLACE MARKET PRESERVAT
Site Address	85 PIKE ST 98101
Legal	STEWART HOUSE CONDOMINIUM PCT OF VALUE 39.1 - IMP VALUE ONLY - SEE MI 0005 FOR TOTAL CONDO LAND VALUE

BUILDING 1

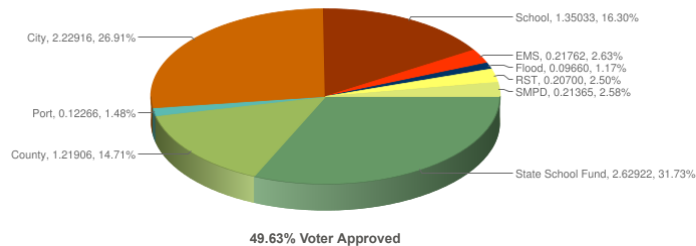
Year Built	1904
Construction Class	WOOD FRAME
Condition	Average
Building Quality	AVERAGE
Number of buildings	1
Number of units	3
Lot Size	14416
Present Use	Condominium(Residential)
Views	Yes
Waterfront	



+ Units in this condominium complex

TOTAL LEVY RATE DISTRIBUTION

Tax Year: 2019 Levy Code: 0011 Total Levy Rate: \$8.28530 Total Senior Rate: \$5.65180



[Click here to see levy distribution comparison by year.](#)

TAX ROLL HISTORY

Valued Year	Tax Year	Appraised Land Value (\$)	Appraised Imps Value (\$)	Appraised Total (\$)	Appraised Imps Increase (\$)	Taxable Land Value (\$)	Taxable Imps Value (\$)	Taxable Total (\$)
2019	2020	0	1,912,900	1,912,900	0	0	0	0
2018	2019	0	1,870,300	1,870,300	0	0	0	0
2017	2018	0	1,857,000	1,857,000	0	0	0	0
2016	2017	0	1,900,200	1,900,200	0	0	0	0
2015	2016	0	1,784,800	1,784,800	0	0	0	0
2014	2015	0	1,699,800	1,699,800	0	0	0	0
2013	2014	0	1,399,800	1,399,800	0	0	0	0
2012	2013	0	1,379,000	1,379,000	0	0	0	0
2011	2012	0	1,379,000	1,379,000	0	0	0	0
2010	2011	0	1,379,000	1,379,000	0	0	0	0
2009	2010	0	1,529,000	1,529,000	0	0	0	0
2008	2009	0	1,529,000	1,529,000	0	0	0	0
2007	2008	0	931,000	931,000	0	0	0	0
2006	2007	0	913,900	913,900	0	0	0	0
2005	2006	0	1,162,900	1,162,900	0	0	0	0
2004	2005	0	1,162,900	1,162,900	0	0	0	0
2003	2004	0	1,162,900	1,162,900	0	0	0	0
2002	2003	0	1,162,900	1,162,900	0	0	0	0
2001	2002	0	1,566,000	1,566,000	0	0	0	0
2000	2001	0	757,800	757,800	0	0	0	0
1999	2000	0	757,800	757,800	0	0	0	0
1997	1998	0	0	0	0	0	757,800	757,800
1996	1997	0	0	0	0	0	757,800	757,800
1994	1995	0	0	0	0	0	757,800	757,800
1992	1993	0	0	0	0	0	757,800	757,800

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King County Department of Assessments: eReal Property

1990	1991	0	0	0	0	0	993,200	993,200
1988	1989	0	0	0	0	0	993,200	993,200
1986	1987	0	0	0	0	0	993,200	993,200
1984	1985	0	0	0	0	0	993,200	993,200
1983	1984	0	0	0	0	0	993,200	993,200
1982	1983	0	0	0	0	0	883,900	883,900

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PARCEL

Parcel Number	800855-0030
Name	PIKE PLACE MARKET PRESERVAT
Site Address	85 PIKE ST 98101
Legal	STEWART HOUSE CONDOMINIUM PCT OF VALUE 19.4 - IMP VALUE ONLY - SEE MI 0005 FOR TOTAL CONDO LAND VALUE

BUILDING 1

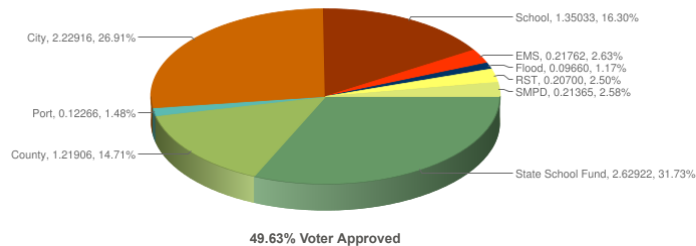
Year Built	1904
Construction Class	WOOD FRAME
Condition	Average
Building Quality	AVERAGE
Number of buildings	1
Number of units	3
Lot Size	14416
Present Use	Condominium(Residential)
Views	Yes
Waterfront	



+ Units in this condominium complex

TOTAL LEVY RATE DISTRIBUTION

Tax Year: 2019 Levy Code: 0011 Total Levy Rate: \$8.28530 Total Senior Rate: \$5.65180



[Click here to see levy distribution comparison by year.](#)

TAX ROLL HISTORY

Valued Year	Tax Year	Appraised Land Value (\$)	Appraised Imps Value (\$)	Appraised Total (\$)	Appraised Imps Increase (\$)	Taxable Land Value (\$)	Taxable Imps Value (\$)	Taxable Total (\$)
2019	2020	0	949,100	949,100	0	0	0	0
2018	2019	0	1,870,000	1,870,000	0	0	0	0
2017	2018	0	1,857,000	1,857,000	0	0	0	0
2016	2017	0	1,900,200	1,900,200	0	0	0	0
2015	2016	0	1,784,800	1,784,800	0	0	0	0
2014	2015	0	1,699,800	1,699,800	0	0	0	0
2013	2014	0	1,399,800	1,399,800	0	0	0	0
2012	2013	0	1,379,000	1,379,000	0	0	0	0
2011	2012	0	1,379,000	1,379,000	0	0	0	0
2010	2011	0	1,379,000	1,379,000	0	0	0	0
2009	2010	0	1,529,000	1,529,000	0	0	0	0
2008	2009	0	1,529,000	1,529,000	0	0	0	0
2007	2008	0	461,900	461,900	0	0	0	0
2006	2007	0	454,600	454,600	0	0	0	0
2005	2006	0	380,500	380,500	0	0	0	0
2004	2005	0	577,000	577,000	0	0	0	0
2003	2004	0	577,000	577,000	0	0	0	0
2002	2003	0	577,000	577,000	0	0	0	0
2001	2002	0	789,100	789,100	0	0	0	0
2000	2001	0	376,000	376,000	0	0	0	0
1999	2000	0	376,000	376,000	0	0	0	0
1997	1998	0	0	0	0	0	376,000	376,000
1996	1997	0	0	0	0	0	376,000	376,000
1994	1995	0	0	0	0	0	376,000	376,000
1992	1993	0	0	0	0	0	376,000	376,000

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King County Department of Assessments: eReal Property

1990	1991	0	0	0	0	0	279,600	279,600
1988	1989	0	0	0	0	0	350,000	350,000
1986	1987	0	0	0	0	0	350,000	350,000
1985	1986	0	0	0	0	0	350,000	350,000
1984	1985	0	0	0	0	0	350,000	350,000
1983	1984	0	0	0	0	0	492,800	492,800
1982	1983	0	0	0	0	0	315,000	315,000

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PARCEL

Parcel Number	269480-0000
Name	
Site Address	1606 PIKE PL 98101
Legal	

BUILDING 1

Year Built	1908
Construction Class	MASONRY
Condition	
Building Quality	AVERAGE
Number of buildings	1
Number of units	3
Lot Size	5235
Present Use	Condominium(Office)
Views	Yes
Waterfront	


☐ Units in this condominium complex

Parcel	Taxpayer Name	Building Number	Unit Number	Taxable Total
2694800010	2110 INVESTMENTS LLC		UNIT 1	\$4,850,000
2694800020	COLLINS ALFRED & SHIRLEY		UNIT 2	\$2,496,900
2694800030	MC1 LLC		UNIT 3	\$1,187,700




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Reference Links

- [King County Taxin Districts Codes and Levies \(.PDF\)](#)
- [King County Tax Links](#)
- [Property Tax Advis](#)
- [Washington State Department of Revenue](#) (External link)
- [Washington State Board of Tax Appeals](#) (External link)
- [Board of Appeals/Equalizati](#)
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- [iMap](#)
- [Recorder's Office](#)
- [Scanned images o surveys and other map documents](#)
- [Scanned images o plats](#)

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Part G – Information on Mortgagor Entity	
Name of Entity Pike Place Market PDA	
Type of Entity <input type="checkbox"/> Individual <input type="checkbox"/> General Partnership <input type="checkbox"/> Joint Tenancy/Tenants in Common <input checked="" type="checkbox"/> Other (specify) Non-Profit <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Trust	
List all Principals Comprising Mortgagor Entity; provide name and title of each principal. Use extra sheets, if needed. If mortgagor is a: • corporation, list: (1) all officers; (2) all directors; and (3) each stockholder having a 10% or more interest. • partnership, list: (1) all general partners; and (2) limited partners having a 25% or more interest in the partnership. • trust, list: (1) all managers, directors or trustees and (2) each beneficiary having at least a 10% beneficial interest in the trust.	
Name and Title	
Mary M. Bacarella	Executive Director
Name and Title	
Sabina Proto	Director of Finance
Name and Title	
John H. Turnbull	Director of Asset Management
Name and Title	
Council Members	
Name and Title	
Rico Quirindongo	Chair
Name and Title	
Betty Halfon	Vice Chair
Name and Title	
Mark Brady	Secretary/Treasurer
Name and Title	
David Ghoddousi	Officer at Large
Name and Title	
Matt Hanna	Officer at Large
Name and Title	
Ray Ishii, Colleen Bowman, Patrice Barrentine, and Paul Neal	Members
Name and Title	
Devin McComb, JJ McKay, and Ali Mowry	Members
Part H – Owner Certification	
To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.	
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)	
Name and Title	Authorized Official's Signature
Mary Bacarella Executive Director	 4/8/19 Date (mm/dd/yyyy)
Part I – HUD/Lender Approval	
Addendum Number	Branch Chief/Lender Official Signature
HAP Contract Number WA198023004	Date (mm/dd/yyyy)
Exhibit Number	Director, Housing Management Division Signature
Loan Servicer Signature  Sarah Tasso Date (mm/dd/yyyy) 04/08/2019	 Kurt West, Executive Director Date (mm/dd/yyyy) 4/9/19
BPCA Contracts Specialist, Housing Authority of the City of Bremerton Housing Authority of the City of Bremerton	

Previous editions are obsolete

Page 2 of 3

form HUD-92458 (11/05)
ref Handbook 4350.1

2019 Income and Rent Limits - Multifamily Tax Exemption Program

Effective 5/24/2019

Income Limits											
Family Size	Percent of Area Median Family Income (% AMI) Restriction on Unit										
	40%	50%	60%	65%	70%	75%	80%	85%	90%	100%	120%
1 Person	\$30,400	\$38,000	\$45,600	\$49,400	\$53,200	\$57,000	\$60,800	\$64,600	\$68,400	\$76,000	\$91,200
2 Persons	\$34,750	\$43,450	\$52,150	\$56,450	\$60,800	\$65,150	\$69,500	\$73,850	\$78,200	\$86,900	\$104,250
3 Persons	\$39,100	\$48,850	\$58,650	\$63,550	\$68,400	\$73,300	\$78,150	\$83,100	\$87,950	\$97,750	\$117,300
4 Persons	\$43,450	\$54,300	\$65,150	\$70,600	\$76,000	\$81,450	\$86,900	\$92,300	\$97,750	\$108,600	\$130,300
5 Persons	\$46,900	\$58,650	\$70,350	\$76,250	\$82,100	\$87,950	\$93,850	\$99,700	\$105,550	\$117,300	\$140,750

Rent Limits									
Unit Size	Percent of Area Median Income (% AMI) Restriction on Unit								
	40%	50%	60%	65%	70%	75%	80%	85%	90%
SEDU and Congregate Studio	\$760	\$950	-	-	-	-	-	-	-
1 Bedroom	-	\$950	\$1,140	\$1,235	\$1,330	-	\$1,520	-	-
2 Bedrooms	-	\$1,086	\$1,303	-	\$1,520	\$1,628	\$1,737	-	-
3 Bedrooms	-	\$1,221	\$1,466	-	\$1,710	-	\$1,953	\$2,077	\$2,198
4 Bedrooms	-	\$1,357	\$1,628	-	\$1,900	-	\$2,172	\$2,307	\$2,443
	-	\$1,575	-	-	-	-	-	\$2,677	\$2,835

The above table represents the gross rent maximums for all new leases offered and month-to-month terms for the **City of Seattle** Multifamily Tax Exemption program on or after the effective date- the required notification period for a rent increase must be taken into account. **It is the expectation of the Office of Housing that rent renewal increases for existing MFTE tenants will not exceed the annual increase in the Consumer Price Index for Rent of Primary Residences for the Seattle area, or 4%, published April 2019.** The **base rent** that may be charged is equal to the gross rent, less the household's **utility estimate** for their unit's utility usage, less any **required recurring fees** that are a condition of occupancy (required renter's insurance, month-to-month charges, King County Sewer Treatment Capacity Fee, etc.). The utility estimate is based on household utility responsibility and the number of bedrooms in the unit, using the schedule published by the Seattle Housing Authority. Tenants should refer questions about rents to the property manager of their building. Property managers and owners with questions about the 2019 Income and Rent Limits should contact the Seattle Office of Housing at (206) 684-0721.

U.S. Department of Housing and Urban Development

Office of Housing

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Region X MF Hub

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

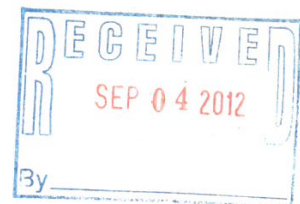
BASIC RENEWAL CONTRACT

MULTI-YEAR TERM



PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Basic Renewal Contract. The instructions are not part of the Renewal Contract



Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

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**U.S. Department of Housing and Urban Development
Office of Housing**

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

BASIC RENEWAL CONTRACT¹

MULTI-YEAR TERM

1 CONTRACT INFORMATION²

PROJECT

Section 8 Project Number: WA198023004

Section 8 Project Number of Expiring Contract: WA198023004

FHA Project Number (if applicable): NA

Project Name: Stewart House

Project Description:³

80 Stewart St, Seattle, King County, WA 98101-1053

TYPE OF RENEWAL

- ☒ Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- ☐ Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator⁴

Housing Authority of the City of Bremerton

Address of Contract Administrator

345 - 6th Street, Suite 200
Bremerton, WA 98337-1860

Name of Owner⁵

Pike Place Market Preservation and Devlpmt Athry

Address of Owner

85 Pike St, Ste 500
Seattle, WA 98101-2166

Owner DUNS Number: 085248888

2 TERM AND FUNDING OF RENEWAL CONTRACT

- a** The Renewal Contract begins on August 11, 2012⁶ and shall run for a period of twenty (20)⁷ years.
- b** Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ 314,462,⁸ an amount sufficient to provide housing assistance payments for approximately ten (10)⁹ months of the first annual increment of the Renewal Contract term.

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

- c** HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

3 DEFINITIONS

ACC. Annual contributions contract.

Anniversary. The annual recurrence of the date of the first day of the term of the Renewal Contract.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Fifth year anniversary. The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

Fifth year comparability adjustment. An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384), as amended.

Mid-term comparability adjustment. An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at

the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

OCAF. An operating cost adjustment factor established by HUD.

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Project. The housing described in section 1 of the Renewal Contract.

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

4 RENEWAL CONTRACT

a Parties

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing

assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

- (1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.
- (2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

e Contract units

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

- a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).
- b All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
 - (1) Identification of contract units by size and applicable contract rents;
 - (2) The amount of the monthly contract rents;

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

-
- (3) Contract rent adjustments; and
 - (4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

b Contract rent adjustments

(1) OCAF or Budget-Based Rent Adjustments

- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
 - (i) Using an OCAF; or
 - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.

-
- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

(2) **Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).
- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, if applicable).**
 - (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).
 - (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
 - (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.

(c) Mid-term adjustment (discretionary comparability adjustment within 5-year term)

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

(d) Adjusting contract rent

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

(3) Procedure for rent adjustments during renewal term

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

(4) No other adjustments

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

7 OWNER WARRANTIES

- a** The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b** The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

- a** Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b** If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of

section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.
- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

- a** Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b** A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator
Bremerton Housing Authority

By: 

Signature of authorized representative

Kurt Wiest, Executive Director
Bremerton Housing Authority
Name and official title

Date 9/5/12

U.S. Department of Housing and Urban Development

By: 

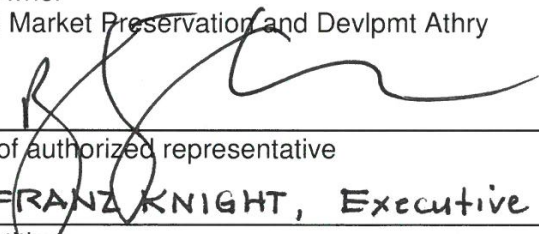
Signature of authorized representative

Tim Sovold, Director, Seattle Multifamily Program Management Center
Name and official title

Date SEP 06 2012

Owner

Name of Owner
Pike Place Market Preservation and Devlpmt Athry

By: 

Signature of authorized representative

BEN FRANZ KNIGHT, Executive Director
Name and title

Date 8/30/12

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

EXHIBIT A**IDENTIFICATION OF UNITS ("CONTRACT UNITS")****BY SIZE AND APPLICABLE CONTRACT RENTS****Section 8 Contract Number: WA198023004****FHA Project Number (if applicable): NA****Effective Date of the Rent Increase (if applicable): August 11, 2012**

Number of Contract Units	Number of Bedrooms	Contract Rent	Utility Allowance	Gross Rent
46	0 BR	891	NA	891
2	1 BR	967	NA	967

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Comments:

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

EXHIBIT B
DISTRIBUTIONS LIMITATION

FOR PROJECT NOT SUBJECT TO DISTRIBUTIONS LIMITATION:

If the project is not subject to any limitation on distributions of project funds, either pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, neither HUD nor the PHA may impose any additional limitation on distributions of project funds during the term of the Renewal Contract.

FOR PROJECT SUBJECT TO DISTRIBUTIONS LIMITATION:

If the project is subject to any limitation on distributions of project funds pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, such limitation on distributions shall continue to be applicable during the term of the Renewal Contract, provided that the owner may take an increased distribution in accordance with the Section 8 Renewal Policy Guidance for Renewal of Project-Based Section 8 Contracts, (the "Guidebook").

However, owners of Section 8 properties must maintain the property in good condition, as demonstrated by a REAC score of 60 or higher, in order to take increased distributions.

The owner shall comply with the distribution limitations. The maximum distribution to the owner shall be equal to the total of:

- 1 The limited distribution permitted pursuant to the FHA Regulatory agreement or the Expiring Contract, **plus**
- 2 Any increased distribution as approved by HUD in accordance with the Guidebook.

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

¹ This form of Renewal Contract is to be used for initial and subsequent renewals of an expiring Section 8 project-based HAP contract under the authority of Section 524(a) or 524(b)(1) of MAHRA for a term of two years or more. Attachment 11-1 is to be used for renewals under the authority of Section 524(a) or 524(b)(1) of MAHRA for a renewal term of one year.

This form may not be used for Mark-Up-To-Market Renewals. The HUD prescribed form of Mark-Up-To-Market Renewal Contract must be used for this purpose.

Section 2 of the Renewal Contract specifies the contract term.

² To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

³ Enter a description of housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state, and zip code, block and lot number (if known), and any other information, necessary to clearly designate the covered Project.

⁴ Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

⁵ Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

⁶ The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

⁷ Enter a whole number of two or more years.

⁸ Enter the amount of funding obligated.

⁹ Enter a whole number of months.

Ordinance No. 57510

AN ORDINANCE vacating a portion of Western Avenue on the petition of the Great Northern Railway Company, et al.

Council Bill No. 17808

INTRODUCED: APR 29 1929	BY: Streets & Sewers
REFERRED: APR 29 1929	TO: STREETS & SEWERS
REFERRED:	
REPORTED: MAY 8 1929	VETO:
SECOND READING: MAY 8 1929	PUBLISHED:
THIRD READING: MAY 8 1929	VETO SUSTAINED:
SIGNED: MAY 8 1929	PASSED OVER VETO:
PRESENTED TO MAYOR:	APPROVED: MAY 8 1929
FILED: MAY 8 1929	PUBLISHED: MAY 8 1929
ENGROSSED: VOL. 62 PAGE 345	BY: CM
COMPARSED BY:	AND

Form 1. 5M. 7-27 McCand.

57509

ORDINANCE NO. 37510

AN ORDINANCE vacating a portion of Western Avenue on the petition of the Great Northern Railway Company, et al.

Whereas, there has been filed with the City Council the petition of the Great Northern Railway Company, et al., (File No. 120723) asking for the vacation of a portion of Western Avenue, as therein fully described; and

Whereas, at the hearing on said petition on the 29th day of April, 1929, the said petition was duly granted by the City Council;

Now Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That the following described portion of Western Avenue, in the City of Seattle, to-wit:

All that portion of Western Avenue lying between Pike Place, and Block 36 of A. A. Denny's 6th Addition to the City of Seattle, beginning at a point 33 feet westerly from the center line of Pike Place at the intersection of Stewart Street and Pike Place, and 10 feet northerly from and at right angles to the center line of Stewart Street; running thence westerly at right angles to the center line of Pike Place, a distance of 12.75 feet; thence westerly 49 feet to point of intersection with the southerly boundary line of Block 36, A. A. Denny's 6th Addition to the City of Seattle extended easterly; thence westerly at right angles to the westerly marginal line of Western Avenue as condemned by the City of Seattle over and across said Block 36 to the westerly marginal line of Western Avenue as condemned as aforesaid; thence northerly along the westerly marginal line of Western Avenue as condemned as aforesaid 79.7 feet; thence easterly 44.4 feet to a point which is 59.6 feet distant from the center line of Pike Place measured at right angles to said center line; thence 26.6 feet measured at right angles to said center line of Pike Place to the westerly marginal line of Pike Place extended; thence southerly 81.9 feet to the place of beginning, extending indefinitely upward from an imaginary horizontal plane having an elevation at the northerly end thereof of 17 feet above the center line of Western Avenue as now graded, together with the area and space necessary for proper piers, posts, columns, frames, trusses and supports necessary to maintain a bridge over said Western Avenue at said elevation;

be and the same is hereby vacated.

(To be used for all Ordinances except Emergency.)

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed the City Council the 6 day of MAY, 1929,
and signed by me in open session in authentication of its passage this 6 day of
MAY, 1929.
John E. Seewald
President of the City Council.

Approved by me this 13 day of MAY 1929
Frank Edwards
Mayor.

Filed by me this 13 day of MAY 1929
Attest: W. M. Carroll
City Comptroller and Ex-Officio City Clerk.

(SEAL)
By: W. M. Carroll
Deputy Clerk.

Published MAY 20 1929
By: W. M. Carroll
City Comptroller and Ex-Officio City Clerk.
By: W. M. Carroll
Deputy Clerk.

Ordinance No. 59602

AN ORDINANCE vacating portions of Pike Place and Western Avenue on the petition of Marie E. Bain, et al.

Council Bill No. 50022

INTRODUCED: JUN 9 1930	BY: Streets & Sewers Committee
REFERRED: JUN 9 1930	TO: STREETS & SEWERS
REFERRED:	
REPORTED: JUN 16 1930	VETO:
SECOND READING: JUN 16 1930	PUBLISHED:
THIRD READING: JUN 16 1930	VETO SUSTAINED:
SIGNED: JUN 16 1930	PASSED OVER, VETO:
PRESENTED TO MAYOR: JUN 16 1930	APPROVED: JUN 24 1930
FILED: JUN 16 1930	PUBLISHED: JUN 26 1930
ENGROSSED: JUN 24 1930	BY: Wm
VOL. 9.2 PAGE 38	
COMPALED BY:	AND

Form 1. 6M. 8-29 McCann.

Associated = 57510?
57509

Recd of
1327

59602

ORDINANCE NO.

AN ORDINANCE vacating portions of Pike Place and Western Avenue on the petition of Marie E. Bain, et al.

Whereas, there has been filed with the City Council the petition of Marie E. Bain, et al. (File No. 124840) asking for the vacation of portions of Pike Place and Western Avenue, as in said petition fully described; and

Whereas, at the time of the hearing on said petition on the 2nd day of June, 1930, the said petition was duly granted by the City Council;

Now Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That the following described portions of Pike Place and Western Avenue, in the City of Seattle, to-wit:

Beginning at the intersection of the center lines of Pine Street and Pike Place, thence southerly along the center line of Pike Place a distance of 34.52 feet; thence westerly along the southerly marginal line of Pine Street, projected, a distance of 24.05 feet to the westerly curb line of Pike Place which point is the true place of beginning; thence continuing along the southerly marginal line of Pine Street, projected, a distance of 32.2 feet; thence northerly along a line which is 53.8 feet distant from and at right angles to the center line of Pike Place and parallel thereto, a distance of 274.8 feet; thence northerly on an angle 11.6 feet to a point on a line which is 45 feet westerly from and at right angles to the center line of Pike Place; thence northerly along said line parallel to the center line of Pike Place a distance of 55 feet; thence easterly at right angles 10.55 feet; thence northerly at right angles a distance of 185.51 feet to the southerly marginal line of Virginia Street, projected; thence easterly at right angles 11.45 feet; thence southerly at right angles along the westerly curb line of Pike Place, a distance of 532.11 feet to the true place of beginning, including in the above description only that portion of Western Avenue extending indefinitely upward from a plane the elevation of which is the westerly sidewalk on Pike Place between the southerly marginal line of Pine Street, projected westerly, and a point 185.51 feet southerly from the southerly marginal line of Virginia Street, together with the area and space necessary for proper columns and supports to maintain an overhanging structure over Western Avenue;

be and the same are hereby vacated.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed the City Council the 16 day of JUNE 1930

and signed by me in open session in authentication of its passage this 16 day of

JUNE 1930 Oliver T. Erickson

President of the City Council.

Approved by me this 24 day of JUNE 1930

Franka Edwards Mayor

Filed by me this 24 day of JUNE 1930

Attest J. R. Cannon
City Comptroller and Ex-Officio City Clerk.

By J. R. Cannon Deputy Clerk.

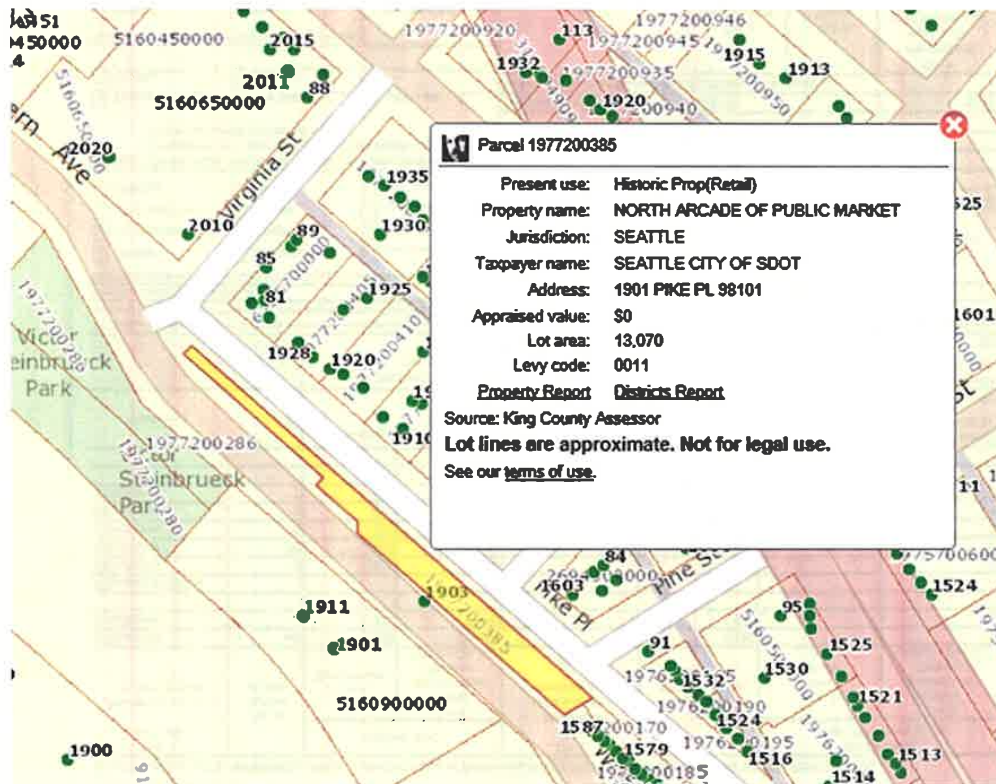
City Comptroller and Ex-Officio City Clerk.

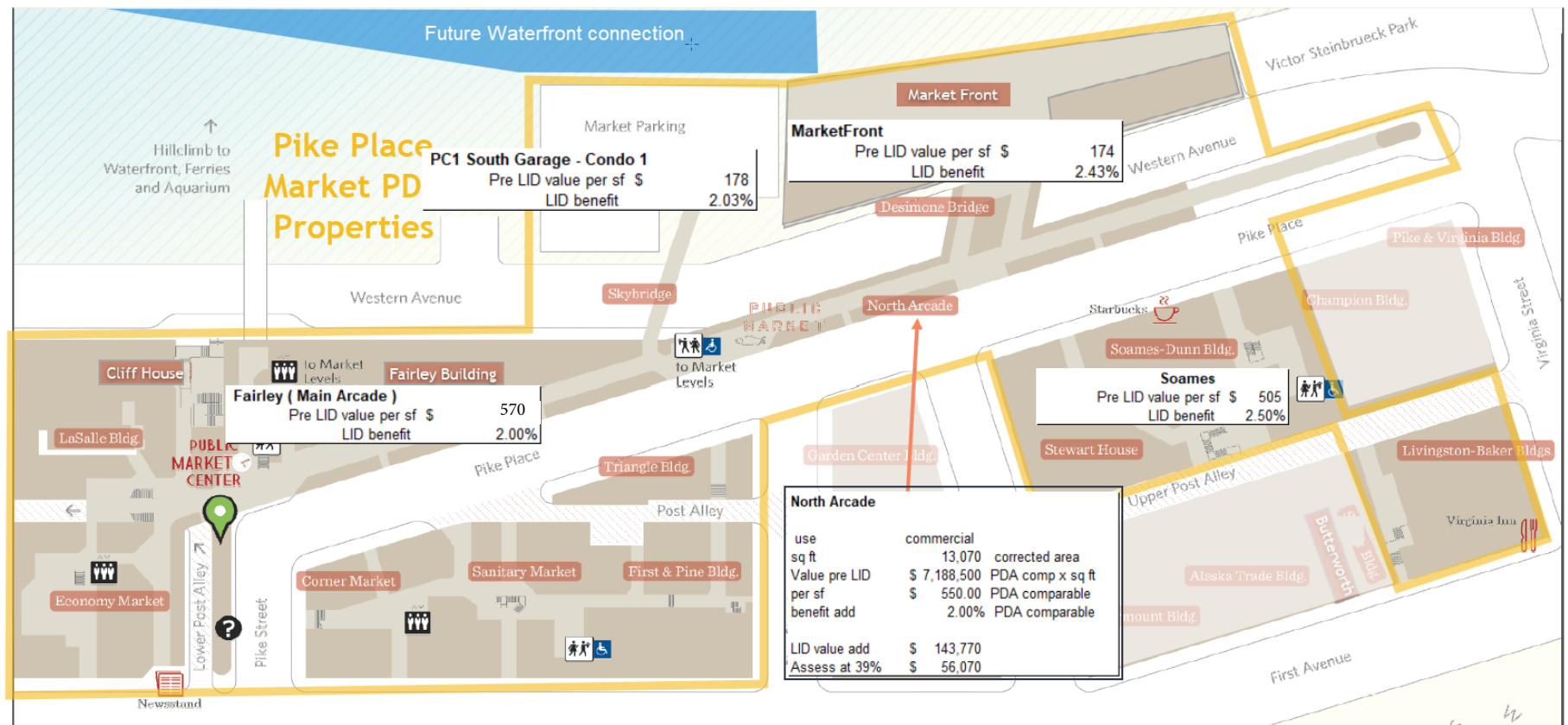
By J. R. Cannon Deputy Clerk.

(SEAL)

JUN 26 1930

Published





<p style="text-align: right;">Page 18</p> <p>1 and things of that nature.</p> <p>2 Q How does that translate into -- I mean, I'm</p> <p>3 always thinking that you should have some sort of math</p> <p>4 methodology or logic to your values, and it always</p> <p>5 seems to be just kind of a wag. If the difference</p> <p>6 between 2016 and 2019 is this significant renovation,</p> <p>7 I'd like you to tell me what you know about the</p> <p>8 renovation and how that translated into such a giant</p> <p>9 leap in value.</p> <p>10 MR. FILIPINI: Object to form.</p> <p>11 A Well, it was a significant increase in value</p> <p>12 from what Gordon estimated too. I think we're still</p> <p>13 higher. I don't have an exact figure of what that</p> <p>14 renovation cost is or was.</p> <p>15 Q Do you know in the time period, 2017 to</p> <p>16 2019, what happened to the occupancy rates in Seattle</p> <p>17 hotels?</p> <p>18 A Well, my recollection, they were going up.</p> <p>19 Q And room prices?</p> <p>20 A Were going up.</p> <p>21 Q And supply going up?</p> <p>22 A Correct.</p> <p>23 MR. REUTER: That's all I have.</p> <p>24 THE COURT REPORTER: It looks like</p> <p>25 Ms. Evanson is joining us right now.</p>	<p style="text-align: right;">Page 20</p> <p>1 that this reduction reflects only the proposed</p> <p>2 assessments that the city filed in August 13?</p> <p>3 A The reduction -- that reduction just deals</p> <p>4 with the North Arcade property, not the Stewart House</p> <p>5 property.</p> <p>6 Q Okay. That's what I wanted to confirm</p> <p>7 because it doesn't -- in the heading there, it says</p> <p>8 North Arcade and Stewart House, but the reduction was</p> <p>9 the same as just what was provided for the Stewart</p> <p>10 House.</p> <p>11 A Yes, correct. I should have just said North</p> <p>12 Arcade property.</p> <p>13 Q Okay. So then the city did not make any</p> <p>14 corrections to the Stewart House assessment; is that</p> <p>15 correct?</p> <p>16 A That's correct.</p> <p>17 Q And why is that?</p> <p>18 A In a lot of these subsidized properties we</p> <p>19 appraised, there were use agreements that ran five,</p> <p>20 ten, 15, 20 years or longer that held that the</p> <p>21 property had to be used for subsidized housing. So</p> <p>22 there was really no -- theoretically, if the property</p> <p>23 were to have sold, there was no way for a buyer to</p> <p>24 increase income as a result of the project. In what</p> <p>25 you provided and what we could research, there was no</p>
<p style="text-align: right;">Page 19</p> <p>1 (Discussion held off the record.)</p> <p>2 EXAMINATION</p> <p>3 BY MS. EVANSON:</p> <p>4 Q Mr. Macaulay, my name is Kymberly Evanson.</p> <p>5 I'm an attorney at the Pacifica Law Group on behalf of</p> <p>6 the Pike Place Market in Appeal Number CWF 392 and as</p> <p>7 well as the Port of Seattle in Appeal Number CWF 328.</p> <p>8 I just have a few limited questions for you this</p> <p>9 afternoon.</p> <p>10 With respect to the Pike Place Market's</p> <p>11 appeal, that is related to parcel number 800855000.</p> <p>12 That's the one I want to talk about first, which is</p> <p>13 the parcel relating to the Stewart House assessment.</p> <p>14 Do you have -- and I apologize since I just joined the</p> <p>15 deposition. Do you have your declaration in front of</p> <p>16 you, your amended declaration?</p> <p>17 A I do.</p> <p>18 Q Okay. Great. So first, in looking at</p> <p>19 paragraph 59 of your declaration -- are you there?</p> <p>20 A Yeah.</p> <p>21 Q So in paragraph 59 of your declaration, you</p> <p>22 have combined the remanded assessment for Stewart</p> <p>23 House and the other Pike Place Market parcel, the</p> <p>24 North Arcade. And you note that that assessment was</p> <p>25 reduced from \$103,833 to \$71,736. But isn't it true</p>	<p style="text-align: right;">Page 21</p> <p>1 real long-term agreement in that respect with that</p> <p>2 property, so that type of consideration wasn't looked</p> <p>3 at.</p> <p>4 Q So was the city not aware that the -- that</p> <p>5 Stewart House is under a 20-year contract with HUD to</p> <p>6 provide low-income housing?</p> <p>7 A No. What we showed was a 2017 agreement</p> <p>8 that had five years remaining on it. And at the time</p> <p>9 of our report, yeah, it was a 2017 agreement that had</p> <p>10 five years remaining on it. If there is some document</p> <p>11 that shows a more extended period of time than we</p> <p>12 discovered or we knew about, I'd be happy to review</p> <p>13 it.</p> <p>14 Q Okay. So that's helpful, and we can provide</p> <p>15 that to you. I believe the contract runs through 2032</p> <p>16 with HUD. The city also assessed Stewart House</p> <p>17 separately for an undivided interest in land, and</p> <p>18 other nearby condominiums did not have that similar</p> <p>19 assessment. Can you explain why that is?</p> <p>20 A The way that the assessor has your ownership</p> <p>21 interest is very strange. It's different from any</p> <p>22 other of the condominiums that we looked at in the</p> <p>23 LID. And so to be consistent with how we looked at</p> <p>24 everything else, we based it on -- we based our</p> <p>25 analysis on that basis. So I'd either recommend</p>

6 (Pages 18 to 21)

Stewart House Condominium				History
Apartment	8-108-021 & 108-022 & 108-023 & 108-024			
Fee Parcel No.	80805-0005, -0010, -0020, -0030			Current:
Property Key	3564, 3565, 3566, 3567			Current Rent:
Address	83 Stewart Street and 65 Pike Place			NOTE:
zoning	RMU-8			
Property rights	Subject to the Pike Place Urban Renewal Plan. All CDUs are HUD-subsidized. No regulatory agreements were found, as it is assumed that the project can be sold without use restrictions. Parcel -0023 is the land component while -0010 (apartments) reflect 41.5% of total improvements per sq. ft. -0020 (park) is 50.7% and -0030 (apartments) is 1.84%.			
Proximity to project	150+ feet to overlook 1-minute walk			
Site history	N/A			
Ownership	Pike Place Market Preservation and Development Authority			
Description	14,615 SF site on the northeast corner Pike Place and Stewart Street, zoned RMU-8, improved with a mixed use building constructed in 1984, planned into 4-10 condominiums, with one of the parcels comprised of the land and the other consisting of retail and apartment units.			

INCOME ANALYSIS Before									
Year Built		1984		1984		1984		1984	
Parking									
Apartments									
Units	SF NHA	Total NHA	Rent	Rent/SF					
Single room occupancy	38	0	\$1,100	\$0.00					\$501,600
Studios	0	0	\$0.00	\$0.00					\$0.00
1-bedroom 1 bath	0	0	\$0.00	\$0.00					\$0.00
Total apartments	38	0	\$1,100	\$0.00					\$501,600
Retail	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Restaurant	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Other	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Subtotals	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Parking Area/Stalls	0	0	0	0	\$/month	\$0			\$0
Basement	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Other	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Solar	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Total Retail Area & Gross Income		0	0	0	0	0	0	0	\$0
Less: Vacancy/Credit allowance @	4.0%								(\$17,712)
Less: Operating expenses	4.0%								(\$17,712)
Total vacancy/credit allowance	8.0%								(\$35,424)
Effective gross income									\$1,461,456
Less: Operating expenses									\$1,461,456
Management fee @	5.0%								(\$73,073)
Parking operating expenses @	0.0%								\$0
Apartment operating expenses	25.0%								(\$366,724)
Structural maintenance/expense	\$0.25								(\$2,200)
Total operating expenses									(\$441,997)
Net operating income									\$772,432
Indicated Apartment Value									
Capitalized @	5.0%								\$15,548,444
Indicated value									\$15,548,444
Per SF NHA									\$227,352
Per DU									\$227,352

Retail									
Units	SF NHA	Total NHA	Rent	Rent/SF					
Single room occupancy	0	0	\$0.00	\$0.00					\$0
Studios	0	0	\$0.00	\$0.00					\$0
1-bedroom 1 bath	0	0	\$0.00	\$0.00					\$0
Total apartments	0	0	\$0.00	\$0.00					\$0
Retail	14,616	0.595	\$0.00	\$0.00	per SF =	\$0			\$307,040
Restaurant	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Other	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Subtotals	14,616	0.595	\$0.00	\$0.00	per SF =	\$0			\$307,040
Parking Area/Stalls	0	0	0	0	\$/month	\$0			\$0
Basement	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Other	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Solar	0	0	\$0.00	\$0.00	per SF =	\$0			\$0
Total Retail Area & Gross Income		14,616	0.595	\$0.00	\$0.00	\$0			\$307,040
Less: Vacancy/Credit allowance @	4.0%								\$12,282
Less: Operating expenses	4.0%								\$12,282
Total vacancy/credit allowance	8.0%								\$24,564
Effective gross income									\$282,476
Less: Operating expenses									\$282,476
Management fee @	5.0%								\$14,124
Parking operating expenses @	0.0%								\$0
Apartment operating expenses	25.0%								\$70,619
Structural maintenance/expense	\$0.25								\$1,461
Total operating expenses									\$86,203
Net operating income									\$275,550
Indicated Retail Value									
Capitalized @	5.0%								\$5,511,000
Indicated value									\$5,511,000
Per SF NHA									\$92,639
Per DU									\$92,639

Combined Value									
Apartment section									\$15,548,444
Retail									\$4,977,000
Total estimated market value									\$20,525,444
Land Value									
Allocation to 80805-0005		14,616		SF @	1700.00	per SF =	\$24,847,200		\$360,000
Allocation to 80805-0010	41.5%	19,647	SF @	14,848	SF NHA @	\$176.21	\$3,463,000		\$3,463,000
Allocation to 80805-0020	30.1%	14,616	SF @	10,982	SF NHA @	\$168.81	\$2,486,000		\$2,486,000
Allocation to 80805-0030	19.4%	9,185	SF @	4,858	SF NHA @	\$176.17	\$1,629,000		\$1,629,000
Valuation Summary									
Land									\$360,000
Without LID		\$100,000	\$100,000	\$0.00	\$0		\$0.00		\$100,000
With LID		\$177.50	\$10,343,000	\$0.00	\$0		\$0.00		\$10,343,000
Special benefits		\$77.50	\$252,000	\$0.00	\$0		\$0.00		\$252,000
% change									2.50%
Apartment Unit 1 (80805-0010)									\$3,463,000
Without LID		\$0.00	\$0	\$586.31	\$6,098,000	\$586.31	\$6,098,000		\$6,098,000
With LID		\$0.00	\$0	\$10.10	\$102,000	\$10.10	\$102,000		\$102,000
Special benefits		\$0.00	\$0	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
% change									1.75%
Retail Unit 2 (80805-0020)									\$2,486,000
Without LID		\$0.00	\$0	\$586.31	\$6,098,000	\$586.31	\$6,098,000		\$6,098,000
With LID		\$0.00	\$0	\$10.10	\$102,000	\$10.10	\$102,000		\$102,000
Special benefits		\$0.00	\$0	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
% change									1.75%
Apartment Unit 2 (80805-0030)									\$1,629,000
Without LID		\$0.00	\$0	\$586.31	\$6,098,000	\$586.31	\$6,098,000		\$6,098,000
With LID		\$0.00	\$0	\$10.10	\$102,000	\$10.10	\$102,000		\$102,000
Special benefits		\$0.00	\$0	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
% change									1.75%
Totals									\$20,525,444
Without LID		\$100,000	\$100,000	\$0.00	\$0		\$0.00		\$100,000
With LID		\$177.50	\$10,343,000	\$0.00	\$0		\$0.00		\$10,343,000
Special benefits		\$77.50	\$252,000	\$0.00	\$0		\$0.00		\$252,000
% change									2.50%

Special Benefits Summary									
Land	Per SF	Total	Improved	% Change	Value	Special	% Change		
Without LID		\$100,000	\$100,000	N/A	\$100,000	\$0	N/A		
With LID		\$177.50	\$10,343,000	1.75%	\$10,343,000	\$252,000	1.75%		
Scenario A1		\$177.50	\$10,343,000	1.75%	\$10,343,000	\$252,000	1.75%		
Scenario A2		\$177.50	\$10,343,000	1.75%	\$10,343,000	\$252,000	1.75%		
Scenario B1		\$177.50	\$10,343,000	1.75%	\$10,343,000	\$252,000	1.75%		
Scenario B2		\$177.50	\$10,343,000	1.75%	\$10,343,000	\$252,000	1.75%		
Percent change in land value									
From Summary page									
Without LID		\$100,000	\$100,000	N/A	\$24,847,200	N/A	N/A		
With LID		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Without LID		\$100,000	\$100,000	N/A	\$24,847,200	N/A	N/A		
With LID		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Special benefits		\$77.50	\$252,000	1.75%	\$252,000	\$252,000	1.75%		
% difference		2.50%	1.75%	1.75%	1.75%	2.06%			
Preliminary Estimates									
Without LID		\$100,000	\$100,000	N/A	\$24,847,200	N/A	N/A		
With LID		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Special benefits		\$77.50	\$252,000	1.75%	\$252,000	\$252,000	1.75%		
% difference		2.50%	1.75%	1.75%	1.75%	2.06%			
2019 Assessed Value									
Land									
Without LID		\$100,000	\$100,000	N/A	\$24,847,200	N/A	N/A		
With LID		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Scenario A1		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Scenario A2		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Scenario B1		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Scenario B2		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Percent change in land value									
From Summary page									
Without LID		\$100,000	\$100,000	N/A	\$24,847,200	N/A	N/A		
With LID		\$177.50	\$10,343,000	1.75%	\$25,095,000	\$4,477,000	22.34%		
Special benefits		\$77.50	\$252,000	1.75%	\$252,000	\$252,000	1.75%		
% difference		2.50%	1.75%	1.75%	1.75%	2.06%			

Stewart House Condominium				History
Apartment	8-108-021 & 108-022 & 108-023 & 108-024			
Fee Parcel No.	80805-0005, -0010, -0020, -0030			Current:
Property Key	3564, 3565, 3566, 3567			Current Rent:
Address	83 Stewart Street and 65 Pike Place			NOTE:
zoning	RMU-8			
Property rights	Subject to the Pike Place Urban Renewal Plan. All CDUs are HUD-subsidized. No regulatory agreements were found, as it is assumed that the project can be sold without use restrictions. Parcel -0023 is the land component while -0010 (apartments) reflect 41.5% of total improvements per sq. ft. -0020 (park) is 50.7% and -0030 (apartments) is 1.84%.			
Proximity to project	150+ feet to overlook 1-minute walk			
Site history	N/A			
Ownership	Pike Place Market Preservation and Development Authority			
Description	14,615 SF site on the northeast corner Pike Place and Stewart Street, zoned RMU-8, improved with a mixed use building constructed in 1984, planned into 4-10 condominiums, with one of the parcels comprised of the land and the other consisting of retail and apartment units.			

INCOME ANALYSIS After									
Year Built		1984							
Apartments									
Units	SF NHA			Dollars				Less	High
Single room occupancy	38	0	\$1,100	\$1,100	\$1.12				
Studios	0	0	\$1,028	\$1,028	\$0.668				
Studios	0	0	\$1,028	\$1,028	\$0.668				
Total Apartments	86	0	\$1,453	\$1,452	\$1.470	\$0.668	\$1,470	\$0.668	\$1,470
Rent	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Interest	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Insurance	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Utilities	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Depreciation	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Operating Expenses	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Average)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (High)	0	0	\$F NHA 0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Income (Low)	0	0	\$F NHA 0	\$					

PC-1 South Condominium (Heritage House)									
Map Nos.:	E-001-002								
Tax Parcel Nos.:	659535-0020								
Property key:	8593								
Address	1527-1529 Western Avenue								
Zoning:	PMM-85								
Property rights:	50-year low-income housing use restriction on the apartments began February 2014.								
Previous sale:	N/A								
Proximity to project:	Almost adjacent to overlook								
Ownership:	Pike Place Market Preservation and Development Authority								
Description:	48,971 SF site on the west side of Western Avenue between Pike and Pine streets, zoned PMM-								
	85, improved with a 200,164 SF building constructed in 1989 and platted into a 5-unit condominium (see summary to the right). The apartments are operated as senior housing with housekeeping and meal services.								
INCOME ANALYSIS Before		Year Built	1989						
		Parking	0						
Potential Gross Income									
			Total						
	Units	SF NRA	NRA	Rent	Rent/SF				
Studios & 1-bedrooms	62	626	38,800	\$3,500	\$5.59				\$2,604,000
2-bedroom			0	\$0	\$0.00				\$0
3-bedroom			0	\$0	\$0.00				\$0
Total apartments	62	626	38,800	\$3,500	\$5.59				\$2,604,000
	GBA	NRA							
Retail				SF NRA @		per SF =			\$0
Office				SF NRA @		per SF =			\$0
Restaurant				SF NRA @		per SF =			\$0
Other				SF NRA @		per SF =			\$0
Subtotals	0	0							\$0
Parking Area/Stalls	0	0	0	stalls @	\$0.00	/month			\$0
Basement	0	0		SF NRA @	\$0.00	per SF =			\$0
Other	0	0		SF NRA @	\$0.00	per SF =			\$0
Other				1.0%	of PGI				\$26,040
Total Bldg Area & Gross Income	38,800	38,800		SF NRA @	\$67.78	/SF =			\$2,630,040
Less: Vacancy/credit allowance @	3.0%	of apartment revenue							(\$78,120)
	5.0%	of commercial revenue							\$0
	0.0%	of parking revenue							\$0
Total vacancy/credit allowance									(\$78,120)
Effective gross income									\$2,551,920
Less: Operating expenses									
Management fee @	5.0%	of total EGI							(\$127,596)
Parking operating expenses @		of parking EGI							\$0
Apartment operating expenses	55.0%	of apartment EGI							(\$1,389,234)
Structural maintenance/reserve	\$0.25	per SF of GBA							(\$9,700)
Total operating expenses									(\$1,526,530)
Net operating income									\$1,025,390
Indicated Value									
					Capitalized @	6.50%			
					Indicated value	\$15,775,231			
					(R)	\$15,775,000			
					Per DU	\$254,435			
Land Value		48,971							
		12,732		SF @	\$700.00	per SF =			\$8,913,000
Residual Improvements		38,800		SF NRA @	\$176.86	per SF =			\$6,862,000
		38,800		SF GRA @	\$176.86				

Special Benefit Summary							
				Total Estimated Value	Special Benefit	% Change	
Land		Per SF	Total	Improved	% Change		
Without LID		\$700.00	\$8,913,000	\$6,862,000	N/A	\$15,775,000	N/A
With LID							Per DU
Scenario A1		\$700.00	\$8,913,000	\$6,862,000	0.00%	\$15,775,000	\$0
Scenario A2		\$700.00	\$8,913,000	\$6,862,000	0.00%	\$15,775,000	\$0
Scenario B1		\$700.00	\$8,913,000	\$6,862,000	0.00%	\$15,775,000	\$0
Scenario B2		\$700.00	\$8,913,000	\$6,862,000	0.00%	\$15,775,000	\$0
Percent change in land value		0.00%		\$6,862,000	0.00%		
From Summary page				14.3% difference between "without" values, current & preliminary			
Without LID		\$700.00	\$8,913,000	\$6,862,000	N/A	\$15,775,000	N/A
With LID		\$700.00	\$8,913,000	\$6,862,000	0.00%	\$15,775,000	\$0

PC-1 South Condominium (Heritage House)									
Scenario A: Rental and Vacancy Rate Changes									
APN	Description	Land Area	%		GBA	NRA			
659835-0010	Parking structure	32,321	66.00%		156,000	156,000			
856660-0020	62-unit apartment facili	12,732	26.00%		38,800	38,800			
856660-0030	Retail	979	2.00%		1,440	1,440			
856660-0060	Retail	490	1.00%		1,155	1,155			
856660-0050	Clinic	2,449	5.00%		2,769	2,769			
		48,971			200,164	200,164			
INCOME ANALYSIS After									
Year Built		1989							
Potential Gross Income									
	Units	SF NRA			Per DU	Per DU	Low	High	
Studios & 1-bedrooms	62	626			\$3,500	\$3,500	0.00%	0.00%	
2-bedroom	0	0			\$0	\$0	\$2,604,000	\$2,604,000	
3-bedroom	0	0			\$0	\$0	\$0	\$0	
Total apartments	62	626			\$3,500	\$3,500	\$2,604,000	\$2,604,000	
	GBA	NRA					0.00%	0.00%	
Retail	0	0	SF NRA @	\$0.00	\$0.00		\$0	\$0	
Office	0	0	SF NRA @	\$0.00	\$0.00		\$0	\$0	
Restaurant	0	0	SF NRA @	\$0.00	\$0.00		\$0	\$0	
Other	0	0	SF NRA @	\$0.00	\$0.00		\$0	\$0	
Subtotals	124	1,252					\$0	\$0	
					Per Month	Per Month	0.00%	0.00%	
Parking Area/Stalls	0	0	0 stalls @	\$0.00	\$0.00		\$0	\$0	
					Per SF	Per SF	0.00%	0.00%	
Basement	0	0	SF NRA @	\$0.00	\$0.00		\$0	\$0	
Other	0	0	SF NRA @	\$0.00	\$0.00		\$0	\$0	
Other			1.0%	of PGI			\$26,040	\$26,040	
Total Bldg Area & Gross Income	38,800	38,800	SF NRA @	\$67.78	\$67.78		\$2,630,040	\$2,630,040	
Less: Vacancy/credit allowance				of apartment revenue	3.00%	3.00%	(\$78,120)	(\$78,120)	
				of commercial revenue	5.00%	5.00%	\$0	\$0	
				of parking revenue	0.00%	0.00%	\$0	\$0	
Total vacancy/credit allowance							(\$78,120)	(\$78,120)	
Effective gross income							\$2,551,920	\$2,551,920	
Less: Operating expenses									
Management fee @	5.0%	of total EGI					(\$127,596)	(\$127,596)	
Parking operating expenses @	0.0%	of parking EGI					\$0	\$0	
Apartment operating expenses	55.0%	of apartment EGI					(\$1,389,234)	(\$1,389,234)	
Structural maintenance/reserve	\$0.25	per SF of GBA					(\$9,700)	(\$9,700)	
Total operating expenses							(\$1,526,530)	(\$1,526,530)	
Net operating income							\$1,025,390	\$1,025,390	
Indicated Value									
					Capitalized @	6.50%	6.50%		
						\$15,775,231	\$15,775,231		
					(R)	\$15,775,000	\$15,775,000		
					Per DU	\$254,435	\$254,435		
					% change	0.00%	0.00%		
Land Value		12,732	SF @	\$700.00	per SF =		\$8,913,000	\$8,913,000	
Residual Improvements							\$6,862,000	\$6,862,000	
					Per SF NRA	\$176.86	\$176.86		

C-1 South Condominium (Heritage House)									
Scenario B: Overall Capitalization Rates Changes									
INCOME ANALYSIS After		Year Built		1989					
Potential Gross Income									
	Units	SF NRA	Total NRA	Rent	Rent/SF				
Studios & 1-bedrooms	62	626	38,800	\$3,500	\$5.59	\$2,604,000			
2-bedroom	0	0	0	\$0	\$0.00	\$0			
3-bedroom	0	0	0	\$0	\$0.00	\$0			
Total apartments	62	626	38,800	\$3,500	\$5.59	\$2,604,000			
Retail	0	0		SF NRA @	\$0.00	per SF =	\$0		
Office	0	0		SF NRA @	\$0.00	per SF =	\$0		
Restaurant	0	0		SF NRA @	\$0.00	per SF =	\$0		
Other	0	0		SF NRA @	\$0.00	per SF =	\$0		
Subtotals	124	1,252					\$0		
Parking Area/Stalls	0	0	0	stalls @	\$0.00	/month	\$0		
Basement	0	0		SF NRA @	\$0.00	per SF =	\$0		
Other	0	0		SF NRA @	\$0.00	per SF =	\$0		
Other				1.0%	of PGI		\$26,040		
Total Bldg Area & Gross Income	38,800	38,800		SF NRA @	\$67.78	/SF	\$2,630,040		
Less: Vacancy/credit allowance @							3.0% of apartment revenue		
							5.0% of commercial revenue		
							0.0% of parking revenue		
Total vacancy/credit allowance							(\$78,120)		
Effective gross income							(\$0)		
							(\$0)		
Total vacancy/credit allowance							(\$78,120)		
Effective gross income							\$2,551,920		
Less: Operating expenses									
Management fee @		5.0%	of total EGI						
Parking operating expenses @		0.0%	of parking EGI						
Apartment operating expenses		55.0%	of apartment EGI						
Structural maintenance/reserve		\$0.25	per SF of GBA						
Total operating expenses							(\$127,596)		
Net operating income							\$0		
							(\$1,389,234)		
							(\$9,700)		
							(\$1,526,530)		
Net operating income							\$1,025,390		
Indicated Value						Low	High		
						Capitalized @	6.50%	6.50%	
						Indicated Value	\$15,775,231	\$15,775,231	
						(R)	\$15,775,000	\$15,775,000	
						Per DU	\$406.57	\$406.57	
						% change	0.00%	0.00%	
Land Value									
		12,732	SF @	\$700.00	per SF =		\$8,913,000	\$8,913,000	
Residual Improvements									
						per SF NRA	\$176.86	\$176.86	

The LaSalle (Commercial and Senior Housing Units)	
Map Nos.	E-011-001 and -003
Tax Parcel Nos.	419380-0010 and -0030
Property key:	8680, 8681, 8683
Address	86 Pike Street
Zoning:	PMM-85
Property rights:	No apparent restrictions, housing units on city spreadsheet but no underlying data
Previous sale:	N/A
Proximity to project:	200± feet from Pike Street improvements, 500± feet from waterfront park
Ownership	Pike Place Market Preservation and Development Authority
Description:	14,393 SF site on the southwest corner of Western Avenue and Pike Street, zoned PMM-85, improved with a 77,088 SF building constructed in 1901 and platted in 2007 into a 3-unit condominium (see summary to the right).

INCOME ANALYSIS Before		Year Built	1901				
		Parking	0				
Potential Gross Income							
	Units	SF NRA	Total NRA	Rent	Rent/SF		
Total apartments			0		\$0.00		\$0
	GBA	NRA					
Commercial Unit (419380-0010)	30,649	30,649		SF NRA @	\$30.00	/SF/year	\$919,470
Senior Housing Unit (419380-0020)	6,882	6,882		SF NRA @	\$3.00	/SF/month	\$247,752
Office	0	0		SF NRA @	\$0.00	per SF =	\$0
Other	0	0		SF NRA @	\$0.00	per SF =	\$0
Subtotals	37,531	37,531					\$1,167,222
Parking Area/Stalls			0	stalls @	\$0.00	/day	\$0
Basement	0	0		SF NRA @	\$0.00	per SF =	\$0
Other	0	0		SF NRA @	\$0.00	per SF =	\$0
Other				0.0%	of PGI		\$0
Total Bldg Area & Gross Income	37,531	37,531		SF NRA @	\$31.10	/SF =	\$1,167,222
Less: Vacancy/credit allowance @	3.0%	of apartment revenue					(\$7,433)
	5.0%	of commercial revenue					(\$45,974)
		of parking revenue					\$0
Total vacancy/credit allowance			419380-0010	419380-0030			(\$53,406)
Effective gross income			\$873,497	\$240,319	\$1,113,816		\$1,113,816
Less: Operating expenses							
Management fee @	5.0%	of total EGI		(\$43,675)	(\$12,016)	(\$55,691)	(\$55,691)
Parking operating expenses @		of parking EGI		\$0			\$0
Apartment operating expenses	50.0%	of apartment EGI			(\$120,160)		(\$120,160)
Structural maintenance/reserve	\$0.25	per SF of GBA		(\$7,662)	(\$1,721)	(\$9,383)	(\$9,383)
Total operating expenses				(\$51,337)	(\$133,896)	(\$185,233)	(\$185,233)
Net operating income				\$822,159	\$106,423	\$928,583	\$928,583
Indicated Value							
			Capitalized @	5.50%	6.50%		5.60%
				\$14,948,353	\$1,637,281		\$16,585,634
			(R)	\$14,948,000	\$1,637,000		\$16,585,000
				\$487.72	\$237.87	Per SF	\$441.90
Land Value		14,393	total land area				\$4,760,000
Allocation to 419380-0010		5,757		SF @	\$675.00	per SF =	\$3,886,000
Allocation to 419380-0030		1,295		SF @	\$675.00	per SF =	\$874,000
Residual Improvements				SF GBA @	\$315.07	per SF =	\$11,825,000
Allocation to 419380-0010		30,649		SF GBA @	\$360.93	per SF =	\$11,062,000
Allocation to 419380-0030		6,882		SF GBA @	\$110.87	per SF =	\$763,000
Valuation Summary							
		Land	Improved	Totals			
		Per SF	Total	Per SF	Total	Per SF NRA	Total
Commercial Unit	Without LID	\$675.00	\$3,886,000	\$360.93	\$11,062,000	\$487.72	\$14,948,000
Allocation to 419380-0010	With LID	\$688.50	\$3,964,000	\$368.10	\$11,282,000	\$497.44	\$15,246,000
	Special benefit	\$13.55	\$78,000	\$7.18	\$220,000	\$9.72	\$298,000
	% change		2.01%		1.99%		1.99%
Senior housing	Without LID	\$675.00	\$874,000	\$110.87	\$763,000	\$237.87	\$1,637,000
Allocation to 419380-0030	With LID	\$688.50	\$892,000	\$113.05	\$778,000	\$242.66	\$1,670,000
	Special benefit	\$13.90	\$18,000	\$2.18	\$15,000	\$4.80	\$33,000
	% change		2.06%		1.97%		2.02%

Special Benefit Summary						Total	
		Land				Estimated Value	Special Benefit
		Per SF	Total	Improved	% Change		% Change
Without LID		\$675.00	\$4,760,000	\$11,825,000	N/A	\$16,585,000	N/A
With LID							
Scenario A1		\$688.50	\$4,856,000	\$12,022,000	1.67%	\$16,878,000	\$293,000
Scenario A2		\$688.50	\$4,856,000	\$12,107,000	2.38%	\$16,963,000	\$378,000
Scenario B1		\$688.50	\$4,856,000	\$12,130,000	2.58%	\$16,986,000	\$401,000
Scenario B2		\$688.50	\$4,856,000	\$12,006,000	1.53%	\$16,862,000	\$277,000
Percent change in land value		2.00%		\$12,066,000	2.04%		
From Summary page							
Without LID		\$675.00	\$4,760,000	\$11,825,000	N/A	\$16,585,000	N/A
With LID		\$688.50	\$4,856,000	\$12,060,000	1.99%	\$16,916,000	\$331,000

The LaSalle (Commercial and Senior Housing Units)					
Scenario A: Rental and Vacancy Rate Changes					
APN	Description	Land Area	%	GBA	NRA
419380-0010	Commercial Unit	5,757	40.00%	30,649	30,649
419380-0020	64-unit apartment facility	7,340	51.00%	39,557	39,557
419380-0030	Senior housing	1,295	9.00%	6,882	6,882
		14,393	100.00%	77,088	77,088

INCOME ANALYSIS After		Year Built	1901					
Potential Gross Income								
		Units	SF NRA		Per DU	Per DU	Low	High
Total apartments		0	0		\$0.00	\$0.00	\$0	\$0
		GBA	NRA				1.75%	2.25%
Commercial Unit (419380-0010)		30,649	30,649	SF NRA @	\$30.53	\$30.68	\$935,561	\$940,158
Senior Housing Unit (419380-0020)		6,882	6,882	SF NRA @	\$3.05	\$3.07	\$252,088	\$253,326
Office		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0
Other		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0
Subtotals		37,531	37,531				\$1,187,648	\$1,193,484
					Per Month	Per Month	1.00%	2.00%
Parking Area/Stalls		0	0	0 stalls @	\$0.00	\$0.00	\$0	\$0
					Per SF	Per SF	0.00%	0.00%
Basement		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0
Other		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0
Other				0.0%	of PGI		\$0	\$0
Total Bldg Area & Gross Income		37,531	37,531	SF NRA @	\$31.64	\$31.80	\$1,187,648	\$1,193,484
Less: Vacancy/credit allowance				of apartment revenue	3.0%	3.0%	(\$7,563)	(\$7,600)
				of commercial revenue	5.0%	5.0%	(\$46,778)	(\$47,008)
				of parking revenue	0.0%	0.0%	\$0	\$0
Total vacancy/credit allowance							(\$54,341)	(\$54,608)
Effective gross income							\$1,133,308	\$1,138,877
Less: Operating expenses								
Management fee @	5.0%	of total EGI					(\$56,665)	(\$56,944)
Parking operating expenses @	0.0%	of parking EGI					\$0	\$0
Apartment operating expenses	50.0%	of apartment EGI					(\$122,263)	(\$122,863)
Structural maintenance/reserve	\$0.25	per SF of GBA					(\$9,383)	(\$9,383)
Total operating expenses							(\$188,311)	(\$189,190)
Net operating income							\$944,997	\$949,687
Indicated Value			Capitalized @	5.50%	6.50%			
				419380-0010	419380-0030	Capitalized @	5.60%	5.60%
			Low	\$15,212,387	\$1,666,396	\$16,878,784	(R)	\$16,878,784
			(R)	\$15,212,000	\$1,666,000	\$16,878,000		\$16,963,000
			High	\$15,287,826	\$1,674,715	\$16,962,541	Per SF	\$449.71
			(R)	\$15,288,000	\$1,675,000	\$16,963,000		1.77%
								2.28%
Land Value		7,053	total land area				\$4,856,000	\$4,856,000
Allocation to 419380-0010		5,757		SF @	\$688.50	per SF =	\$3,964,000	\$3,964,000
Allocation to 419380-0030		1,295		SF @	\$688.50	per SF =	\$892,000	\$892,000
Residual Improvements					Low		High	
Allocation to 419380-0010					\$11,248,000	\$366.99	\$11,324,000	\$369.47
Allocation to 419380-0030					\$774,000	\$112.47	\$783,000	\$113.78
					\$12,022,000		\$12,107,000	

Improvement allocations		Before	A1	% change	A2	% change	Improvement allocations	Average	% change	B1	% change	B2	% change
Allocation to 419380-0010		\$11,062,000	\$11,248,000	1.68%	\$11,324,000	2.37%	Allocation to 419380-0010	\$11,288,000	2.04%	\$11,346,000	2.57%	\$11,233,000	1.55%
Allocation to 419380-0030		\$763,000	\$774,000	1.44%	\$783,000	2.62%	Allocation to 419380-0030	\$779,000	2.10%	\$784,000	2.75%	\$773,000	1.31%
Totals		\$11,825,000	\$12,022,000	1.67%	\$12,107,000	2.38%	Totals	\$12,067,000	2.05%	\$12,130,000	2.58%	\$12,006,000	1.53%
EGI													
			Low	High									
Allocation to 419380-0010			\$888,783	\$893,150									
Allocation to 419380-0030			\$244,525	\$245,727									
			\$1,133,308	\$1,138,877									

The LaSalle (Commercial and Senior Housing Units)	
Scenario B: Overall Capitalization Rates Changes	

INCOME ANALYSIS After		Year Built	1901				
Potential Gross Income							
	Units	SF NRA					
Total apartments	0	0					\$0
	GBA	NRA					
Commercial Unit (419380-0010)	30,649	30,649		SF NRA @	\$30.00	/SF/year	\$919,470
Senior Housing Unit (419380-0020)	6,882	6,882		SF NRA @	\$3.00	/SF/month	\$247,752
Office	0	0		SF NRA @	\$0.00	per SF =	\$0
Other	0	0		SF NRA @	\$0.00	per SF =	\$0
Subtotals	37,531	37,531					\$1,167,222
Parking Area/Stalls	0	0	0	stalls @	\$0.00	/day	\$0
Basement	0	0		SF NRA @	\$0.00	per SF =	\$0
Other	0	0		SF NRA @	\$0.00	per SF =	\$0
Other				0.0%	of PGI		\$0
Total Bldg Area & Gross Income	37,531	37,531		SF NRA @	\$31.10	/SF	\$1,167,222
Less: Vacancy/credit allowance @				3.0% of apartment revenue			(\$7,433)
				5.0% of commercial revenue			(\$45,974)
				0.0% of parking revenue			\$0
Total vacancy/credit allowance							(\$53,406)
Effective gross income							\$1,113,816
Less: Operating expenses							
Management fee @	5.0%	of total EGI					(\$55,691)
Parking operating expenses @	0.0%	of parking EGI					\$0
Apartment operating expenses	50.0%	of apartment EGI					(\$120,160)
Structural maintenance/reserve	\$0.25	per SF of GBA					(\$9,383)
Total operating expenses							(\$185,233)
Net operating income							\$928,583
Indicated Value			419380-0010	419380-0030		Low	High
		NOI	\$822,159	\$106,423	Capitalized @	5.467%	5.507%
			5.37%	6.35%	Indicated Value	\$16,986,000	\$16,862,000
			\$15,310,000	\$1,676,000	(R)	\$16,986,000	\$16,862,000
			2.42%	2.38%	Per SF	\$452.59	\$449.28
			5.41%	6.39%		2.42%	1.67%
			\$15,197,000	\$1,665,000			
			1.67%	1.71%			
Land Value		7,053				\$4,856,000	\$4,856,000
Allocation to 419380-0010		5,757		SF @	\$688.50	per SF =	\$3,964,000
Allocation to 419380-0030		1,295		SF @	\$688.50	per SF =	\$892,000
Residual Improvements					Low	High	
Allocation to 419380-0010					\$11,346,000	\$370.19	\$11,233,000
Allocation to 419380-0030					\$784,000	\$113.92	\$773,000
Allocation to 419380-0010					\$12,130,000		\$12,006,000

NORTH ARCADE OF PUBLIC MARKET									
Map No.	B-188			Historic:	Yes				
Tax Parcel Nos.	197720-0385			Stories:	1				
Address	1901 Pike Place			Current Rent:	-				
Zoning:	PMM-85			NOTE:					
Property rights:	Fee Simple								
Proximity to project:	1-block								
Previous sales:	-								
Ownership	Pike Place Market- PDA								
Land Value Without "Before"									
		13,070	SF @	\$700.00	per SF =	\$9,149,000			
Land Value With "After"									
		13,070	SF @	\$714.00	per SF =	\$9,332,000			
Special Benefit						\$14.00	per SF =	\$183,000	
INCOME ANALYSIS WITHOUT "Before"		Year Built	1909						
		Parking	0						
Potential Gross Income									
	GBA	NRA							
Retail	0	0		SF NRA @	\$0.00	per SF =	\$0		
Office	0	0		SF NRA @	\$0.00	per SF =	\$0		
Restaurant space	0	0		SF NRA @	\$0.00	per SF =	\$0		
Other- Arcade	13,070	13,070		SF NRA @	\$50.00	per SF =	\$653,500		
Other	0	0		SF NRA @	\$0.00	per SF =	\$0		
Other	0	0		SF NRA @	\$0.00	per SF =	\$0		
Building Area		13,070					\$653,500		
Parking Area/Stalls	0	0	0	stalls @	\$0.00	/month	\$0		
Basement	0	0		SF NRA @	\$0.00	per SF =	\$0		
				0.0%	of GRI		\$0		
Total Bldg Area & Gross Income	13,070	13,070		SF NRA @	\$50.00	/SF =	\$653,500		
Less: Vacancy/credit allowance @	0.0%	\$0							
	5.0%	(\$32,675.00)							
Effective gross income									
\$620,825									
Less: Operating expenses									
Management fee @	7.0%	of total EGI					(\$43,458)		
Parking operating expenses @	0.0%	of parking EGI					\$0		
Structural maintenance/reserve	\$0.00	per SF of NRA					\$0		
Total operating expenses							(\$43,458)		
Net operating income							\$577,367		
Indicated Value				Capitalized @	7.50%	\$7,698,230			
							(R)	\$7,698,000	
							Per SF NRA	\$588.98	
Land Value									
		13,070	SF @	\$700.00	per SF =	\$9,149,000			
Residual Improvements		13,070	SF NRA @	\$0.00	per SF =	\$0			
		13,070	SF GBA @	\$0.00					
Special Benefit Summary							Total Estimated Value	Special Benefit	
		Land		Improved	% Change				
		Per SF	Total						
Without LID		\$700.00	\$9,149,000	\$0	N/A		\$9,149,000	N/A	
With LID		\$714.00	\$9,332,000	\$0	0.00%		\$9,332,000	\$183,000	
From Summary page									
Without LID		\$700.00	\$9,149,000	\$0	N/A		\$9,149,000	N/A	
With LID		\$714.00	\$9,332,000	\$0	0.00%		\$9,332,000	\$183,000	
Percent change in land value		2.00%							
Preliminary Estimates									
Without LID							\$9,149,000	N/A	
With LID							\$9,416,000	\$267,000	

Declaration of Mary Bacarella

Re: Local Improvement No. 6751 Objection to Final Assessment Roll

Objections to Parcel Numbers: Parcel Numbers 8008550000 (B-198-001, B-198-002, B-198-003, B-198-004) and 1977200385 (B-188)

Property Owner: Pike Place Market Preservation and Development Authority

I, Mary Bacarella, declare under penalty of perjury:

1. I serve as the Director of the Pike Place Market Preservation and Development Authority (“the PDA”). I am over the age of 18, have personal knowledge of the facts stated herein, and could testify to the same if called to do so.

2. The PDA has three HUD-subsidized buildings located directly within Pike Place Market. One such building is Stewart House, which is comprised of three condominium units. Unit 1 is a commercial space containing retail tenants. Unit 2 contains 48 housing units restricted to low-income seniors participating in the HUD Section 8 program. Of the 48 apartments, 46 are studio apartments and two are one-bedroom units. Unit 3 contains 38 single room occupancy (SRO) units with shared bathrooms.

3. While not formally income-qualified properties, the SRO units function as low-income housing as a result of their rent structure and lack of market-rate amenities. These units are included by reference in the HUD Housing Assistance contract that provides Section 8 rental assistance. The separate parcel designation for the SRO wing of the Stewart House Building does not relate to a functional separation or separate building from the Section 8 units, but rather is simply an artifact of financing for historic preservation tax credits.

4. To the extent that rents on the SRO units could technically be raised to market, capital constraints, Historical District requirements on structural changes and improvements, and

a lack of competitive amenity offerings significantly limit the ability of the PDA to command rents for these units that are on par with market rates. Moreover, offering the low-rent SRO units is consistent with the PDA's mission to provide community-strengthening uses at the Market by providing affordable residential options downtown for low-wage workers.

5. Due to the nature of low-income housing, which is held to a fixed or reduced rent schedule, along with the Market's regulatory mandates for the provision of low-income housing and accompanying services, Units 2 and 3 of Stewart House will not be specially-benefitted from the LID improvements such that their values will increase like market-rate or other commercial properties.

6. The assessment for Stewart House contains three principal errors. First, the LID assessment identifies the highest and best use of Stewart House as "Commercial Use," however, in light of the majority residential use, the appropriate designation should be "Multifamily/Commercial." Second, the land value of Stewart House should be allocated to its three condominium units. Finally, two of the three condominium units and their corresponding proportional interests in land qualify for exemption from assessment as low-income housing.

7. Adjusting the assessment to account for these errors, the total assessment for Stewart House should be reduced to \$82,117.

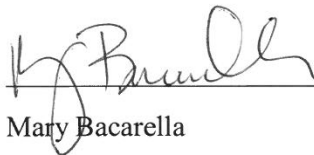
8. As a component of my duties at the PDA, I am also knowledgeable about the constraints and conditions with respect to other Market properties. For example, the North Arcade, Parcel 1977200385, is subject to specific restrictions on its use pursuant to a contract with the City of Seattle. This contract establishes the priority use as a farmers' market with daily rentals and secondary use for daily rentals by independent arts and craft businesses. The one-

story building is covered from rain but is essentially an open air facility that cannot be converted to term lease space for conventional businesses, as is standard on all other PDA property.

9. The assessment on the North Arcade contains an error in the size of the building, which takes up the entire lot. Based on my familiarity with the building, I believe the correct building size is 13,070 square feet.

10. PDA staff prepared the map included in the Appendix submitted with these materials that depicts comparable values for other PDA property in the close vicinity of the North Arcade. The valuation of these properties suggests that the North Arcade should be assessed at a pre-LID value of \$550 per square feet and assigned a 2% benefit value, for a total assessment of \$56,070.

I declare the foregoing is true and correct.

 2/3/20
Mary Bacarella

Signed this 3rd day of February, 2020 at Seattle, WA.

3:49 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0410
Date: Tuesday, February 16, 2021 3:30:55 PM
Attachments: [Stratus 1 Amended LID Appeal before City Council \(CWF-0410\).pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Stratus 1 Amended LID Appeal before City Council (CWF-0410).pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0410

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON NINTH AND
LENORA LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0660000540

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33
34 NINTH AND LENORA LLC (“Taxpayer”) files this amended appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
36 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
37
38 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
39
40 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
41
42 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
43
44 Recommendation issued February 1, 2021.
45
46
47

1 **I. NINTH AND LENORA LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 NINTH AND LENORA LLC

6 ATTN: Tax Manager

7 125 High St.

8 Boston, MA 02110

9 425-635-1400

10 jlutz@perkinscoie.com

11
12 **II. NINTH AND LENORA LLC's Representatives**

13 NINTH AND LENORA LLC'S representatives in this matter are:

14
15
16
17 R. Gerard Lutz, WSBA No. 17692

18 JLutz@perkinscoie.com

19 Perkins Coie LLP

20 10885 N.E. Fourth Street, Ste 700

21 Bellevue, Washington 98004

22 Telephone: 425.635.1400

23 Facsimile: 425.635.2400

24 Robert L. Mahon, WSBA No.

25 26523

26 RMahon@perkinscoie.com

27 1201 Third Avenue, Suite 4900

28 Seattle, Washington 98101

29 Telephone: 206.359.8000

30 Facsimile: 206.359.9000

31
32 **III. Statement of NINTH AND LENORA LLC's Interest and Incorporation of Prior Arguments**

33 NINTH AND LENORA LLC owns the property that is subject to the proposed final
34 assessment described in Section IV.

35 NINTH AND LENORA LLC is amending its appeal as authorized in City of Seattle
36 Resolution 31979 to include additional arguments relevant to the revised Final
37 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
38 2020, NINTH AND LENORA LLC timely filed an objection to the assessment, which was
39 based on the Final Study. NINTH AND LENORA LLC further timely filed an appeal of the
40 Hearing Examiner's 2020 recommendations to the City Council. NINTH AND LENORA
41 LLC maintains and incorporates all objections and arguments raised in its appeal filed with
42 the City Clerk on September 22, 2020. This amendment is a supplement is to be read

1 together with NINTH AND LENORA LLC's appeal filed on September 22, 2020. NINTH
2 AND LENORA LLC incorporates by reference all filings, evidence, and pleadings filed by
3 any party before the Hearing Examiner as authorized by the Hearing Examiner, including
4 without limitation all records pertaining to the November 2020 through February 2021
5 remand hearing ordered by Council.
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11 **IV. Amended Arguments on Appeal**

12 NINTH AND LENORA LLC supplements its appeal of the Hearing Examiner's
13 recommendation to deny NINTH AND LENORA LLC's objection to the City of Seattle's
14 Waterfront Local Improvement District No. 6751 proposed final assessment dated
15 December 30, 2019 against the following property:
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21 King County Parcel No. 0660000540
22 Site Address: 2118 Westlake Ave., Seattle, Washington
23 Proposed Final LID Assessment for Parcel: \$7,053
24

25 To avoid repetition, NINTH AND LENORA LLC incorporates the evidence and
26 arguments raised before the Hearing Examiner and before the City in its September 22, 2020
27 appeal, into this amended appeal.
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31 **A. The Anticipated Special Benefits to NINTH AND LENORA LLC's**
32 **Property should be Discounted to Present Value and Assessments**
33 **Adjusted as Appropriate**
34

35 On remand, the City's appraiser acknowledged that special benefits to parcels can be
36 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
37 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
38 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
39 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
40 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
41 accepted that recommendation. The City's appraiser further acknowledged that benefit
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1 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
2 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
3 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
4 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
5 calculations to present value because the general benefits are not anticipated from the LID
6 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
9 benefit calculation, and related assessments, to account for the delay between the assessment
10 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
11 standard appraisal practice, and renders the other proposed Waterfront LID special
12 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
13 “fundamentally wrong methods.”
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26

1 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
2 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
3 for some properties because the benefits are too distant, while assessing other properties as
4 though distant benefits have already been secured. As Taxpayer identified in its September
5 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
6 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8 reject the improper calculation of the benefit or remand and require the appraiser to discount
9 the benefits to net present value.
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19 **B. In Light of Covid's Continuing Impact on NINTH AND LENORA LLC**
20 **and other Downtown Property Owners and other Material Changes**
21 **Since October 2019, the LID Should be Cancelled, or at Least**
22 **Assessments Recalculated, to take Into Account Property Value**
23 **Reductions**
24

25 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
26 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
27 other relevant developments since October 2019." When Washington's first COVID
28 restrictions were imposed in March and April 2020, there was an assumption that they
29 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
30 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
31 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
32 gotten much worse. The City has already imposed higher minimum wages and taxes on
33 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
34 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
35 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
36 years from completion, as a best case. In current circumstances, a downtown tax to fund
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1 new, non-essential park improvements against financially strapped taxpayers, and likely
2 passed through to financially strapped tenants and customers would be unfair to taxpayers
3 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
4 rethinks its budget priorities for the next few years, and its potentially funding sources,
5 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
6 property owners) have a chance to recover, and that any assessment take into account the
7 changed circumstances since this appeal process started on February 4, 2020 to avoid
8 unnecessarily and perhaps permanently killing downtown properties and businesses in the
9 name of bettering them.
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19 **V. Relief Requested**

20 Particularly in light of the Committee's decision not to take further comment,
21 NINTH AND LENORA LLC respectfully request that each Committee member carefully
22 review the record transmitted to Council before voting on our appeal.
23

24 NINTH AND LENORA LLC respectfully reiterates its request from the September
25 22, 2020 appeal that the City Council:
26

- 27 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
28 assessment dated December 30, 2019; or
29
- 30 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
31 proposed final assessment to \$0 (zero), or such amount as Taxpayer
32 establishes at the hearing in this matter; or
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- 34 3. Grant the Examiner's recommended remand but with instructions to
35 recalculate and reduce Taxpayer's assessment using recognized appraisal
36 techniques consistent with USPAP and
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- 1 a. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
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5 b. Taking into account the effects of the COVID-19 pandemic on the
6 value of Taxpayer's property and other relevant developments since
7 October 2019;
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9
10 c. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
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15
16 d. Accounting for and including only those actual benefits anticipated to
17 accrue to Taxpayer's property based on its location relative to Pier 58,
18 Overlook Walk, and the Promenade, and specific elements of the LID
19 Improvements;
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22 e. Discounting anticipated special benefits to present value, based on
23 reliable estimates regarding when special benefits will start accruing
24 following completion of the LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property
28 relevant to calculation of such assessment; and
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37 4. Grant such further relief as the City Council deems just and proper.
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1
2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

6 R. Gerard Lutz, WSBA No. 17692
7 RLutz@perkinscoie.com
8 Perkins Coie LLP
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17 Seattle, Washington 98101
18 Telephone: 206.359.8000
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22 Attorneys for NINTH AND LENORA LLC
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2:45 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0410
Date: Tuesday, September 22, 2020 2:15:43 PM
Attachments: [CWF 0410.zip](#)

CAUTION: External Email

Waterfront LID Appeal for Case No. CWF-0410

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0410

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0410

A – Master List of Evidence

B – D-134 and D-135 Stratus

C – Discounting for CWF-0410

CWF-0410 Appeal Notice for Stratus

Kimball Mullins | Perkins Coie LLP**SENIOR PARALEGAL**

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Stratus Apartments**

Map Nos.: D-134 and D-135
 Tax Parcel Nos.: 066000-0540 and -0545
 Property key: 7104, 7105
 Address: 2118 Westlake Avenue
 Zoning: DMC 240/290-440
 Property rights: No apparent restrictions
 Previous sale: \$16,000,000 9/30/2014 \$40,404 per DU
 Proximity to project: 1,600± feet to Pine Street
 Ownership: Sixth & Lenora Apartments, LLC (per December 2007 SWD)
 Description: 21,420 SF site on the northwest corner of 9th Avenue and Lenora Street improved with a 396-unit high-rise apartment building constructed in 2016. The site includes 21,420 SF of street-level retail (406 allocated to the apartments) 8,284 SF of street-level retail. The site is on two tax parcels but the assessor has the improvements on D-135 (066000-0540).

INCOME ANALYSIS Before	Year Built	2016
	Parking	644

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	38	674	25,612	\$3,040	\$4.51
1-bedroom	234	811	189,774	\$3,615	\$4.46
2-bedroom	122	1,225	149,450	\$4,556	\$3.72
3-bedroom	2	1,892	3,784	\$9,313	\$4.92
Total apartments	396	931	368,620	\$3,879	\$4.17
	GBA	NRA			
Retail	8,284	8,284		SF NRA @	\$32.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	8,284	8,284			
Parking Area/Stalls	121,057		644	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	613,750	399,075		SF NRA @	\$53.12
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			
Parking operating expenses @	0.0%	of parking EGI			

Apartment operating expenses	27.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$14.92	29.1%
Net operating income				
Indicated Value				
Land Value		21,420	SF @	\$1,750.00
Allocation to 066000-0540		7,020	SF @	\$1,750.00
Allocation to 066000-0545		14,400	SF @	\$1,750.00
Residual Improvements		399,075	SF NRA @	\$802.89
		613,750	SF GRA @	\$522.06

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,750.00	\$37,485,000	\$320,414,000	N/A
With LID				
Scenario A1	\$1,752.63	\$37,541,000	\$320,539,000	0.04%
Scenario A2	\$1,752.63	\$37,541,000	\$321,262,000	0.26%
Scenario B1	\$1,752.63	\$37,541,000	\$321,244,000	0.26%
Scenario B2	\$1,752.63	\$37,541,000	\$320,800,000	0.12%
Percent change in land value	0.15%		\$320,961,000	0.17%
Overall Summary				
Without LID	\$1,750.00	\$37,485,000	\$320,414,000	N/A
With LID	\$1,752.63	\$37,541,000	\$320,800,000	0.12%

Stratus Apartments

Scenario A: Rental and Vacancy Rate Changes

, zoned DMC 240/290-440,
016, with 644 on-site parking
e building is situated on both
545).

		INCOME ANALYSIS After	Year Built	2016
		Potential Gross Income		
			Units	SF NRA
	\$1,386,240	Studio	38	674
	\$10,150,920	1-bedroom	234	811
	\$6,669,984	2-bedroom	122	1,225
	\$223,512	3-bedroom	2	1,892
	\$18,430,656	Total apartments	396	931
			GBA	NRA
per SF =	\$265,088	Retail	8,284	8,284 SF
per SF =	\$0	Restaurant	0	0 SF
per SF =	\$0	Other	0	0 SF
per SF =	\$0	Other	0	0 SF
	\$265,088	Subtotals	9,076	13,817
/month	\$2,318,400	Parking Area/Stalls	121,057	0 644
per SF =	\$0	Basement	0	0 SF
per SF =	\$0	Other	0	0 SF
	\$184,307	Other		
/SF =	\$21,198,451	Total Bldg Area & Gross Income	613,750	399,075 SF
	(\$737,226)	Less: Vacancy/credit allowance		of apartment
	(\$13,254)			of commercial
	\$0			of parking
	(\$750,481)	Total vacancy/credit allowance		
	\$20,447,970	Effective gross income		
		Less: Operating expenses		
	(\$1,022,398)	Management fee @	5.0%	of total EGI
	\$0	Parking operating expenses @	0.0%	of parking EGI

	(\$4,777,226)
	(\$153,438)
\$15,033	(\$5,953,062)
	\$14,494,908
Capitalized @	4.05%
Indicated value	\$357,898,960
(R) \$357,899,000	
Per DU	\$903,785
per SF =	\$37,485,000
per SF =	\$12,285,000
per SF =	\$25,200,000
per SF =	\$320,414,000

Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		
		21,420
Allocation to 066000-0540		7,020
Allocation to 066000-0545		14,400
Residual Improvements		

Total			Per Parcel Summ	
Estimated Value	Special Benefit	% Change		
\$357,899,000	N/A	N/A		
			Per DU	
\$358,080,000	\$181,000	0.05%	\$457	
\$358,803,000	\$904,000	0.25%	\$2,283	
\$358,785,000	\$886,000	0.25%	\$2,237	
\$358,341,000	\$442,000	0.12%	\$1,116	
\$357,899,000	N/A			
\$358,341,000	\$442,000	0.12%		

	<u>Per DU</u>	<u>Per DU</u>	Low	High
	\$3,042	\$3,048	0.05%	0.25%
	\$3,617	\$3,624	\$1,386,933	\$1,389,706
	\$4,558	\$4,567	\$10,155,995	\$10,176,297
	\$9,318	\$9,336	\$6,673,319	\$6,686,659
	\$3,880	\$3,888	\$223,624	\$224,071
			\$18,439,871	\$18,476,733
			0.05%	0.25%
∴ NRA @	\$32.02	\$32.08	\$265,221	\$265,751
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
			\$265,221	\$265,751
	<u>Per Month</u>	<u>Per Month</u>	0.05%	0.25%
stalls @	\$300.15	\$300.75	\$2,319,559	\$2,324,196
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$184,399	\$184,767
∴ NRA @	\$53.15	\$53.25	\$21,209,050	\$21,251,447
revenue	4.00%	4.00%	(\$737,595)	(\$739,069)
revenue	5.00%	5.00%	(\$13,261)	(\$13,288)
revenue	0.00%	0.00%	\$0	\$0
			(\$750,856)	(\$752,357)
			\$20,458,194	\$20,499,090
			(\$1,022,910)	(\$1,024,954)
			\$0	\$0

			(\$4,779,615)	(\$4,789,169)
			(\$153,438)	(\$153,438)
			(\$5,955,962)	(\$5,967,561)
			\$14,502,232	\$14,531,529
	Capitalized @		4.05%	4.05%
			\$358,079,804	\$358,803,179
	(R)	\$358,080,000	\$358,803,000	
	Per DU		\$904,242	\$906,068
	% change		0.05%	0.25%
SF @	\$1,752.63	per SF =	\$37,541,000	\$37,541,000
SF @	\$1,752.63	per SF =	\$12,303,000	\$12,303,000
SF @	\$1,752.63	per SF =	\$25,238,000	\$25,238,000
			\$320,539,000	\$321,262,000
Per SF NRA			\$803.20	\$805.02

0.15%

nary		<u>066000-0540</u>	<u>066000-0545</u>	<u>Totals</u>
Without LID	\$12,285,000	\$345,614,000	\$357,899,000	
With LID	\$12,303,000	\$346,038,000	\$358,341,000	
Special benefit	\$18,000	\$424,000	\$442,000	

Stratus Apartments**Scenario B: Overall Capitalization Rates Changes**

INCOME ANALYSIS After		Year Built	2016		
Potential Gross Income					
	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	38	674	25,612	\$3,040	\$4.51
1-bedroom	234	811	189,774	\$3,615	\$4.46
2-bedroom	122	1,225	149,450	\$4,556	\$3.72
3-bedroom	2	1,892	3,784	\$9,313	\$4.92
Total apartments	396	931	368,620	\$3,879	\$4.17
Retail	8,284	8,284		SF NRA @	\$32.00 per SF =
Restaurant	0	0		SF NRA @	\$0.00 per SF =
Other	0	0		SF NRA @	\$0.00 per SF =
Other	0	0		SF NRA @	\$0.00 per SF =
Subtotals	9,076	13,817			
Parking Area/Stalls	121,057	0	644	stalls @	\$300.00 /month
Basement	0	0		SF NRA @	\$0.00 per SF =
Other	0	0		SF NRA @	\$0.00 per SF =
Other				1.0%	of PGI
Total Bldg Area & Gross Income	613,750	399,075		SF NRA @	\$53.12 /SF
Less: Vacancy/credit allowance @					
4.0% of apartment revenue					
5.0% of commercial revenue					
0.0% of parking revenue					
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			
Parking operating expenses @	0.0%	of parking EGI			

Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value	Low	
	Capitalized @	4.040%
	Indicated Value	\$358,784,849
	(R)	\$358,785,000
	Per DU	\$906,023
	% change	0.25%
Land Value	21,420 SF @ \$1,752.63 per SF =	\$37,541,000
Allocation to 066000-0540	7,020 SF @ \$1,752.63 per SF =	\$12,303,000
Allocation to 066000-0545	14,400 SF @ \$1,752.63 per SF =	\$25,238,000
Residual Improvements		\$321,244,000
	per SF NRA	\$804.97

\$1,386,240
\$10,150,920
\$6,669,984
\$223,512
\$18,430,656
\$265,088
\$0
\$0
\$0
\$265,088
\$2,318,400
\$0
\$0
\$184,307
\$21,198,451
(\$737,226)
(\$13,254)
\$0
(\$750,481)
\$20,447,970
(\$1,022,398)
\$0

(\$4,777,226)
<u>(\$153,438)</u>
(\$5,953,062)
\$14,494,908
High
4.045%
\$358,341,357
\$358,341,000
\$904,902
0.12%
\$37,541,000
\$12,303,000
\$25,238,000
\$320,800,000
\$803.86

0.15%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0410	Stratus	2118 Westlake Avenue	0660000540

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$18,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$2,420

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0410	Stratus	2118 Westlake Avenue	0660000540

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$12,303,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D	(B*(1+C) unless no value for B, then A*(1+C)) Corrected FMV for Assessment		\$10,765,125

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$18,000		
H/A	As Percentage of Final City Before Value		0.146%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$15,750		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$5,401	\$1,484
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$2,117	\$582

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0410

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON NINTH AND
LENORA LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0660000540

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33 TAXPAYER (“NINTH AND LENORA LLC”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
40
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44 **I. Ninth and Lenora LLC / Appellant**

45 The taxpayer filing this appeal is:
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47

1 NINTH AND LENORA LLC

2 Attn: Tax Manager

3 125 High St.

4 Boston, MA 02110

5 (425) 635-1400

6 JLutz@perkinscoie.com

7
8
9 **II. Ninth and Lenora LLC's Representatives**

10 NINTH AND LENORA LLC'S representatives in this matter are:

11
12
13 R. Gerard Lutz, WSBA No. 17692

14 JLutz@perkinscoie.com

15 Megan Lin, WSBA No. 53716

16 Perkins Coie LLP

17 10885 N.E. Fourth Street, Suite 700

18 Bellevue, Washington 98004

19 Telephone: 425.635.1400

20 Facsimile: 425.635.2400

21
22
23 Robert L. Mahon, WSBA No. 26523

24 RMahon@perkinscoie.com

25 1201 Third Avenue, Suite 4900

26 Seattle, Washington 98101

27 Telephone: 206.359.8000

28 Facsimile: 206.359.9000

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31 **III. Statement of Ninth and Lenora LLC's Interest**

32 NINTH AND LENORA LLC owns the property that is subject to the proposed final
33 assessment described in Section IV. The property is an apartment building called the Stratus
34 located in the Denny Triangle neighborhood, which also includes ground floor retail. The
35 Stratus comprises two parcels: King County Parcel Nos. 066000-0540 and -0545. This
36 appeal concerns 0540 only, except for the analysis regarding Mr. Macaulay's spreadsheets,
37 which estimated values and changes based on the Stratus as a single property.
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44 The basis of the proposed assessment is a Final Special Benefit/Proportionate
45 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
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47

1 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
2 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
3 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
4 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
5 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
6 to exclude charges for other improvement projects in the Central Waterfront, and
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
9 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
10 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
11 because construction was not complete on the LID Improvements or the WSDOT
12 Improvements at the time the Final Study was prepared, Mr. Macaulay's October 1, 2019
13 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
14 facts. On February 4, 2020, Ninth and Lenora LLC timely filed an objection to the
15 assessment, which was based on the Final Study.

30 **IV. Matter Under Appeal**

31 NINTH AND LENORA LLC appeals the Hearing Examiner's recommendation to
32 deny Ninth and Lenora LLC's objection to the City of Seattle's Waterfront Local
33 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
34 the following property:

35 King County Parcel No. 0660000540
36 Site Address: 2118 Westlake Ave., Seattle, Washington
37 Proposed Final LID Assessment for Parcel: \$7,053

38 See Examiner's Recommendation at 61-62, 103. To avoid repetition, Ninth and Lenora LLC
39 incorporates the evidence and arguments raised before the Hearing Examiner into this

1 appeal. In particular, Ninth and Lenora LLC points the City Council to Ninth and Lenora
2 LLC's initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its case-
3 in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close of the
4 City's case-in-chief (dated 7/7/2020).¹
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8 As discussed more fully below, Ninth and Lenora LLC specifically appeals the
9 following Findings and Recommendations in the Hearing Examiner's September 8, 2020
10 Recommendation: Pages 61-62, 103, Sections II.6, II.7, I.14, II.15, I.18, II.19, II.20, II.21,
11 II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1,
12 IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
13 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8,
14 IV.C.9, V.C.11, IV.C.12, IV.C.14, and V.C.18
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18 Ninth and Lenora LLC also appeals the Hearing Examiner's failure to make findings
19 of fact or recommendations on material issues raised during Ninth and Lenora LLC's appeal
20 that were supported by law, expert testimony, and fact. The Final Study fails in numerous
21 ways to satisfy the basic requirements of a LID assessment study, and the Examiner's
22 Recommendation ignores the many deficiencies in the Final Study. In fact, the only
23 instances in which the Examiner recommended anything other than denial of objectors'
24 appeals were where the City's appraiser confessed error. The appraiser's proposed
25 assessments, and the Examiner's Recommendations, would have the City impose arbitrary
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¹ Because the City has not provided "metered index numbers," our appeals cannot reference them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated, citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors retained by Perkins Coie are part of this case file.

1 and capricious Waterfront LID special assessments based on “fundamentally wrong
2 methods.”
3

4 The special benefit for which special taxes are assessed must be “actual, physical and
5 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
6 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
7 with the law, the assessments may not materially exceed the actual special benefit conferred
8 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
9 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
10 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
11 assessment. In this case, the proposed assessment fails each of the legal requirements for
12 special assessments and must be annulled as arbitrary or capricious, or founded on
13 fundamentally wrong methods.
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26 **Legal Requirement:** Actual, non-speculative special benefit

27 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
28 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
29 October 2019 (they were not), and an “After” value purporting to assess the value of
30 properties with the LID improvements in place at least five years before anticipated
31 completion.
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35 **Legal Requirement:** Cannot materially exceed the special benefit

36 **ABS Study:** ABS calculates a special benefit of \$18,000 assuming the LID Improvements
37 were in place and providing benefit in October 2019. However, the LID Improvements
38 will not be completed until the end of 2024 if the City meets its current schedule, and
39 many of WSDOT’s alternative improvements will not be built. The present value of future
40 improvements deliverable in five years is significantly lower than the current value of
41 improvements that already exist. Further, ABS’s own materials show that benefits may not
42 accrue for at least five years after they are completed, in 2029. If the hypothesized special
43 benefits are discounted to present value, the assessments materially exceed the
44 hypothesized special benefits.
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Legal Requirement: Actual, non-speculative special benefit—Date of valuation/COVID

ABS Study: The City has not finalized the assessment roll. After the City’s appraiser prepared his Final Study in October 2019, and the City issued its preliminary roll in December 2019, COVID devastated downtown hotel and retail properties. The Hearing Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made and must be based on actual special benefits. While that does not mean ABS’s appraisal was wrong when completed, values and benefits need to be reanalyzed before assessments are finalized in light of the unprecedented changes to the downtown real property market.

Legal Requirement: Actual benefit that cannot materially exceed special benefit—Assessment cannot include value attributable to future WSDOT Improvements.

ABS Study: The City’s appraiser asserts that the City is not collecting assessments “based on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition, the City’s appraiser increased 2019 property market values as though WSDOT had completed its work by 2019. The proposed assessment is against this hypothetical WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent) higher than actual 2019 market values. The City is collecting an assessment against both the 2019 current values and the phantom 2019 WSDOT market value lift, in direct contravention of law and the City’s promise not to impose an assessment based on the value of viaduct demolition and the other components of WSDOT’s planned work.

Legal Requirement: Benefits must be special, not general

ABS Study: The City’s appraiser fails to determine or explain what general benefits arise due to the LID Improvements. However, the far-reaching and public nature of the improvements make any benefit arising from them general—not special.

Legal Requirement: Must comply with appraisal standards

ABS Study: ABS’s valuation methodology cannot be tested. It is a hybrid of “Individual” and “Mass” appraisal techniques, but fails to meet USPAP requirements for either. Until the Examiner admonished ABS, ABS even asserted its analysis was “confidential and proprietary.” ABS’s analysis and conclusions can neither be tested nor replicated. The Final Study fails to meet basic standards for admissibility and must be remanded.

Legal Requirement: Actual and measurable special benefit

ABS Study: ABS's proposed assessments are assigned rather than measured, as demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based on a host of "micro-judgments" that are not supported by any documentation, nor capable of replication or quality assurance/quality control. The assessments are undocumented, unreliable, and not supported by empirical studies, data, or reports.

Legal Requirement: Actual and measurable special benefit—Park benefits must be supported by empirical evidence

ABS Study: Dr. John Crompton, the world's preeminent expert regarding the economic value of parks and other public amenities and on whom ABS purported to rely, testified that ABS had completely misapplied his work and dramatically overstated both the distance to which economic benefits might extend from the LID Improvements and the extent of any anticipated benefit within the potentially benefited area.

Legal Requirement: Actual special benefit—Must take into account potential disamenities

ABS Study: The appraiser ignores the negative value impact of five years or more of construction, as well as other potential disamenities associated with public places.

Legal Requirement: Cannot prematurely commit to build

ABS Study: The City has not completed NEPA review or other entitlement process for its Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments are being imposed. But finalizing the roll is a commitment by the City to build the improvements, which is a violation of legal process and commits the City to build things it may not secure permission to build.

In addition to these general objections, there are property-specific issues raised by Ninth and Lenora LLC as to which the Examiner also erred, discussed in the course of the appeal statement below.

1 **V. Standard of Review**

2 “When considering the assessment roll, the city council sits ‘as a board of
3 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
4 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
5 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
6 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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12 The proposed assessments are presumed correct, “unless overcome by clear, cogent
13 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
14 than the heightened presumption of correctness on judicial appeal because “applying these
15 elevated standards at the municipal hearing would afford unwarranted deference to a report
16 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
17 presumption is not evidence and its efficacy is lost when the other party adduces credible
18 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
19 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
20 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
21 presented credible evidence showing that the City’s proposed assessment is arbitrary,
22 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
23 to the City to prove the assessments are actual, measurable, special, non-speculative and
24 proportionate. The City failed that burden.
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38 **VI. Grounds for Appeal**

39 NINTH AND LENORA LLC appeals the Hearing Examiner’s Findings and
40 Recommendations on the following grounds.
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1 **Ninth and Lenora LLC Not Required to Provide A Special Benefit Study**

2 1. Contrary to the Examiner’s findings and recommendations, there is no
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4 requirement that experts or property owners provide an alternative special benefit
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6 calculation under these circumstances—to do so would also require the same improper
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8 speculation the City’s expert engaged in, given the timing and information provided. *See*,
9
10 *e.g.*, Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
11
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained:
13
14 “[W]e have explicitly rejected an argument that, because certain protestors ‘failed to offer
15
16 expert testimony at the city council hearing[,] the presumptions [in favor of the assessment]
17
18 were still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian*
19
20 *Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App.
21
22 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided
23
24 expert opinion showing that improvements actually diminished value of the property). Here,
25
26 Ben Scott testified that he is an expert in reviewing mass appraisal reports and analyzing
27
28 their impact on individual properties - precisely the matter at issue in this appeal. *See*
29
30 3/5/2020 Hrg. Tr. at 13:1-4 (laying foundation as expert witness while testifying on behalf
31
32 of a different appellate represented by Perkins Coie). The Hearing Examiner erroneously
33
34 dismissed the weight of Mr. Scott’s testimony, given his professional expertise and
35
36 experience. In fact, no independent evidence is required at all if, for example, objectors
37
38 show that the assessment was grounded on a fundamentally wrong basis due to an error in
39
40 the City’s appraiser’s methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
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42 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
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44 a property owner could simply point out that the square footage assumed in the City’s
45
46 appraisal was incorrect. For these reasons, Ninth and Lenora LLC appeals the following
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portions of the Examiner’s Recommendation: Sections II.14, II.15, IV.A, IV.B.11(a), IV.C.8, IV.C.9, and IV.C.11.

No Actual, Measurable, Non-speculative, Proportionate, Special Benefit

2. RCW 35.43.040 provides cities and towns authority for ordering local improvements and for levying and collecting special assessments “on property specially benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.

3. No analysis of general benefits. Special assessments have been “held valid for the construction and improvement of streets, curbs, gutters, sidewalks, and for the installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element: they are for the construction of local improvements that are appurtenant to specific land and bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*

4. Ninth and Lenora LLC’s property is not specially benefited by the LID Improvements. The primary purpose and effect of the LID Improvements are to benefit “members of the whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public library is for the benefit of the members of the whole community individually and collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual states clearly that appraisers should “[c]onsider general benefits as well as special benefits” (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits

² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,

1 probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Ninth and
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3 Lenora LLC’s expert confirmed that if an appraiser “identifies both general and special
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5 benefits, these benefits should be clearly distinguished and explained, and only special
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7 benefits should be included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4
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9 (dated 7/7/2020); *see also* 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that
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11 Mr. Macaulay did not analyze or measure general benefits, including those arising from
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13 construction necessary to meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual)
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15 at 58 (“[c]onsideration may also be given to those construction costs related to meeting
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17 design standards which may be general benefits as distinct from construction costs
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19 emanating from requirements of the LID project”). To the extent Ninth and Lenora LLC’s
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21 property may benefit from the LID improvements, the benefit is general and incidental, and
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23 failure to consider general benefits was a fatal flaw in the City’s methodology. For these
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25 reasons, Ninth and Lenora LLC appeals the following portions of the Examiner’s
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27 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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29 5. LID Improvements not necessary. Unlike typical LID projects, the
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31 Waterfront LID improvements are largely unnecessary to the functionality of any particular
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33 property, including Ninth and Lenora LLC’s property. *See In re Schmitz*, 44 Wn.2d 429,
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35 433, 268 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road
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37 by 16 to 18 feet held invalid where owners would have benefitted equally from increase of
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39 only 9 feet); *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land
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41 at intersection for new water main for hydrant held invalid because land was already
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43 afforded functional hydrant at nearby street). Here, Ninth and Lenora LLC provided
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46 _____
47 Ninth and Lenora LLC has attached a master list of the hearing exhibits as Attachment A to this
appeal notice.

1 testimony through Elton Lee, taxpayer representative, who testified that the Stratus caters to
2 Denny Triangle and South Lake Union, rather than the waterfront area. See 3/11/2020 (E.
3 Lee) Hrg. Tr. at 167:5-6. The building has brief tenancies with demand driven primarily by
4 Amazon employees desiring to live near Amazon's South Lake Union employment centers.
5
6 *Id.* at 168:8-13. There is simply no special benefit to the Stratus building for additional
7 access to the Seattle waterfront. The fact that there is no case law differentiating between
8 binary improvements and parks does not change the law prohibiting assessments on
9 properties already adequately served by existing amenities. *See* Examiner's
10 Recommendation at IV.C.3 (reasoning that "no case law is provided to support the
11 differentiation between a hardscape benefit and the more ephemeral benefits of park"). Nor
12 does the Examiner's reasoning excuse the City's failure to account for existing amenities as
13 part of the special benefit calculation. As Dr. Crompton testified, existing view amenities
14 may in fact diminish the incremental effect of new park improvements on the value of
15 properties, much like turning on a weak light in an already brightly illuminated room. *See*
16 Hrg. Exhibit 94 (Crompton's Report) at 12-13.

17
18 6. To the extent benefits can be considered "special" as opposed to general, they
19 are nominal or nonexistent for many properties even in the Central Waterfront, which
20 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
21 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
22 change due to expansion of sewer service *near* owners' parcel which were already
23 connected). Here, again, Ninth and Lenora LLC provided testimony that the primary reason
24 tenants choose the Stratus is not proximity to the water, but instead proximity to major
25 employment centers like Amazon in the South Lake Union area. Even if the City could
26 assess for a view change (and it has promised not to assess for viaduct removal), the fair

1 market value of NINTH AND LENORA LLC'S property has not changed because the LID
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3 Improvements have not improved the property's waterfront view or access to the waterfront,
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5 nor will they when the City anticipates completion in 2024. For these reasons, Ninth and
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7 Lenora LLC appeals the following portions of the Examiner's Recommendation: Sections
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9 IV.C.3, IV.B.9, and IV.C.3.

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11 7. No analysis of special detriments. The Final Study fails to properly account
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13 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
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15 owners for removal and cleanup of underground storage tanks discovered during the
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17 improvement project). Mr. Lee testified that the market would not support increasing rental
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19 rates today to absorb the LID assessment when the special benefits, to the extent any exist,
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21 will not be effective until at least 2024. 3/11/2020 Hrg. Tr. at 170:13-172:20. Therefore, the
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23 LID assessment is an immediate expense that comes with no immediate increase in revenue,
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25 thereby decreasing the property value. This was not accounted for by Mr. Macaulay.
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27 Although Mr. Macaulay claims he analyzed impacts on the City's planned elimination of
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29 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how lost parking
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31 might be a detriment, and no property-specific parking analysis in any of his materials.
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33 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.

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35 8. Likewise, there was no analysis of the risks associated with disamenities such
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37 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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39 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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41 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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43 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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45 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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1 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
2 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
3 the maintenance agreement. *Id.* at 13:4-14:2.
4

5
6 9. There was also no consideration of negative impacts from another four-plus
7 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
8 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
9 law allowing him to dismiss these actual, non-speculative impacts. Because future special
10 benefits calculations are inherently speculative, Washington's eminent domain statute
11 specifically allows condemnees to postpone special benefits assessments until improvements
12 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
13 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
14 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
15 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
16 Greenway, the Greenway district "significantly" lagged in value). For these reasons, Ninth
17 and Lenora LLC appeals the following portions of the Examiner's Recommendation:
18 Sections II.25, IV.B.8, and IV.B.9.
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32 10. Special benefit estimate is speculative. When calculating a special benefit,
33 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
34 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
35 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335-36, 324
36 P.2d 1078 (1958)).
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 11. Assuming without conceding that one day, the City's planned LID
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3 Improvements might increase the value of neighboring properties to some extent, that
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5 potential benefit is many years away and speculative. While appraisers tolerate some degree
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7 of estimation and judgment, Ninth and Lenora LLC's expert testified that Mr. Macaulay's
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9 Final Study is far too speculative to satisfy industry practices and standards.

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11 12. Although LIDs are sometimes finalized prior to completion of improvements,
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13 this is typically just six month or a year prior, and the assessments are otherwise supported
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15 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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17 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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19 will not be realized for four or five years. In the meantime, there is permitting risk,
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21 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
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23 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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25 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
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27 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
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29 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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31 testified: "I just don't know what the market value would be as of the date the project would
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33 be finally constructed" because "[t]here could be a lot of elements in the market that did
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35 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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37 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
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39 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").

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41 13. The record is clear that while no one can know what "special benefit" might
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43 accrue to these properties in four years (if any), we do know that there are no actual benefits
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45 now. The LID improvements provide no immediate special benefit to property owners
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47 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917

1 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
2 sewer system for future users).

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5 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
6 for the LID Improvements, and it is unlawful to move to final assessments without such
7 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
8 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
9 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
10 dollars on projects still early in the design process. *See* Washington Attorney General
11 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
12 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
13 of programs and included “only so much of the overall costs” that took place within and
14 benefitted the assessed properties).

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16
17 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
18 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
19 anticipated to be delivered five years later. Even before COVID, it was speculative to
20 assume that market highs experienced in October 2019¹ would be sustained through 2024,
21 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
22 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
23 my analysis in October 2019, who would have thought that this COVID issue would
24 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
25 process was that the market was going to continue to go up.” *See* Gibbons Decl. ISO
26 Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as
27 of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has impacted
28 *current* values and rendered the hypothetical October 2019 Final Study valuations outdated.

1 16. As another example of how future events could affect the accuracy and
2 reliability of the City’s 2019 proposed assessment, Ninth and Lenora LLC recently
3 requested the Hearing Examiner re-open the record to allow the City to explain whether the
4 assessments against property owners within the LID are, in fact, being used by the City to
5 fund the emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the
6 City plans to use LID funding to pay for the expedited, emergency repairs and replacement.⁵
7 If true, the City would be improperly imposing costs on property owners within the LID for
8 improvements that are required to maintain the safety of Pier 58 and to remove a threat to
9 critical salmon habitat and City infrastructure—this does not provide any special benefit to
10 LID property owners.
11

12 17. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Ninth and Lenora LLC’s experts Reid
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34 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

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44 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
45 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 Shockey and Richard Shiroyama testified via declaration as to the City’s permitting gauntlet,
2 and potential delays and project changes inherent in those processes, that call into question
3 the assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
4 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
5 Decl., dated 4/15/2020).
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10 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
11 he could not point to a single one where the assessment roll was finalized five years in
12 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
13 he has never recommended final special assessments based on designs less than 30 percent
14 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
15 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
16 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
17 at 66:17-25. He performed no independent due diligence to determine the reliability of the
18 City’s estimates for completion of the LID Improvements, or to ensure that proposed
19 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
20 agreed that if any of his assumptions are incorrect, his opinion of market value would need
21 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
22 68:11-18.
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36 19. The City has cited no authority—and Ninth and Lenora LLC is aware of
37 none—that affirms the use of hypothetical, anticipatory Before and After values in order to
38 estimate and assess taxes for “actual” special benefits that will not accrue for another five
39 years (if all goes off without a hitch). To the contrary, the hypothetical assumption that all
40 of the Before and After Improvements are constructed as of October 1, 2019 allows Mr.
41 Macaulay to base his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
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1 411. For these reasons, Ninth and Lenora LLC appeals the following portions of the
2 Examiner's Recommendation: Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5,
3 IV.B.6, IV.B.11(c), IV.C.12, IV.C.14, and IV.C.18.
4

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6 20. Failure to discount special benefit estimates to account for risks and present
7 value. Due to the inherent uncertainty, Ninth and Lenora LLC's expert opine that the Final
8 Study should have accounted for risks associated with delivery of the improvements
9 (including permitting risk, construction risk, general economic risk) and any special
10 damages associated with interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-
11 120:9, 59:20-60:20. In addition, as is typical appraisal practice, Mr. Macaulay should have
12 discounted the anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-
13 55:1; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers
14 routinely consider the impact of future conditions [through] discounted cash flow
15 analysis.").

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17 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
18 future condition not in place at the date of valuation and can discount for the time value of
19 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
20 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
21 Discounting would also have been consistent with his approach for analyzing special
22 benefits to vacant land. He testified that the difference between similarly situated vacant
23 sites slated for development and already developed sites was that the labor, capital and risks
24 associated with development had not yet been borne for those vacant sites. Therefore, the
25 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
26 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
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1 fully permitted, has not completed environmental review, and has not reached full design is
2 presently worth significantly less.
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4 22. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
5 present value, an appraiser would consider discount rates for land development to account
6 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
7 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
8 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
9 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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11 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
12 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
13 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
14 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
15 ignoring momentarily all of the other methodological and other flaws discussed here and in
16 Ninth and Lenora LLC's case-in-chief, and assuming that the LID Improvements provide
17 special benefits as soon as they are complete in 2024, Mr. Macaulay's hypothetical
18 assessment materially exceeds special benefits when reduced to present value. Further, to
19 the extent the City is arguing that because they are permitted to assess 100% of the special
20 benefit, the special benefit estimate can be off by 60.8% because they only assess 39.2% of
21 that benefit, the City is again wrong. After applying proper discounting, the City's proposed
22 special benefit assessment is far more than 39.2% of the total estimated special benefit, and
23 in fact exceeds 100% of the total estimated special benefit.
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25 24. But even the assumption that the LID improvements would deliver benefits
26 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
27 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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1 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
2 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
3 indicates that during the construction period, the Greenway district “significantly” lagged in
4 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
5 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
6 30-31 (discussing New York City High Line and San Francisco Embarcadero
7 improvements). Given the lengthy delay, any prediction of future special benefits is
8 speculative, especially during the construction phase where values are likely to decline. And
9 assuming the LID Improvements take a similarly long period of time after they are complete
10 to start producing tangible property value benefits, each additional year of delay results in
11 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
12 Closing Stmt., ¶ 19, Ex. A.

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25 25. Applying the same discounting methods described above and in Mr. Gibbons
26 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
27 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
28 before applying the 39.2% percentage assessment. *Id.* For Ninth and Lenora LLC, this
29 means at most the 100% assessment should be no more than \$1,695.60. Anything more
30 would permit the City to assess Ninth and Lenora LLC based on a hypothetical assumption
31 that these improvements are in place and providing benefit, and ignore the risks,
32 construction disamenity, and time value of money that normal appraisal principles would
33 take into account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be
34 only 39.2% of that assessment cap, or \$664.68.

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45 26. Attachment C includes two Excel spreadsheets applying these discounting
46 methods to Ninth and Lenora LLC’s assessment. It is undisputed that special benefits will
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1 not actually accrue until the LID Improvements are complete in 2024. Accordingly, the first
2 spreadsheet demonstrates that discounting the City's hypothetical October 2019 special
3 benefits to present value would reduce Ninth and Lenora LLC's assessment to \$2,420,
4 exclusive of any other flaws in the City's proposed assessment. The second spreadsheet
5 shows even more drastic reductions after taking into account: (1) Ninth and Lenora LLC's
6 experts' estimated "Before" value based on actual data from Ninth and Lenora LLC; (2) a
7 rough discount for property value loss due to COVID-19; and (3) discounting to present
8 value for 5 years (*i.e.*, from 2024 when the City anticipates completing the LID
9 Improvements) and 10 years (*i.e.*, from 2029 to account for the time it takes for the
10 improvements to capture property value). After such reductions, Ninth and Lenora LLC's
11 assessment would be just \$2,117 (for the 5-year discount) or \$582 (for the 10-year discount).
12 Further, the spreadsheet concludes a "zero" benefit for this property because, based on Dr.
13 Crompton's testimony, Ninth and Lenora LLC's property is more than 2,000 feet from the
14 core "park" improvements and therefore too distant to receive any special benefit. Neither
15 of these spreadsheets address other issues raised by Ninth and Lenora LLC's appeal, but are
16 intended to help demonstrate how unfair and inflated the City's proposed hypothetical
17 assessment is. The Hearing Examiner's Recommendation simply dismisses Ninth and
18 Lenora LLC's discounting argument without legal or factual analysis; that failure is error.

29 Appraisal and Assessment Calculation Methods Are Flawed

30 27. The "general rule is that each lot, piece, or parcel of land should be assessed
31 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
32 Wn.2d at 97.

33 28. It is proper to sustain a challenge to an assessment, even without the appraisal
34 testimony from the owner, where the objector's expert establishes that the assessment was

1 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
2
3 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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5 29. The City’s appraiser purports to utilize the income method of valuation but
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7 relied on inaccurate revenue and market data, as discussed further below.

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9 30. The City’s appraiser purports to utilize the comparable sales method of
10 valuation, but no City witness attempted “to characterize any one, or all of them, as
11 comparable to [Ninth and Lenora LLC’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406
12 (finding “several serious flaws” in ABS’s LID analysis in that case, including that the
13 appraiser “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt
14 to characterize any one, or all of them, as comparable to any particular property within the
15 LID”). And no City witness could explain how specific adjustments were made to these sales
16 to account for value increases due to the hypothesized Before and After Improvements. For
17 this reason, Ninth and Lenora LLC appeals Section II.23 of the Examiner’s Recommendation.
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26 31. Special assessment improperly includes value lift from the Before
27 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
28 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
29 Improvements, which WSDOT had independently committed to fund. However, Mr.
30 Macaulay did not calculate the actual market value of LID properties in October 2019, and
31 did not separately analyze the hypothetical increase to property values attributable to
32 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
33 current value and then separately calculate a hypothetical “With WSDOT” Before value);
34 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
35 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
36 3-4. Without any documented basis or support, Mr. Macaulay simply “ma[de] a judgment a
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1 call” on what occupancy and rates would have been for the commercial properties assuming
2 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
3 130:11. This outright omission precludes any independent evaluation of the true market
4 “Before” values. See 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
5 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
6 must explain how he analyzed that data and other information to come up with the
7 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
8 removal of the viaduct, but also other road, pedestrian and landscaping improvements
9 WSDOT had already committed to make.
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11 32. However, because Mr. Macaulay testified that he did include some WSDOT-
12 related value-lift in the “Before” values, it follows that part of the special assessment
13 improperly is based on value attributable to the WSDOT Improvements. As shown by
14 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
15 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
16 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
17 special benefit assignment would result in \$300,000 of over-assessment. See Gibbons Decl.
18 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
19 to properly exclude the value of Before Improvements from the assessments. For these
20 reasons, Ninth and Lenora LLC appeals the following portions of the Examiner’s
21 Recommendation: Sections II.19, II.29, and IV.B.11(a)(ii)
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23 33. Special benefits were assigned rather than measured. Mr. Macaulay
24 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
25 property. See 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
26 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
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1 Macaulay used to analyze the commercial properties, Ninth and Lenora LLC's experts
2 concluded that Mr. Macaulay based adjustments on hypothesized very small increases to
3 property revenue and very small reductions to cap rates to "calculate" an "After" value due
4 to the coming 2024 LID Improvements. Attachment B (ABS Spreadsheet). These series of
5 micro adjustments were based on "professional judgment" that are neither shown nor
6 replicable.
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12 34. For these reasons, Ninth and Lenora LLC appeals the following portions of
13 the Examiner's Recommendation: Sections II.19 and IV.B.11(a)(iii).
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16 35. Special benefit falls within margin of error. The Final Special Benefit Study
17 applies an estimated value enhancement of less than 4%, which is generally within the
18 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
19 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
20 Ninth and Lenora LLC's experts explained that if two appraisers independently arrive at
21 values within 5% of one another, this difference is considered reasonable as it falls within
22 the standard margin of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at
23 164:2-9. Because Mr. Macaulay's micro-special benefit percentages fall far below that 5%
24 margin, "there is no way of authenticating" such incremental changes because "[m]arket
25 forces completely obliterate any tiny little noise factor like that." *See* 3/3/2020 (A. Gibbons)
26 Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too
27 small to measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to
28 measure a difference in revenue and cap rates for Ninth and Lenora LLC's property within
29 that margin. Additionally, the fact that "Before" values are also based on a hypothetical that
30 adds some unstated incremental value to actual 2019 values exacerbates this issue—the
31 ability for an appraiser to discern the micro-value differences between hypothetical
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1 conditions that are so similar (the WSDOT improvements compared to the LID
2 improvements) “verges on being ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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4 36. Even if it were possible to accurately tease out such a miniscule hypothetical
5 value change due to improvements coming five years later, experts testified that there is no
6 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
7 what he felt the changes (hypothetically) would be. See 3/3/2020 (A Gibbons) Hrg. Tr. at
8 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
9 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Ninth and
10 Lenora LLC appeals the following portions of the Examiner’s Recommendation: II.27 and
11 IV.B.4.
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20 37. No analysis of value increase attributable to individual components of the
21 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
22 percentage difference between hypothetical Before and After conditions. Throughout his
23 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
24 descriptions in the Addenda even though he testified that he relied on these to calculate
25 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
26 someone might be able to determine how he attributed value to After conditions described in
27 the Addenda, he answered that that was “not the scope of the assignment” because he was
28 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
29 that the six components were not actually a continuous project, that he was viewing them
30 together because the City asked him to, and that if he were to view them independently,
31 there was a low probability that properties in the north would specially benefit from
32 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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1 38. Not only did he fail to analyze benefits from each of these non-contiguous
2 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.*,
3 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
4 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
5 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
6 objectives that guided regulators’ assessment of architectural plans for buildings along a
7 “signature street” were so vague that they amounted to ad hoc review based on the
8 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
9 even though he used the renderings as “visual aid[s] in appraising the property in the before
10 and after” to “visually see what the differences would be,” he could not explain what
11 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
12 when shown a rendering of a two-lane road going down to one-lane in the After condition
13 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
14 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
15 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
16 could explain the depiction of the same trees in the After condition nearly twice as tall as in
17 the Before. *Id.* at 173:17-175:4. For these reasons, Ninth and Lenora LLC appeals the
18 following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 39. Special assessment is not supported by comparable studies, data or reports.
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3 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
4 that the LID Improvements will lead to meaningfully increased real estate values for Ninth
5 and Lenora LLC. Indeed, no City witness was able to explain how ABS Valuation used
6 comparable sales or information from the "over twenty-five studies and reports" to arrive at
7 very precise special benefit increases for the commercial properties, including Ninth and
8 Lenora LLC's property. For example, although Mr. Macaulay stated that no single report or
9 study was directly on point due to the unique nature of the LID Improvements (*see, e.g.,*
10 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments
11 in his parcel-by-parcel analysis other than to say that the studies generally provided "some
12 background to base decisions on." *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
13 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
14 similarities and differences between these improvements and the comparable parks he
15 looked at).

16 40. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
17 assignment of incremental increase of 0.5% to 4% to property values within the LID.
18 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
19 research misinterprets his work in critical ways, including because the LID Improvements
20 manifest the characteristics of a parkway (not a park), and his research indicates that most of
21 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
22 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
23 related value increases are in fact smaller; that estimated increases are "best guesses" rather
24 than predictions of property value increases in a particular city; and that percentages do not
25 account for diminishing returns after taking into account water views, which would be the

1 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
2 topography grants most properties in downtown a water view.
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5 41. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
6 that this was just one source of information that was not entirely relevant because, among
7 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
8 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
9 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
10 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
11 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
12 Crompton concluded that 500 feet via road from "park" improvements is just one or two
13 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
14 significantly beyond that which the park study indicated (even if it was legitimate to use the
15 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
16 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
17 impact applicable to "community parks"—which the LID Improvements are not. *Id.* Ninth
18 and Lenora LLC's property is not within 2,000 road network feet from the "park"
19 improvements. *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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23 42. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
24 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
25 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
26 based on the attention given to Dr. Crompton's work in the Final Study and supporting
27 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
3 parcel-by-parcel analysis.
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6 43. The destination parks discussed in the Final Special Benefit Study do not
7 provide reliable, comparable, and valid support for the calculation of special assessments
8 here. *See* Gibbons 5/2/2018 Letter at 4; Hrg. Exhibit 49. None of the parks cited in the
9 Final Special Benefit Study were funded by a LID. And in virtually all of those cases, the
10 park improvements dramatically restored unimproved or blighted areas, and properties
11 evaluated were within two or three blocks of the park.
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14 44. ABS's claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁸ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
21 the LID Improvements and could not explain how this impacted his condo analysis.
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36 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
37 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
38 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
39 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
40 park (or streetscape) improvement—other studies estimated premiums for real estate only much
41 closer or cited to Dr. Crompton.
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
2 Property Values” primarily focused on whether the benefits accrue to the larger community
3 rather than properties adjacent to the park. And the 2014 New York City Department of
4 Transportation study is not based on real estate transactions and market sales and fails to
5 substantiate any link between increased retail sales and property values. Moreover, this
6 study only looked at impact either directly abutting the streetscape improvement, or a couple
7 hundred feet for plaza-like improvements.
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15 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
16 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
17 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
18 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
19 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
20 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
21 asked whether he considered that HR&A’s estimated LID impact is six times greater than
22 TPL’s assessment of Seattle’s entire park system, his surmised that it was because the
23 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
24 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
25 assumptions to account for this difference, which may be partly explained by the fact that
26 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
27 approximately 3.44% of King County tourists visit Seattle primarily because of the city
28 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
29 waterfront improvements.
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44 46. Although proximity to the improvements is a key factor in all of these
45 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
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1 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
2 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
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4 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
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6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
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8 Improvements is approximate 20 acres and it is not a community park.⁹
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10 47. There is no explanation in the Final Study or the supporting materials of how
11 the studies or comparable sales were used to derive values for Ninth and Lenora LLC's
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13 property. For these reasons, Ninth and Lenora LLC appeals the following portions of the
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15 Examiner's Recommendation: Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30,
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17 II.32, and IV.C.5.
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20 48. Failure to comply with USPAP. Ninth and Lenora LLC's assessment also
21 rests on a fundamentally wrong basis due to the City's appraiser's decision to utilize a
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23 hybrid mass-appraisal method. Randall Scott, a former mass appraiser responsible (and
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25 professionally recognized) for developing the MAI standards for mass appraisals, testified
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27 that the Final Study does not meet mass appraisal standards nor allow for independent
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29 assessment of the accuracy of Mr. Macauley's conclusions.
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32 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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34 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
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36 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
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38 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
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40 testimony suggests that he incorrectly believed that the only difference between direct
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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3 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
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5 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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7 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
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9 Gordon uses in doing his limited restricted report”).

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11 50. But the difference is not only in reporting—mass appraisal techniques must
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13 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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15 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
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17 parcel approach:

18 The mass appraisal technique is an appraisal method used to evaluate
19 a group of properties that are subject to similar market forces as of a
20 certain date through the use of market data, statistical analysis and
21 testing. As a result, the mass appraisal technique does not require or
22 involve analysis of each individual property’s specific data.
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25 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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27 51. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
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29 universe of properties as a given date using standard methodology, employing common data,
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31 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
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33 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
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35 model” is “a mathematical expression of how supply and demand factors interact in a
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37 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
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39 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
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41 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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43 52. Regardless of client direction, Mr. Macaulay is required to comply with
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45 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
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1 economically feasible because it would have taken “an incredible amount of time and cost”
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3 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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5 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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7 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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9 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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11 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
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13 value, fails to calibrate the model structure to determine the contribution of the individual
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15 characteristics affecting value, and does not review the mass appraisal results against actual
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17 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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19 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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21 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
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23 proximity to the elements, the increase in market rent, market vacancy changes,
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25 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
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27 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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29 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
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31 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
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36 relationship between characteristics that affect value, and to calibrate that model to specify how
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38 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
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40 21). The purpose is to rationally determine what characteristics will create value, and by how much.
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42 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
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44 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
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46 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
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48 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
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50 include explanation of the model specification, data requirements, calibration methods, and
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52 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
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54 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
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56 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
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58 Hrg. Tr. at 206:15-207:17.

1 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
2 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
3 were hypothetical, it was not possible to identify matched pair sales and no City witness
4 explained how ABS Valuation made adjustments to “comparable” sales in order to check
5 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
6 him to explain his model structure.
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12 55. For these reasons, Ninth and Lenora LLC appeals the following portions of
13 the Examiner’s Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Ninth and
14 Lenora LLC renews Objectors’ Motion To Exclude The Expert Testimony of Robert J.
15 Macaulay, filed on April 8, 2020, and appeals the Examiner’s denial of that motion.
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21 56. Finally, Ninth and Lenora LLC’s property is not appurtenant—or even in
22 close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the
23 burden of proving special benefit” shifted to the City because the protestors’ parcels merely
24 stood “in close proximity to the property on which expert testimony was given”). Indeed,
25 Ninth and Lenora LLC’s property is not even within 2,000 road network feet from the core
26 “park” improvements. And, as described above, the special assessment is overstated
27 because the Final Study makes no attempt to determine general benefits, existing amenities
28 for Ninth and Lenora LLC’s specific property, or special detriments. In addition, it is
29 speculative due to the fact that, as of October 2019, improvements were not in in place—
30 and, in fact, much of the waterfront is a construction zone following removal of the viaduct
31 and now Pier 58 demolition. Under these circumstances, rather than relying on entirely
32 imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have
33 discounted the special benefit estimates or waited to perform the Study until the
34 improvements were at least close to complete.
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Erroneous Pre-Improvement Valuation

57. The proposed final assessment erroneously overstates the pre-improvement value of Ninth and Lenora LLC's property as of October 1, 2019 and, as a result, overstates the special benefit to the Ninth and Lenora LLC's property.

58. The City's Final Study was used to compute the proposed final assessment of NINTH AND LENORA LLC'S property. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final Study does not accurately reflect this data. For example, the City's Study values the Stratus at \$12,285,000 as of October 1, 2019. However, the King County assessor determined the true and fair value of the property to be \$6,669,000, valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's valuation is 184% of King County's assessed value. The Final Special Benefit Study does not explain this difference—or any differences—between its pre-improvement valuation and its supposed source for market data. For this reason, Ninth and Lenora LLC appeals Section IV.C.11 of the Examiner's Recommendation.

59. Thus, aside from multiple other reasons why computation of the special benefits was flawed (discussed further below), the assessment is based incorrectly on pre-improvement values that do not accurately reflect market data. For these reason, Ninth and Lenora LLC appeals the following portions of the Examiner's Recommendation: Section III.

Erroneous Computation of Special Benefit

60. "Special benefit" is "the increase in fair market value attributable to the local improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property

¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet (providing a "County Link" to the King County Department of Assessment's online "eReal Property" search tool).

1 may receive by reason of the improvement is not measured alone by the physical character
2 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
3 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
4 the particular tract or property benefited by the entire improvement, and is it assessed
5 proportionately with the other property included within the assessment district?” *Id.* 165–
6 66.
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13 61. The proposed final assessment erroneously overstates the special benefit of
14 LID improvements in a number of ways.
15

16
17 62. Spreadsheets show arbitrary changes to revenue and capitalization rates. As
18 stated previously, Mr. Macaulay’s spreadsheet for the Stratus combined the property’s two
19 parcels for purposes of estimating value and changes. Mr. Macaulay assumed rental rates
20 would increase by 0.05% (low) and 0.25% (high) due to the 2024 LID Improvements.
21 Based on formulas in the spreadsheets, Mr. Macaulay then uses these same percentages
22 (0.05% and 0.25%) to increase revenue from retail and parking. He then uses this
23 hypothesized increased revenue to calculate a new net operating income for the commercial
24 properties and capitalizes that to come up with an “After” valuation.
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33 63. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
34 operating income remains the same as in the hypothetical “Before” condition, but changes
35 the cap rate. For the Stratus, the cap rate goes from 4.05% to 4.040% (low scenario,
36 creating a bigger value increase) and 4.045% (high scenario, creating a lower value
37 increase).
38
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42
43 64. Mr. Macaulay then averages his four “After” values to arrive at a final special
44 benefit conclusion. For the Stratus, this is an increase in property value of 0.12% due to the
45 LID Improvements.
46
47

1 65. Mr. Macaulay offered little justification for his micro adjustments to revenue
2 and capitalization rates. When asked precisely what the basis is for his special benefit
3 percentage increases to revenue for each commercial property, he could not point to
4 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
5 is nothing in the report to allow a reader to understand how he came up with these
6 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
7 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
8 the basis for his belief that certain factors—liked increased connectivity—will increase
9 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
10 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12 sources equally even though there was no separate analysis done for food and beverage or
13 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Ninth and Lenora LLC’s
14 expert’s conclusion that the adjustments are arbitrary and fall below generally accepted
15 margins of error, and that there is no actual, measurable, non-speculative special benefit to
16 Ninth and Lenora LLC’s properties.
17

18 66. Mr. Macaulay testified that he used comparable sales as a reasonableness
19 check for commercial properties. But as explained above, no City witness has explained
20 how anyone, or all, of the sales are comparable to any particular commercial property within
21 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
22 in order to make sales “comparable,” he would have had to make adjustments to account for
23 Before and After conditions, but there is no way to understand how adjustments were made
24 because he “didn’t do a separate sales comparison approach where we showed adjustments
25 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
26

1 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
2
3 *Id.* at 127:10-128:24.

4
5 67. It also bears noting that any “internal review” of the special benefit estimates
6
7 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
8
9 error. Indeed, given all the same information, he seemed to suggest that it would be
10
11 perfectly reasonable for another experienced appraiser to come up with special benefit
12
13 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
14
15 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
16
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18
19 margin of error conflicts with the testimony of Ninth and Lenora LLC’s experts and
20
21 reaffirms that there are absolutely no standards governing his process. *See id.* at 91:6-94:5.
22
23 Even if the typical margin of error (5%) is a “rule of thumb” and not a “hard legal standard,”
24
25 there are still reasonable and unreasonable variations within the appraisal field. *See*
26
27 Examiner’s Recommendation at IV.B.4. Thus, the special assessment is not actual,
28
29 measurable or special because it is arbitrarily assigned; and it is too small to realistically be
30
31 supported by appraisal techniques.

32
33 68. No evidence of special benefit. Meanwhile, there is “no actual evidence from
34
35 any seller or purchaser that the price was higher because of the LID improvements.”
36
37 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
38
39 identified any seller or buyer, or any particular property where the existence of the LID
40
41 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Ninth and
42
43 Lenora LLC has explained that the property has not increased rental rates or revenue due to
44
45 the forthcoming LID Improvements, because, among other reasons (and apart from
46
47 COVID), the improvements ABS believes will generate value do not exist, and will not for a

1 number of years to come. There are no comparable sales because the LID Improvements are
2 not in place, nor will they be until the end of 2024 if completed on schedule.

3
4 69. The fair market value of NINTH AND LENORA LLC'S property has not
5 changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property
6 was not specially benefited from installation of new water main and fire hydrant where it
7 was already adequately supplied with water and afforded adequate fire protection). And in
8 any event, any value attributable to removal of the viaduct was to be excluded from the
9 assessment calculation.

10
11 70. There is no special benefit because LID improvements in fact diminish the
12 value of Ninth and Lenora LLC's property by drawing visitors away towards improvements
13 that do not abut the property, increasing competition to the retail component. *See Kusky*, 85
14 Wn. App. 493 (testimony of owners' expert that LID actually diminished value of property
15 was sufficient to rebut presumption that assessment was proper).

16
17 71. Moreover, the assessment formula is an attempt to distribute costs that do not
18 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
19 "merely a mathematical model that distributes costs").

20
21 72. The Special Benefit Study fails to address whether the \$346,000,000
22 estimated LID project cost takes into account the investment that would have occurred in the
23 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
24 invested. This is a critical component of estimating which properties receive a direct benefit
25 from the improvements, versus more incidental benefits further from the park.

26
27 73. Mr. Macaulay also included personal property in his valuation of hotels even
28 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
29 he did not include personal property values for any other types of property. 6/23/2020 Hrg.

1 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
2 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
3 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
4 receiving a disproportionately high LID assessment in comparison to other property types,
5 since hotels were the only property type subject to personal property LID assessments.
6
7 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
8 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
9 notice procedures because hotel property owners only received notice that their real estate
10 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
11
12

13 74. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
14 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
15 a television at the waterfront Marriott is assigned a greater special benefit than the same
16 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
17 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
18 unreasonable to assign a value lift to personal property that is replaceable at the same cost
19 and may be obsolete before the LID improvements are even completed. Further, personal
20 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
21 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
22 be redone to correct for this error.
23
24

25 75. The proposed final assessment substantially exceeds the special benefit to the
26 property and is grossly disproportionate to similarly situated properties within the LID. For
27 these reasons, Ninth and Lenora LLC appeals the following portions of the Examiner’s
28 Recommendation: Sections II.22, II.23, II.27, IV.B.4 and IV.B.11(a)(iii).
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State Environmental Policy Act and Other Environmental Permitting

1 76. While this appeal is not challenging the City's environmental review and
2 permitting processes, those processes are relevant in determining the legality of the
3 assessments, and to assessing the delivery risk, the present value of the City's plans, and
4 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
5 pursue projects that have not yet undergone environmental review (thus limiting the choice
6 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
7 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
8 is just beginning. Further, the City has segmented environmental review, and still has a
9 gauntlet of federal, state and tribal review processes to complete before it will be clear what
10 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
11 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
12 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
13 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
14 committing to reconstruction of Pier 58 and major street improvements without
15 environmental review, or the City's Final Special Study has improperly included and is
16 proposing to assess the Ninth and Lenora LLC the costs and special benefits of
17 improvements that may not get built. Either way, it is faulty process.

35 **Due Process Rights**

36 77. The City's failed to notify NINTH AND LENORA LLC sufficiently in
37 advance of the hearing to allow NINTH AND LENORA LLC to obtain evidence and
38 prepare to properly challenge the assessments. Because LID assessments involve a
39 deprivation of property, affected owners have the right to a hearing as to whether the
40 improvement resulted (or will result) in special benefits to their properties and whether their
41 assessments are proportionate, which necessarily includes the right to adequate notice of the
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1 hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761
2
3 (2010).

4 78. The LID statute specifies that cities must mail notices giving the time and
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6 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
7
8 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
9
10 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
11
12 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
13
14 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
15
16 secure their own appraisal), evaluate proportionality of the proposed assessments, and
17
18 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
19
20 for anybody to get an appraisal”).
21

22 79. The City’s Notice of Assessment was sent on December 30, 2019. And the
23
24 Final Special Benefit Study has only been available for public review since January 7, 2020.
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26 Due to this short time frame, NINTH AND LENORA LLC requested a prehearing
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28 conference and scheduling order that would preserve and protect Ninth and Lenora LLC’s
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30 right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct
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32 depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay
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34 between SEPA and the City’s assessment of taxes for Pier 58 and Pike/Pine improvements).
35
36 The Hearing Examiner erroneously denied that request. For this reason, Ninth and Lenora
37
38 LLC appeals the following portions of the Examiner’s Recommendation: I.B.
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41 **VII. Relief Requested**

42 NINTH AND LENORA LLC respectfully requests that the City Council:
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- 44 1. Reject the Hearing Examiner’s recommended denial of Ninth and Lenora LLC’s
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46 objection; and
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- 1 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
2 assessment dated December 30, 2019; or
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4
5 b. Revise Ninth and Lenora LLC's Waterfront Local Improvement District No.
6 6751 proposed final assessment to \$0 (zero), or such amount as Ninth and
7 Lenora LLC establishes at the hearing in this matter; or
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9
10 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
11 and reduce Ninth and Lenora LLC's assessment using recognized appraisal
12 techniques consistent with USPAP and:
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15
16 i. Excluding any property value increase attributable to viaduct removal
17 and other planned WSDOT Improvements;
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19
20 ii. Taking into account the effects of the COVID-19 pandemic on the
21 value of Ninth and Lenora LLC's property and other relevant
22 developments since October 2019;
23
24
25 iii. Accounting for and excluding (1) any special benefits from existing
26 or planned improvements that already provide similar benefits to
27 Ninth and Lenora LLC's property, and (2) any special detriments
28 from construction and other anticipated LID-related disamenities;
29
30
31 iv. Accounting for and including only those actual benefits anticipated to
32 accrue to Ninth and Lenora LLC's property based on its location
33 relative to Pier 58, Overlook Walk, and the Promenade, and specific
34 elements of the LID Improvements;
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37 v. Discounting anticipated special benefits to present value, based on
38 reliable estimates regarding when special benefits will start accruing
39 following completion of the LID Improvements; and
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- 1 vi. Accounting for such other issues specific to Ninth and Lenora LLC's
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3 property relevant to calculation of such assessment; and
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5 2. Grant such further relief as the City Council deems just and proper.
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9 DATED: September 22, 2020
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2:46 pm, Tue, September 22, 2020

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Subject: Waterfront LID Appeal for Case No. CWF-411
Date: Tuesday, September 22, 2020 2:17:42 PM
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CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-411.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0411

A – Master List of Evidence

B – D-134 and D-135 Stratus

C – Discounting for CWF-0411

CWF-0411 Appeal Notice for Stratus

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Stratus Apartments**

Map Nos.:	D-134 and D-135
Tax Parcel Nos.:	066000-0540 and -0545
Property key:	7104, 7105
Address	2118 Westlake Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions
Previous sale:	\$16,000,000 9/30/2014 \$40,404 per DU
Proximity to project:	1,600± feet to Pine Street
Ownership:	Sixth & Lenora Apartments, LLC (per December 2007 SWD)
Description:	21,420 SF site on the northwest corner of 9th Avenue and Lenora Street, improved with a 396-unit high-rise apartment building constructed in 21 stalls (406 allocated to the apartments) 8,284 SF of street-level retail. The tax parcels but the assessor has the improvements on D-135 (066000-05

INCOME ANALYSIS Before	Year Built	2016
	Parking	644

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	38	674	25,612	\$3,040	\$4.51
1-bedroom	234	811	189,774	\$3,615	\$4.46
2-bedroom	122	1,225	149,450	\$4,556	\$3.72
3-bedroom	2	1,892	3,784	\$9,313	\$4.92
Total apartments	396	931	368,620	\$3,879	\$4.17
	GBA	NRA			
Retail	8,284	8,284		SF NRA @	\$32.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	8,284	8,284			
Parking Area/Stalls	121,057		644	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	613,750	399,075		SF NRA @	\$53.12
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					

Management fee @	5.0%	of total EGI		
Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	27.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$14.92	29.1%
Net operating income				
Indicated Value				
Land Value		21,420	SF @	\$1,750.00
Allocation to 066000-0540		7,020	SF @	\$1,750.00
Allocation to 066000-0545		14,400	SF @	\$1,750.00
Residual Improvements		399,075	SF NRA @	\$802.89
		613,750	SF GRA @	\$522.06

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,750.00	\$37,485,000	\$320,414,000	N/A
With LID				
Scenario A1	\$1,752.63	\$37,541,000	\$320,539,000	0.04%
Scenario A2	\$1,752.63	\$37,541,000	\$321,262,000	0.26%
Scenario B1	\$1,752.63	\$37,541,000	\$321,244,000	0.26%
Scenario B2	\$1,752.63	\$37,541,000	\$320,800,000	0.12%
Percent change in land value	0.15%		\$320,961,000	0.17%
Overall Summary				
Without LID	\$1,750.00	\$37,485,000	\$320,414,000	N/A
With LID	\$1,752.63	\$37,541,000	\$320,800,000	0.12%

Stratus Apartments

Scenario A: Rental and Vacancy Rate Changes

, zoned DMC 240/290-440,
016, with 644 on-site parking
e building is situated on both
545).

		INCOME ANALYSIS After		Year Built	2016
		Potential Gross Income			
			Units	SF NRA	
	\$1,386,240	Studio	38	674	
	\$10,150,920	1-bedroom	234	811	
	\$6,669,984	2-bedroom	122	1,225	
	\$223,512	3-bedroom	2	1,892	
	\$18,430,656	Total apartments	396	931	
			GBA	NRA	
per SF =	\$265,088	Retail	8,284	8,284	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$265,088	Subtotals	9,076	13,817	
/month	\$2,318,400	Parking Area/Stalls	121,057	0	644
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$184,307	Other			
/SF =	\$21,198,451	Total Bldg Area & Gross Income	613,750	399,075	SF
	(\$737,226)	Less: Vacancy/credit allowance			of apartment
	(\$13,254)				of commercial
	\$0				of parking
	(\$750,481)	Total vacancy/credit allowance			
	\$20,447,970	Effective gross income			
		Less: Operating expenses			

	<div> <div>(\$1,022,398)</div> <div>\$0</div> <div>(\$4,777,226)</div> <div>(\$153,438)</div> <div>(\$5,953,062)</div> </div>
\$15,033	\$14,494,908
Capitalized @	4.05%
Indicated value	\$357,898,960
(R)	\$357,899,000
Per DU	\$903,785
per SF =	\$37,485,000
per SF =	\$12,285,000
per SF =	\$25,200,000
per SF =	\$320,414,000

Management fee @	5.0%	of total EGI
Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		21,420
Allocation to 066000-0540		7,020
Allocation to 066000-0545		14,400
Residual Improvements		

Total Estimated Value	Special Benefit	% Change	Per Parcel Summ
\$357,899,000	N/A	N/A	
			Per DU
\$358,080,000	\$181,000	0.05%	\$457
\$358,803,000	\$904,000	0.25%	\$2,283
\$358,785,000	\$886,000	0.25%	\$2,237
\$358,341,000	\$442,000	0.12%	\$1,116
\$357,899,000	N/A		
\$358,341,000	\$442,000	0.12%	

			(\$1,022,910)	(\$1,024,954)
			\$0	\$0
			(\$4,779,615)	(\$4,789,169)
			(\$153,438)	(\$153,438)
			(\$5,955,962)	(\$5,967,561)
			\$14,502,232	\$14,531,529
	Capitalized @		4.05%	4.05%
			\$358,079,804	\$358,803,179
	(R)	\$358,080,000	\$358,803,000	
	Per DU		\$904,242	\$906,068
	% change		0.05%	0.25%
SF @	\$1,752.63	per SF =	\$37,541,000	\$37,541,000
SF @	\$1,752.63	per SF =	\$12,303,000	\$12,303,000
SF @	\$1,752.63	per SF =	\$25,238,000	\$25,238,000
			\$320,539,000	\$321,262,000
	Per SF NRA		\$803.20	\$805.02

0.15%

nary	066000-0540	066000-0545	Totals
Without LID	\$12,285,000	\$345,614,000	\$357,899,000
With LID	\$12,303,000	\$346,038,000	\$358,341,000
Special benefit	\$18,000	\$424,000	\$442,000

Stratus Apartments**Scenario B: Overall Capitalization Rates Changes**

INCOME ANALYSIS After		Year Built 2016				
Potential Gross Income						
	Units	SF NRA	Total NRA	Rent	Rent/SF	
Studio	38	674	25,612	\$3,040	\$4.51	
1-bedroom	234	811	189,774	\$3,615	\$4.46	
2-bedroom	122	1,225	149,450	\$4,556	\$3.72	
3-bedroom	2	1,892	3,784	\$9,313	\$4.92	
Total apartments	396	931	368,620	\$3,879	\$4.17	
Retail	8,284	8,284		SF NRA @	\$32.00	per SF =
Restaurant	0	0		SF NRA @	\$0.00	per SF =
Other	0	0		SF NRA @	\$0.00	per SF =
Other	0	0		SF NRA @	\$0.00	per SF =
Subtotals	9,076	13,817				
Parking Area/Stalls	121,057	0	644	stalls @	\$300.00	/month
Basement	0	0		SF NRA @	\$0.00	per SF =
Other	0	0		SF NRA @	\$0.00	per SF =
Other				1.0%	of PGI	
Total Bldg Area & Gross Income	613,750	399,075		SF NRA @	\$53.12	/SF
Less: Vacancy/credit allowance @						
4.0% of apartment revenue						
5.0% of commercial revenue						
0.0% of parking revenue						
Total vacancy/credit allowance						
Effective gross income						
Less: Operating expenses						

Management fee @	5.0%	of total EGI
Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA

Total operating expenses

Net operating income

Indicated Value					Low
					Capitalized @ 4.040%
					Indicated Value \$358,784,849
					(R) \$358,785,000
					Per DU \$906,023
					% change 0.25%
Land Value					21,420 SF @ \$1,752.63 per SF = \$37,541,000
Allocation to 066000-0540					7,020 SF @ \$1,752.63 per SF = \$12,303,000
Allocation to 066000-0545					14,400 SF @ \$1,752.63 per SF = \$25,238,000
Residual Improvements					\$321,244,000
					per SF NRA \$804.97

(\$1,022,398)
\$0
(\$4,777,226)
<u>(\$153,438)</u>
(\$5,953,062)
\$14,494,908
High
4.045%
\$358,341,357
\$358,341,000
\$904,902
0.12%
\$37,541,000
\$12,303,000
\$25,238,000
\$320,800,000
\$803.86

0.15%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0411	Stratus	2101 9th Avenue	0660000545

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$424,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$56,998

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0411	Stratus	2101 9th Avenue	0660000545

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$346,038,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C)			\$302,783,250

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT				Value	5-yr delay	10-yr delay
H	City LID special benefit for subject			\$424,000		
H/A	As Percentage of Final City Before Value			0.123%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"			\$371,000		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr				34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value				\$127,228	\$34,958
J	Percentage of Special benefit to be assessed by City			39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)				\$49,873	\$13,703

DISTANCE FROM PARK IMPROVEMENTS				Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade		Yes			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0411

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON NINTH AND
LENORA LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0660000545

33
34 TAXPAYER (“NINTH AND LENORA LLC”) files this appeal pursuant to RCW
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
36 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”).
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44 **I. Ninth and Lenora LLC / Appellant**

45 The taxpayer filing this appeal is:
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1 NINTH AND LENORA LLC

2 Attn: Tax Manager

3 125 High St.

4 Boston, MA 02110

5 (425) 635-1400

6 JLutz@perkinscoie.com

7
8
9 **II. Ninth and Lenora LLC's Representatives**

10 NINTH AND LENORA LLC'S representatives in this matter are:

11
12
13
14 R. Gerard Lutz, WSBA No. 17692

15 JLutz@perkinscoie.com

16 Megan Lin, WSBA No. 53716

17 Perkins Coie LLP

18 10885 N.E. Fourth Street, Suite 700

19 Bellevue, Washington 98004

20 Telephone: 425.635.1400

21 Facsimile: 425.635.2400

22
23
24 Robert L. Mahon, WSBA No. 26523

25 RMahon@perkinscoie.com

26 1201 Third Avenue, Suite 4900

27 Seattle, Washington 98101

28 Telephone: 206.359.8000

29 Facsimile: 206.359.9000

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32 **III. Statement of Ninth and Lenora LLC's Interest**

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34 NINTH AND LENORA LLC owns the property that is subject to the proposed final
35 assessment described in Section IV. The property is an apartment building called the Stratus
36 located in the Denny Triangle neighborhood, which also includes ground floor retail. The
37 Stratus comprises two parcels: King County Parcel Nos. 066000-0540 and -0545. This
38 appeal concerns 0545 only, except for the analysis regarding Mr. Macaulay's spreadsheets,
39 which estimated values and changes based on the Stratus as a single property.
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1 The basis of the proposed assessment is a Final Special Benefit/Proportionate
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3 Assessment Study for Waterfront Seattle Local Improvement District (“Final Study”), dated
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5 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City’s
6
7 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
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9 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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11 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
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13 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
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15 to exclude charges for other improvement projects in the Central Waterfront, and
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17 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
18
19 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
20
21 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
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23 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
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25 because construction was not complete on the LID Improvements or the WSDOT
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27 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
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29 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
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31 facts. On February 4, 2020, Ninth and Lenora LLC timely filed an objection to the
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33 assessment, which was based on the Final Study.

34 35 **IV. Matter Under Appeal**

36 NINTH AND LENORA LLC appeals the Hearing Examiner’s recommendation to
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38 deny Ninth and Lenora LLC’s objection to the City of Seattle’s Waterfront Local
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40 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
41
42 the following property:

43 King County Parcel No. 0660000545
44

45 Site Address: 2101 9th Ave. Seattle, Washington
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1 Proposed Final LID Assessment for Parcel: \$166,133

2 See Examiner's Recommendation at 61-62, 104. To avoid repetition, Ninth and Lenora
3 LLC incorporates the evidence and arguments raised before the Hearing Examiner into this
4 appeal. In particular, Ninth and Lenora LLC points the City Council to Ninth and Lenora
5 LLC's initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its case-
6 in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close of the
7 City's case-in-chief (dated 7/7/2020).¹
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10 As discussed more fully below, Ninth and Lenora LLC specifically appeals the
11 following Findings and Recommendations in the Hearing Examiner's September 8, 2020
12 Recommendation: Pages 61-62, 104, Sections II.6, II.7, II.14, II.15, II.18, II.19, II.20, II.21,
13 II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1,
14 IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
15 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8,
16 IV.C.9, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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19 Ninth and Lenora LLC also appeals the Hearing Examiner's failure to make findings
20 of fact or recommendations on material issues raised during Ninth and Lenora LLC's appeal
21 that were supported by law, expert testimony, and fact. The Final Study fails in numerous
22 ways to satisfy the basic requirements of a LID assessment study, and the Examiner's
23 Recommendation ignores the many deficiencies in the Final Study. In fact, the only
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¹ Because the City has not provided "metered index numbers," our appeals cannot reference them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated, citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors retained by Perkins Coie are part of this case file.

1 instances in which the Examiner recommended anything other than denial of objectors'
2 appeals were where the City's appraiser confessed error. The appraiser's proposed
3 assessments, and the Examiner's Recommendations, would have the City impose arbitrary
4 and capricious Waterfront LID special assessments based on "fundamentally wrong
5 methods."
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10 The special benefit for which special taxes are assessed must be "actual, physical and
11 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
12 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
13 with the law, the assessments may not materially exceed the actual special benefit conferred
14 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
15 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
16 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
17 assessment. In this case, the proposed assessment fails each of the legal requirements for
18 special assessments and must be annulled as arbitrary or capricious, or founded on
19 fundamentally wrong methods.
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32 **Legal Requirement:** Actual, non-speculative special benefit

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34 **ABS Study:** Estimates a hypothetical benefit based on "Before" values that increase
35 "actual 2019" values (unstated) assuming the WSDOT Improvements were in place in
36 October 2019 (they were not), and an "After" value purporting to assess the value of
37 properties with the LID improvements in place at least five years before anticipated
38 completion.
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41 **Legal Requirement:** Cannot materially exceed the special benefit

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43 **ABS Study:** ABS calculates a special benefit of \$424,000 assuming the LID
44 Improvements were in place and providing benefit in October 2019. However, the LID
45 Improvements will not be completed until the end of 2024 if the City meets its current
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1 schedule, and many of WSDOT's alternative improvements will not be built. The present
2 value of future improvements deliverable in five years is significantly lower than the
3 current value of improvements that already exist. Further, ABS's own materials show that
4 benefits may not accrue for at least five years after they are completed, in 2029. If the
5 hypothesized special benefits are discounted to present value, the assessments materially
6 exceed the hypothesized special benefits.
7

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9 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID

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11 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
12 prepared his Final Study in October 2019, and the City issued its preliminary roll in
13 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
14 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
15 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
16 and must be based on actual special benefits. While that does not mean ABS's appraisal
17 was wrong when completed, values and benefits need to be reanalyzed before assessments
18 are finalized in light of the unprecedented changes to the downtown real property market.
19
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22 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
23 Assessment cannot include value attributable to future WSDOT Improvements.
24

25 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
26 on the value of WSDOT's planned improvements." *See* Final Study at 3. However, the
27 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
28 the City's appraiser increased 2019 property market values as though WSDOT had
29 completed its work by 2019. The proposed assessment is against this hypothetical
30 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
31 higher than actual 2019 market values. The City is collecting an assessment against both
32 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
33 contravention of law and the City's promise not to impose an assessment based on the
34 value of viaduct demolition and the other components of WSDOT's planned work.
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38 **Legal Requirement:** Benefits must be special, not general

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40 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
41 due to the LID Improvements. However, the far-reaching and public nature of the
42 improvements make any benefit arising from them general—not special.
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45 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
46 or conjectural"
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1 **ABS Study:** Not only are the improvements not yet “physical or material,” but
2 environmental review and permitting for the City’s proposed LID Improvements is not
3 complete, and the LID improvements are not anticipated to be complete until the end of
4 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
5 a manner consistent the City’s then-current proposals, which were in many respects merely
6 conceptual designs.
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9 **Legal Requirement:** Must comply with appraisal standards
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11 **ABS Study:** ABS’s valuation methodology cannot be tested. It is a hybrid of “Individual”
12 and “Mass” appraisal techniques, but fails to meet USPAP requirements for either. Until
13 the Examiner admonished ABS, ABS even asserted its analysis was “confidential and
14 proprietary.” ABS’s analysis and conclusions can neither be tested nor replicated. The
15 Final Study fails to meet basic standards for admissibility and must be remanded.
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18 **Legal Requirement:** Actual and measurable special benefit
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20 **ABS Study:** ABS’s proposed assessments are assigned rather than measured, as
21 demonstrated by formulas in ABS’s spreadsheets. The percentage assignments are based
22 on a host of “micro-judgments” that are not supported by any documentation, nor capable
23 of replication or quality assurance/quality control. The assessments are undocumented,
24 unreliable, and not supported by empirical studies, data, or reports.
25
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27 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
28 supported by empirical evidence
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30 **ABS Study:** Dr. John Crompton, the world’s preeminent expert regarding the economic
31 value of parks and other public amenities and on whom ABS purported to rely, testified
32 that ABS had completely misapplied his work and dramatically overstated both the
33 distance to which economic benefits might extend from the LID Improvements and the
34 extent of any anticipated benefit within the potentially benefited area.
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37 **Legal Requirement:** Actual special benefit—Must take into account potential
38 disamenities
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40 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
41 construction, as well as other potential disamenities associated with public places.
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44 **Legal Requirement:** Cannot prematurely commit to build
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1 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
2 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
3 are being imposed. But finalizing the roll is a commitment by the City to build the
4 improvements, which is a violation of legal process and commits the City to build things it
5 may not secure permission to build.
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8 In addition to these general objections, there are property-specific issues raised by
9 Ninth and Lenora LLC as to which the Examiner also erred, discussed in the course of the
10 appeal statement below.
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14 **V. Standard of Review**
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16 “When considering the assessment roll, the city council sits ‘as a board of
17 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
18 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
19 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
20 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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26 The proposed assessments are presumed correct, “unless overcome by clear, cogent
27 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
28 than the heightened presumption of correctness on judicial appeal because “applying these
29 elevated standards at the municipal hearing would afford unwarranted deference to a report
30 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
31 presumption is not evidence and its efficacy is lost when the other party adduces credible
32 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
33 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
34 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
35 presented credible evidence showing that the City’s proposed assessment is arbitrary,
36 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
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1 to the City to prove the assessments are actual, measurable, special, non-speculative and
2 proportionate. The City failed that burden.

3 4 **VI. Grounds for Appeal**

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6 NINTH AND LENORA LLC appeals the Hearing Examiner's Findings and
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8 Recommendations on the following grounds.
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10 **Ninth and Lenora LLC Not Required to Provide A Special Benefit Study**

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12 1. Contrary to the Examiner's findings and recommendations, there is no
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14 requirement that experts or property owners provide an alternative special benefit
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16 calculation under these circumstances—to do so would also require the same improper
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18 speculation the City's expert engaged in, given the timing and information provided. *See,*
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20 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
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22 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained:
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24 “[W]e have explicitly rejected an argument that, because certain protestors ‘failed to offer
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26 expert testimony at the city council hearing[,] the presumptions [in favor of the assessment]
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28 were still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian*
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30 *Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App.
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32 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided
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34 expert opinion showing that improvements actually diminished value of the property). Here,
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36 Ben Scott testified that he is an expert in reviewing mass appraisal reports and analyzing
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38 their impact on individual properties - precisely the matter at issue in this appeal. *See*
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40 3/5/2020 Hrg. Tr. at 13:1-4 (laying foundation as expert witness while testifying on behalf
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42 of a different appellate represented by Perkins Coie). The Hearing Examiner erroneously
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44 dismissed the weight of Mr. Scott's testimony, given his professional expertise and
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46 experience. In fact, no independent evidence is required at all if, for example, objectors
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1 show that the assessment was grounded on a fundamentally wrong basis due to an error in
2 the City’s appraiser’s methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
3 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
4 a property owner could simply point out that the square footage assumed in the City’s
5 appraisal was incorrect. For these reasons, Ninth and Lenora LLC appeals the following
6 portions of the Examiner’s Recommendation: Sections II.14, II.15, IV.A, IV.B.11(a),
7 IV.C.8, IV.C.9, and IV.C.11.
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15 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

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17 2. RCW 35.43.040 provides cities and towns authority for ordering local
18 improvements and for levying and collecting special assessments “on property specially
19 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
20 upon all the property in accordance with the special benefits conferred thereon.” RCW
21 35.44.010.
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26 3. No analysis of general benefits. Special assessments have been “held valid
27 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
28 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
29 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
30 they are for the construction of local improvements that are appurtenant to specific land and
31 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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36 4. Ninth and Lenora LLC’s property is not specially benefited by the LID
37 Improvements. The primary purpose and effect of the LID Improvements are to benefit
38 “members of the whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain
39 that a public library is for the benefit of the members of the whole community individually
40 and collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID
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1 Manual states clearly that appraisers should “[c]onsider general benefits as well as special
2 benefits” (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits
3 probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Ninth and
4 Lenora LLC’s expert confirmed that if an appraiser “identifies both general and special
5 benefits, these benefits should be clearly distinguished and explained, and only special
6 benefits should be included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4
7 (dated 7/7/2020); *see also* 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that
8 Mr. Macaulay did not analyze or measure general benefits, including those arising from
9 construction necessary to meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual)
10 at 58 (“[c]onsideration may also be given to those construction costs related to meeting
11 design standards which may be general benefits as distinct from construction costs
12 emanating from requirements of the LID project”). To the extent Ninth and Lenora LLC’s
13 property may benefit from the LID improvements, the benefit is general and incidental, and
14 failure to consider general benefits was a fatal flaw in the City’s methodology. For these
15 reasons, Ninth and Lenora LLC appeals the following portions of the Examiner’s
16 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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33 5. LID Improvements not necessary. Unlike typical LID projects, the
34 Waterfront LID improvements are largely unnecessary to the functionality of any particular
35 property, including Ninth and Lenora LLC’s property. *See In re Schmitz*, 44 Wn.2d 429,
36 433, 268 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road
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42 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
43 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
44 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
45 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
46 Ninth and Lenora LLC has attached a master list of the hearing exhibits as Attachment A to this
47 appeal notice.

1 by 16 to 18 feet held invalid where owners would have benefitted equally from increase of
2 only 9 feet); *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land
3 at intersection for new water main for hydrant held invalid because land was already
4 afforded functional hydrant at nearby street). Here, Ninth and Lenora LLC provided
5 testimony through Elton Lee, taxpayer representative, who testified that the Stratus caters to
6 Denny Triangle and South Lake Union, rather than the waterfront area. See 3/11/2020 (E.
7 Lee) Hrg. Tr. at 167:5-6. The building has brief tenancies with demand driven primarily by
8 Amazon employees desiring to live near Amazon's South Lake Union employment centers.
9 Id. at 168:8-13. There is simply no special benefit to the Stratus building for additional
10 access to the Seattle waterfront. The fact that there is no case law differentiating between
11 binary improvements and parks does not change the law prohibiting assessments on
12 properties already adequately served by existing amenities. *See* Examiner's
13 Recommendation at IV.C.3 (reasoning that "no case law is provided to support the
14 differentiation between a hardscape benefit and the more ephemeral benefits of park"). Nor
15 does the Examiner's reasoning excuse the City's failure to account for existing amenities as
16 part of the special benefit calculation. As Dr. Crompton testified, existing view amenities
17 may in fact diminish the incremental effect of new park improvements on the value of
18 properties, much like turning on a weak light in an already brightly illuminated room. *See*
19 Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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39 6. To the extent benefits can be considered "special" as opposed to general, they
40 are nominal or nonexistent for many properties even in the Central Waterfront, which
41 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
42 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
43 change due to expansion of sewer service *near* owners' parcel which were already
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1 connected). Here, again, Ninth and Lenora LLC provided testimony that the primary reason
2 tenants choose the Stratus is not proximity to the water, but instead proximity to major
3 employment centers like Amazon in the South Lake Union area. Even if the City could
4 assess for a view change (and it has promised not to assess for viaduct removal), the fair
5 market value of NINTH AND LENORA LLC'S property has not changed because the LID
6 Improvements have not improved the property's waterfront view or access to the waterfront,
7 nor will they when the City anticipates completion in 2024. For these reasons, Ninth and
8 Lenora LLC appeals the following portions of the Examiner's Recommendation: Sections
9 IV.C.3, IV.B.9, and IV.C.3.

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19 7. No analysis of special detriments. The Final Study fails to properly account
20 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
21 owners for removal and cleanup of underground storage tanks discovered during the
22 improvement project). Mr. Lee testified that the market would not support increasing rental
23 rates today to absorb the LID assessment when the special benefits, to the extent any exist,
24 will not be effective until at least 2024. 3/11/2020 Hrg. Tr. at 170:13-172:20. Therefore, the
25 LID assessment in an immediate expense that comes with no immediate increase in revenue,
26 thereby decreasing the property value. This was not accounted for by the Mr. Macaulay.
27 Although Mr. Macaulay claims he analyzed impacts on the City's planned elimination of
28 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how lost parking
29 might be a detriment, and no property-specific parking analysis in any of his materials.
30 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.

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43 8. Likewise, there was no analysis of the risks associated with disamenities such
44 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
45 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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1 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
2 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
3 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
4 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
5 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
6 the maintenance agreement. *Id.* at 13:4-14:2.
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12 9. There was also no consideration of negative impacts from another four-plus
13 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
14 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
15 law allowing him to dismiss these actual, non-speculative impacts. Because future special
16 benefits calculations are inherently speculative, Washington's eminent domain statute
17 specifically allows condemnees to postpone special benefits assessments until improvements
18 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
19 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
20 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
21 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
22 Greenway, the Greenway district "significantly" lagged in value). For these reasons, Ninth
23 and Lenora LLC appeals the following portions of the Examiner's Recommendation:
24 Sections II.25, IV.B.8, and IV.B.9.
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38 10. Special benefit estimate is speculative. When calculating a special benefit,
39 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
2 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
3 P.2d 1078 (1958)).
4

5
6 11. Assuming without conceding that one day, the City’s planned LID
7 Improvements might increase the value of neighboring properties to some extent, that
8 potential benefit is many years away and speculative. While appraisers tolerate some degree
9 of estimation and judgment, Ninth and Lenora LLC’s expert testified that Mr. Macaulay’s
10 Final Study is far too speculative to satisfy industry practices and standards.
11

12 12. Although LIDs are sometimes finalized prior to completion of improvements,
13 this is typically just six month or a year prior, and the assessments are otherwise supported
14 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
15 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
16 will not be realized for four or five years. In the meantime, there is permitting risk,
17 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
18 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
19 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
20 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
21 projects because “we can’t read the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
22 testified: “I just don’t know what the market value would be as of the date the project would
23 be finally constructed” because “[t]here could be a lot of elements in the market that did
24 occur between now and then that impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
25 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
26 in 2024 because “markets tend to fluctuate over time” and “I can’t predict the future”).
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1 13. The record is clear that while no one can know what “special benefit” might
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3 accrue to these properties in four years (if any), we do know that there are no actual benefits
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5 now. The LID improvements provide no immediate special benefit to property owners
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7 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
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9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
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11 sewer system for future users).

12 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
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14 for the LID Improvements, and it is unlawful to move to final assessments without such
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16 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
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18 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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20 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
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22 dollars on projects still early in the design process. *See* Washington Attorney General
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24 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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26 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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28 of programs and included “only so much of the overall costs” that took place within and
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30 benefitted the assessed properties).

31 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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33 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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35 anticipated to be delivered five years later. Even before COVID, it was speculative to
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37 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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39 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
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41 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
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43 my analysis in October 2019, who would have thought that this COVID issue would
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45 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
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1 process was that the market was going to continue to go up.” *See* Gibbons Decl. ISO
2 Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as
3 of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has impacted
4 *current* values and rendered the hypothetical October 2019 Final Study valuations outdated.
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8 16. As another example of how future events could affect the accuracy and
9 reliability of the City’s 2019 proposed assessment, Ninth and Lenora LLC recently
10 requested the Hearing Examiner re-open the record to allow the City to explain whether the
11 assessments against property owners within the LID are, in fact, being used by the City to
12 fund the emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the
13 City plans to use LID funding to pay for the expedited, emergency repairs and replacement.⁵
14 If true, the City would be improperly imposing costs on property owners within the LID for
15 improvements that are required to maintain the safety of Pier 58 and to remove a threat to
16 critical salmon habitat and City infrastructure—this does not provide any special benefit to
17 LID property owners.
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20 17. There is also no certainty the improvements will be delivered on time. Mr.
21 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
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⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier 58 (Waterfront Park) Emergency Demolition Project, available at <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; *see also* Aug. 13, 2020 Ltr. from H. Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations, available at <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8, 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.

1 delay in construction schedule would not constitute a “material change” under the City
2 Council’s ordinance authorizing the improvements. In other words, the City cannot
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4 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
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6 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Ninth and Lenora LLC’s experts Reid
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8 Shockey and Richard Shiroyama testified via declaration as to the City’s permitting gauntlet,
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10 and potential delays and project changes inherent in those processes, that call into question
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12 the assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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14 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
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16 Decl., dated 4/15/2020).

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18 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
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20 he could not point to a single one where the assessment roll was finalized five years in
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22 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
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24 he has never recommended final special assessments based on designs less than 30 percent
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26 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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28 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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30 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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32 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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34 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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36 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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38 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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40 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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42 68:11-18.

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44 19. The City has cited no authority—and Ninth and Lenora LLC is aware of
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46 none—that affirms the use of hypothetical, anticipatory Before and After values in order to
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1 estimate and assess taxes for “actual” special benefits that will not accrue for another five
2 years (if all goes off without a hitch). To the contrary, the hypothetical assumption that all
3 of the Before and After Improvements are constructed as of October 1, 2019 allows Mr.
4 Macaulay to base his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
5 411. For these reasons, Ninth and Lenora LLC appeals the following portions of the
6 Examiner’s Recommendation: Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5,
7 IV.B.6, IV.B.11(c), IV.C.12, IV.C.14, and IV.C.18.
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15 20. Failure to discount special benefit estimates to account for risks and present
16 value. Due to the inherent uncertainty, Ninth and Lenora LLC’s expert opine that the Final
17 Study should have accounted for risks associated with delivery of the improvements
18 (including permitting risk, construction risk, general economic risk) and any special
19 damages associated with interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-
20 120:9, 59:20-60:20. In addition, as is typical appraisal practice, Mr. Macaulay should have
21 discounted the anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-
22 55:1; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers
23 routinely consider the impact of future conditions [through] discounted cash flow
24 analysis.”).
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34 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
35 future condition not in place at the date of valuation and can discount for the time value of
36 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
37 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
38 Discounting would also have been consistent with his approach for analyzing special
39 benefits to vacant land. He testified that the difference between similarly situated vacant
40 sites slated for development and already developed sites was that the labor, capital and risks
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1 associated with development had not yet been borne for those vacant sites. Therefore, the
2 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
3 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
4 fully permitted, has not completed environmental review, and has not reached full design is
5 presently worth significantly less.
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10 22. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
11 present value, an appraiser would consider discount rates for land development to account
12 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
13 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
14 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
15 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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23 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
24 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
25 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
26 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
27 ignoring momentarily all of the other methodological and other flaws discussed here and in
28 Ninth and Lenora LLC's case-in-chief, and assuming that the LID Improvements provide
29 special benefits as soon as they are complete in 2024, Mr. Macaulay's hypothetical
30 assessment materially exceeds special benefits when reduced to present value. Further, to
31 the extent the City is arguing that because they are permitted to assess 100% of the special
32 benefit, the special benefit estimate can be off by 60.8% because they only assess 39.2% of
33 that benefit, the City is again wrong. After applying proper discounting, the City's proposed
34 special benefit assessment is far more than 39.2% of the total estimated special benefit, and
35 in fact exceeds 100% of the total estimated special benefit.
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1 24. But even the assumption that the LID improvements would deliver benefits
2 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
3 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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5 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
6 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
7 indicates that during the construction period, the Greenway district “significantly” lagged in
8 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
9 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
10 30-31 (discussing New York City High Line and San Francisco Embarcadero
11 improvements). Given the lengthy delay, any prediction of future special benefits is
12 speculative, especially during the construction phase where values are likely to decline. And
13 assuming the LID Improvements take a similarly long period of time after they are complete
14 to start producing tangible property value benefits, each additional year of delay results in
15 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
16 Closing Stmt., ¶ 19, Ex. A.

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18 25. Applying the same discounting methods described above and in Mr. Gibbons
19 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
20 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
21 before applying the 39.2% percentage assessment. *Id.* For Ninth and Lenora LLC, this
22 means at most the 100% assessment should be no more than \$39,940.80. Anything more
23 would permit the City to assess Ninth and Lenora LLC based on a hypothetical assumption
24 that these improvements are in place and providing benefit, and ignore the risks,
25 construction disamenity, and time value of money that normal appraisal principles would
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1 take into account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be
2 only 39.2% of that assessment cap, or \$15,656.79.
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4 26. Attachment C includes two Excel spreadsheets applying these discounting
5 methods to Ninth and Lenora LLC's assessment. It is undisputed that special benefits will
6 not actually accrue until the LID Improvements are complete in 2024. Accordingly, the first
7 spreadsheet demonstrates that discounting the City's hypothetical October 2019 special
8 benefits to present value would reduce Ninth and Lenora LLC's assessment to \$56,998,
9 exclusive of any other flaws in the City's proposed assessment. The second spreadsheet
10 shows even more drastic reductions after taking into account: (1) a rough discount for
11 property value loss due to COVID-19 and (2) discounting to present value for 5 years (*i.e.*,
12 from 2024 when the City anticipates completing the LID Improvements) and 10 years (*i.e.*,
13 from 2029 to account for the time it takes for the improvements to capture property value).
14 After such reductions, Ninth and Lenora LLC's assessment would be just \$49,873 (for the 5-
15 year discount) or \$13,703 (for the 10-year discount). Further, the spreadsheet concludes a
16 "zero" benefit for this property because, based on Dr. Crompton's testimony, Ninth and
17 Lenora LLC's property is more than 2,000 feet from the core "park" improvements and
18 therefore too distant to receive any special benefit. Neither of these spreadsheets address
19 other issues raised by Ninth and Lenora LLC's appeal, but are intended to help demonstrate
20 how unfair and inflated the City's proposed hypothetical assessment is. The Hearing
21 Examiner's Recommendation simply dismisses Ninth and Lenora LLC's discounting
22 argument without legal or factual analysis; that failure is error.
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1 **Appraisal and Assessment Calculation Methods Are Flawed**

2 27. The “general rule is that each lot, piece, or parcel of land should be assessed
3 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
4 Wn.2d at 97.
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6 28. It is proper to sustain a challenge to an assessment, even without the appraisal
7 testimony from the owner, where the objector’s expert establishes that the assessment was
8 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
9 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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11 29. The City’s appraiser purports to utilize the income method of valuation but
12 relied on inaccurate revenue and market data, as discussed further below.
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14 30. The City’s appraiser purports to utilize the comparable sales method of
15 valuation, but no City witness attempted “to characterize any one, or all of them, as
16 comparable to [Ninth and Lenora LLC’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406
17 (finding “several serious flaws” in ABS’s LID analysis in that case, including that the
18 appraiser “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt
19 to characterize any one, or all of them, as comparable to any particular property within the
20 LID”). And no City witness could explain how specific adjustments were made to these sales
21 to account for value increases due to the hypothesized Before and After Improvements. For
22 this reason, Ninth and Lenora LLC appeals Section II.23 of the Examiner’s Recommendation.
23

24 31. Special assessment improperly includes value lift from the Before
25 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
26 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
27 Improvements, which WSDOT had independently committed to fund. However, Mr.
28 Macaulay did not calculate the actual market value of LID properties in October 2019, and
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1 did not separately analyze the hypothetical increase to property values attributable to
2 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
3 current value and then separately calculate a hypothetical "With WSDOT" Before value);
4 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
5 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
6 3-4. Without any documented basis or support, Mr. Macaulay simply "ma[de] a judgment a
7 call" on what occupancy and rates would have been for the commercial properties assuming
8 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
9 130:11. This outright omission precludes any independent evaluation of the true market
10 "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
11 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
12 must explain how he analyzed that data and other information to come up with the
13 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
14 removal of the viaduct, but also other road, pedestrian and landscaping improvements
15 WSDOT had already committed to make.

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31 32. However, because Mr. Macaulay testified that he did include some WSDOT-
32 related value-lift in the "Before" values, it follows that part of the special assessment
33 improperly is based on value attributable to the WSDOT Improvements. As shown by
34 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
35 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
36 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
37 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
38 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
39 to properly exclude the value of Before Improvements from the assessments. For these
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1 reasons, Ninth and Lenora LLC appeals the following portions of the Examiner's

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3 Recommendation: Sections II.19, II.29, and IV.B.11(a)(ii)

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5 33. Special benefits were assigned rather than measured. Mr. Macaulay
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7 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
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9 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
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11 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
12
13 Macaulay used to analyze the commercial properties, Ninth and Lenora LLC's experts
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15 concluded that Mr. Macaulay based adjustments on hypothesized very small increases to
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17 property revenue and very small reductions to cap rates to "calculate" an "After" value due
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19 to the coming 2024 LID Improvements. Attachment B (ABS Spreadsheet). These series of
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21 micro adjustments were based on "professional judgment" that are neither shown nor
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23 replicable.

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25 34. For these reasons, Ninth and Lenora LLC appeals the following portions of
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27 the Examiner's Recommendation: Sections II.19 and IV.B.11(a)(iii).

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29 35. Special benefit falls within margin of error. The Final Special Benefit Study
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31 applies an estimated value enhancement of less than 4%, which is generally within the
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33 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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35 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
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37 Ninth and Lenora LLC's experts explained that if two appraisers independently arrive at
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39 values within 5% of one another, this difference is considered reasonable as it falls within
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41 the standard margin of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at
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43 164:2-9. Because Mr. Macaulay's micro-special benefit percentages fall far below that 5%
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45 margin, "there is no way of authenticating" such incremental changes because "[m]arket
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47 forces completely obliterate any tiny little noise factor like that." *See* 3/3/2020 (A. Gibbons)

1 Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too
2 small to measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to
3 measure a difference in revenue and cap rates for Ninth and Lenora LLC's property within
4 that margin. Additionally, the fact that "Before" values are also based on a hypothetical that
5 adds some unstated incremental value to actual 2019 values exacerbates this issue—the
6 ability for an appraiser to discern the micro-value differences between hypothetical
7 conditions that are so similar (the WSDOT improvements compared to the LID
8 improvements) "verges on being ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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11 36. Even if it were possible to accurately tease out such a miniscule hypothetical
12 value change due to improvements coming five years later, experts testified that there is no
13 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
14 what he felt the changes (hypothetically) would be. *See*, 3/3/2020 (A. Gibbons) Hrg. Tr. at
15 88:21-88:24 ("you cannot measure one percent difference in a high-rise building for this
16 kind of a medium ... it's simply assigned to a before value"). For these reasons, Ninth and
17 Lenora LLC appeals the following portions of the Examiner's Recommendation: II.27 and
18 IV.B.4.
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21 37. No analysis of value increase attributable to individual components of the
22 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
23 percentage difference between hypothetical Before and After conditions. Throughout his
24 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
25 descriptions in the Addenda even though he testified that he relied on these to calculate
26 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
27 someone might be able to determine how he attributed value to After conditions described in
28 the Addenda, he answered that that was "not the scope of the assignment" because he was
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1 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
2 that the six components were not actually a continuous project, that he was viewing them
3 together because the City asked him to, and that if he were to view them independently,
4 there was a low probability that properties in the north would specially benefit from
5 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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10 38. Not only did he fail to analyze benefits from each of these non-contiguous
11 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
12 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
13 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
14 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
15 objectives that guided regulators' assessment of architectural plans for buildings along a
16 "signature street" were so vague that they amounted to ad hoc review based on the
17 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
18 even though he used the renderings as "visual aid[s] in appraising the property in the before
19 and after" to "visually see what the differences would be," he could not explain what
20 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
21 when shown a rendering of a two-lane road going down to one-lane in the After condition
22 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
23 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. See RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
2 could explain the depiction of the same trees in the After condition nearly twice as tall as in
3 the Before. *Id.* at 173:17-175:4. For these reasons, Ninth and Lenora LLC appeals the
4 following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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8 39. Special assessment is not supported by comparable studies, data or reports.
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10 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
11 that the LID Improvements will lead to meaningfully increased real estate values for Ninth
12 and Lenora LLC. Indeed, no City witness was able to explain how ABS Valuation used
13 comparable sales or information from the “over twenty-five studies and reports” to arrive at
14 very precise special benefit increases for the commercial properties, including Ninth and
15 Lenora LLC’s property. For example, although Mr. Macaulay stated that no single report or
16 study was directly on point due to the unique nature of the LID Improvements (*see, e.g.,*
17 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments
18 in his parcel-by-parcel analysis other than to say that the studies generally provided “some
19 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
20 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
21 similarities and differences between these improvements and the comparable parks he
22 looked at).
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26 40. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
27 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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29 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
30 research misinterprets his work in critical ways, including because the LID Improvements
31 manifest the characteristics of a parkway (not a park), and his research indicates that most of
32 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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1 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
2 related value increases are in fact smaller; that estimated increases are “best guesses” rather
3 than predictions of property value increases in a particular city; and that percentages do not
4 account for diminishing returns after taking into account water views, which would be the
5 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
6 topography grants most properties in downtown a water view.
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12 41. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
13 that this was just one source of information that was not entirely relevant because, among
14 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
15 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
16 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
17 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
18 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
19 Crompton concluded that 500 feet via road from “park” improvements is just one or two
20 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
21 significantly beyond that which the park study indicated (even if it was legitimate to use the
22 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
23 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
24 impact applicable to “community parks”—which the LID Improvements are not. *Id.* Ninth
25 and Lenora LLC’s property is not within 2,000 road network feet from the “park”
26 improvements. *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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42 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
43 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
44 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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1 based on the attention given to Dr. Crompton's work in the Final Study and supporting
2 materials, it was clearly an important—if not *the* most important—source of information for
3 estimating special benefits (especially with respect to the condos).⁷ No City witness
4 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
5 parcel-by-parcel analysis.
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10 43. The destination parks discussed in the Final Special Benefit Study do not
11 provide reliable, comparable, and valid support for the calculation of special assessments
12 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
13 Study were funded by a LID. And in virtually all of those cases, the park improvements
14 dramatically restored unimproved or blighted areas, and properties evaluated were within
15 two or three blocks of the park.
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18 44. ABS's claimed reliance on three economic studies to support property value
19 increase is also flawed. The HR&A study does not inform what value increases are
20 expected from the LID Improvements because it projects increases to tourism from *all* of the
21 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
22 dissimilar parks in other cities,⁸ making the methodological application to the LID
23 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
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37 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
38 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
39 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
40 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
41 park (or streetscape) improvement—other studies estimated premiums for real estate only much
42 closer or cited to Dr. Crompton.

43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 conclusion that there would be *no new net visitors* from downtown residents as a result of
2 the LID Improvements and could not explain how this impacted his condo analysis.
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4 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
5 Property Values” primarily focused on whether the benefits accrue to the larger community
6 rather than properties adjacent to the park. And the 2014 New York City Department of
7 Transportation study is not based on real estate transactions and market sales and fails to
8 substantiate any link between increased retail sales and property values. Moreover, this
9 study only looked at impact either directly abutting the streetscape improvement, or a couple
10 hundred feet for plaza-like improvements.
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18 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
19 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
20 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
21 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
22 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
23 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
24 asked whether he considered that HR&A’s estimated LID impact is six times greater than
25 TPL’s assessment of Seattle’s entire park system, his surmised that it was because the
26 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
27 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
28 assumptions to account for this difference, which may be partly explained by the fact that
29 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
30 approximately 3.44% of King County tourists visit Seattle primarily because of the city
31 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
32 waterfront improvements.
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1 46. Although proximity to the improvements is a key factor in all of these
2 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
3 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
4 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
5 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
7 Improvements is approximate 20 acres and it is not a community park.⁹

8 47. There is no explanation in the Final Study or the supporting materials of how
9 the studies or comparable sales were used to derive values for Ninth and Lenora LLC's
10 property. For these reasons, Ninth and Lenora LLC appeals the following portions of the
11 Examiner's Recommendation: Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30,
12 II.32, and IV.C.5.

13 48. Failure to comply with USPAP. Ninth and Lenora LLC's assessment also
14 rests on a fundamentally wrong basis due to the City's appraiser's decision to utilize a
15 hybrid mass-appraisal method. Randall Scott, a former mass appraiser responsible (and
16 professionally recognized) for developing the MAI standards for mass appraisals, testified
17 that the Final Study does not meet mass appraisal standards nor allow for independent
18 assessment of the accuracy of Mr. Macauley's conclusions.

19 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
20 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
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24 ⁹ *See*
25 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
26 connecting Seattle's central waterfront to downtown.").

1 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
2 testimony suggests that he incorrectly believed that the only difference between direct
3 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
4 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
5 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
6 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
7 Gordon uses in doing his limited restricted report").
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10 50. But the difference is not only in reporting—mass appraisal techniques must
11 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
12 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
13 parcel approach:
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15 The mass appraisal technique is an appraisal method used to evaluate
16 a group of properties that are subject to similar market forces as of a
17 certain date through the use of market data, statistical analysis and
18 testing. As a result, the mass appraisal technique does not require or
19 involve analysis of each individual property's specific data.
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21 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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23 51. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
24 universe of properties as a given date using standard methodology, employing common data,
25 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
26 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
27 model" is "a mathematical expression of how supply and demand factors interact in a
28 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
29 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
30 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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1 52. Regardless of client direction, Mr. Macaulay is required to comply with
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3 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
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5 economically feasible because it would have taken “an incredible amount of time and cost”
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7 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).

12 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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14 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
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16 value, fails to calibrate the model structure to determine the contribution of the individual
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18 characteristics affecting value, and does not review the mass appraisal results against actual
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20 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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22 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

23 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
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25 proximity to the elements, the increase in market rent, market vacancy changes,
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27 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
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29 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
2 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
3 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
4 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
5 were hypothetical, it was not possible to identify matched pair sales and no City witness
6 explained how ABS Valuation made adjustments to “comparable” sales in order to check
7 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
8 him to explain his model structure.
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11 55. For these reasons, Ninth and Lenora LLC appeals the following portions of
12 the Examiner’s Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Ninth and
13 Lenora LLC renews Objectors’ Motion To Exclude The Expert Testimony of Robert J.
14 Macaulay, filed on April 8, 2020, and appeals the Examiner’s denial of that motion.
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17 56. Finally, Ninth and Lenora LLC’s property is not appurtenant—or even in
18 close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the
19 burden of proving special benefit” shifted to the City because the protestors’ parcels merely
20 stood “in close proximity to the property on which expert testimony was given”). Indeed,
21 Ninth and Lenora LLC’s property is not even within 2,000 road network feet from the core
22 “park” improvements. And, as described above, the special assessment is overstated
23 because the Final Study makes no attempt to determine general benefits, existing amenities
24 for Ninth and Lenora LLC’s specific property, or special detriments. In addition, it is
25 speculative due to the fact that, as of October 2019, improvements were not in in place—
26 and, in fact, much of the waterfront is a construction zone following removal of the viaduct
27 and now Pier 58 demolition. Under these circumstances, rather than relying on entirely
28 imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have
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1 discounted the special benefit estimates or waited to perform the Study until the
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3 improvements were at least close to complete.
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5 **Erroneous Pre-Improvement Valuation**

6 57. The proposed final assessment erroneously overstates the pre-improvement
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8 value of Ninth and Lenora LLC's property as of October 1, 2019 and, as a result, overstates
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10 the special benefit to the Ninth and Lenora LLC's property.
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12 58. The City's Final Study was used to compute the proposed final assessment of
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14 NINTH AND LENORA LLC'S property. The City's Study purportedly uses data from the
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16 King County Department of Assessments,¹¹ but the pre-improvement valuation information
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18 in the Final Study does not accurately reflect this data. For example, the City's Study values
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20 NINTH AND LENORA LLC'S property at \$345,614,000 as of October 1, 2019. However,
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22 the King County assessor determined the true and fair value of the property to be
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24 \$276,331,000, valued in 2019 for tax year 2020. In other words, the Final Special Benefit
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26 Study's valuation is 125% of King County's assessed value. The Final Special Benefit Study
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28 does not explain this difference—or any differences—between its pre-improvement
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30 valuation and its supposed source for market data. For this reason, Ninth and Lenora LLC
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32 appeals Section IV.C.11 of the Examiner's Recommendation.
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34 59. Thus, aside from multiple other reasons why computation of the special
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36 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
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38 improvement values that do not accurately reflect market data. For these reason, Ninth and
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40 Lenora LLC appeals the following portions of the Examiner's Recommendation: Section III.
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45 ¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

Erroneous Computation of Special Benefit

60. “Special benefit” is “the increase in fair market value attributable to the local improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?” *Id.* 165–66.

61. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

62. Spreadsheets show arbitrary changes to revenue and capitalization rates. As stated previously, Mr. Macaulay’s spreadsheet for the Stratus combined the property’s two parcels for purposes of estimating value and changes. Mr. Macaulay assumed rental rates would increase by 0.05% (low) and 0.25% (high) due to the 2024 LID Improvements. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same percentages (0.05% and 0.25%) to increase revenue from retail and parking. He then uses this hypothesized increased revenue to calculate a new net operating income for the commercial properties and capitalizes that to come up with an “After” valuation.

63. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net operating income remains the same as in the hypothetical “Before” condition, but changes the cap rate. For the Stratus, the cap rate goes from 4.05% to 4.040% (low scenario, creating a bigger value increase) and 4.045% (high scenario, creating a lower value increase).

1 64. Mr. Macaulay then averages his four “After” values to arrive at a final special
2 benefit conclusion. For the Stratus, this is an increase in property value of 0.12% due to the
3 LID Improvements.
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5 65. Mr. Macaulay offered little justification for his micro adjustments to revenue
6 and capitalization rates. When asked precisely what the basis is for his special benefit
7 percentage increases to revenue for each commercial property, he could not point to
8 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
9 is nothing in the report to allow a reader to understand how he came up with these
10 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
11 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
12 the basis for his belief that certain factors—liked increased connectivity—will increase
13 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
14 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
15 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
16 sources equally even though there was no separate analysis done for food and beverage or
17 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Ninth and Lenora LLC’s
18 expert’s conclusion that the adjustments are arbitrary and fall below generally accepted
19 margins of error, and that there is no actual, measurable, non-speculative special benefit to
20 Ninth and Lenora LLC’s properties.
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22 66. Mr. Macaulay testified that he used comparable sales as a reasonableness
23 check for commercial properties. But as explained above, no City witness has explained
24 how anyone, or all, of the sales are comparable to any particular commercial property within
25 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
26 in order to make sales “comparable,” he would have had to make adjustments to account for
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1 Before and After conditions, but there is no way to understand how adjustments were made
2 because he “didn’t do a separate sales comparison approach where we showed adjustments
3 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
4 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
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9 *Id.* at 127:10-128:24.

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11 67. It also bears noting that any “internal review” of the special benefit estimates
12 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
13 error. Indeed, given all the same information, he seemed to suggest that it would be
14 perfectly reasonable for another experienced appraiser to come up with special benefit
15 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
16 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18 margin of error conflicts with the testimony of Ninth and Lenora LLC’s experts and
19 reaffirms that there are absolutely no standards governing his process. *See id.* at 91:6-94:5.
20 Even if the typical margin of error (5%) is a “rule of thumb” and not a “hard legal standard,”
21 there are still reasonable and unreasonable variations within the appraisal field. *See*
22 Examiner’s Recommendation at IV.B.4. Thus, the special assessment is not actual,
23 measurable or special because it is arbitrarily assigned; and it is too small to realistically be
24 supported by appraisal techniques.
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39 68. No evidence of special benefit. Meanwhile, there is “no actual evidence from
40 any seller or purchaser that the price was higher because of the LID improvements.”
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42 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
43 identified any seller or buyer, or any particular property where the existence of the LID
44 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Ninth and
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1 Lenora LLC has explained that the property has not increased rental rates or revenue due to
2 the forthcoming LID Improvements, because, among other reasons (and apart from
3 COVID), the improvements ABS believes will generate value do not exist, and will not for a
4 number of years to come. There are no comparable sales because the LID Improvements are
5 not in place, nor will they be until the end of 2024 if completed on schedule.
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10 69. The fair market value of NINTH AND LENORA LLC'S property has not
11 changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property
12 was not specially benefited from installation of new water main and fire hydrant where it
13 was already adequately supplied with water and afforded adequate fire protection). And in
14 any event, any value attributable to removal of the viaduct was to be excluded from the
15 assessment calculation.
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22 70. There is no special benefit because LID improvements in fact diminish the
23 value of Ninth and Lenora LLC's property by drawing visitors away towards improvements
24 that do not abut the property, increasing competition for the retail component. *See Kusky*, 85
25 Wn. App. 493 (testimony of owners' expert that LID actually diminished value of property
26 was sufficient to rebut presumption that assessment was proper).
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32 71. Moreover, the assessment formula is an attempt to distribute costs that do not
33 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
34 "merely a mathematical model that distributes costs").
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38 72. The Special Benefit Study fails to address whether the \$346,000,000
39 estimated LID project cost takes into account the investment that would have occurred in the
40 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
41 invested. This is a critical component of estimating which properties receive a direct benefit
42 from the improvements, versus more incidental benefits further from the park.
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1 73. Mr. Macaulay also included personal property in his valuation of hotels even
2 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
3 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
4 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
5 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
7 receiving a disproportionately high LID assessment in comparison to other property types,
8 since hotels were the only property type subject to personal property LID assessments.
9 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
10 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
11 notice procedures because hotel property owners only received notice that their real estate
12 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).

13 74. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
14 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
15 a television at the waterfront Marriott is assigned a greater special benefit than the same
16 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
17 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
18 unreasonable to assign a value lift to personal property that is replaceable at the same cost
19 and may be obsolete before the LID improvements are even completed. Further, personal
20 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
21 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
22 be redone to correct for this error.

23 75. The proposed final assessment substantially exceeds the special benefit to the
24 property and is grossly disproportionate to similarly situated properties within the LID. For

1 these reasons, Ninth and Lenora LLC appeals the following portions of the Examiner's
2 Recommendation: Sections II.22, II.23, II.27, IV.B.4 and IV.B.11(a)(iii).
3

4
5 **State Environmental Policy Act and Other Environmental Permitting**
6

7 76. While this appeal is not challenging the City's environmental review and
8 permitting processes, those processes are relevant in determining the legality of the
9 assessments, and to assessing the delivery risk, the present value of the City's plans, and
10 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
11 pursue projects that have not yet undergone environmental review (thus limiting the choice
12 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
13 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
14 is just beginning. Further, the City has segmented environmental review, and still has a
15 gauntlet of federal, state and tribal review processes to complete before it will be clear what
16 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
17 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
18 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
19 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
20 committing to reconstruction of Pier 58 and major street improvements without
21 environmental review, or the City's Final Special Study has improperly included and is
22 proposing to assess the Ninth and Lenora LLC the costs and special benefits of
23 improvements that may not get built. Either way, it is faulty process.
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41 **Due Process Rights**
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43 77. The City's failed to notify NINTH AND LENORA LLC sufficiently in
44 advance of the hearing to allow NINTH AND LENORA LLC to obtain evidence and
45 prepare to properly challenge the assessments. Because LID assessments involve a
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47

1 deprivation of property, affected owners have the right to a hearing as to whether the
2
3 improvement resulted (or will result) in special benefits to their properties and whether their
4
5 assessments are proportionate, which necessarily includes the right to adequate notice of the
6
7 hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761
8
9 (2010).

10
11 78. The LID statute specifies that cities must mail notices giving the time and
12
13 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
14
15 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
16
17 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
18
19 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
20
21 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
22
23 secure their own appraisal), evaluate proportionality of the proposed assessments, and
24
25 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
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27 for anybody to get an appraisal”).

28
29 79. The City’s Notice of Assessment was sent on December 30, 2019. And the
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31 Final Special Benefit Study has only been available for public review since January 7, 2020.
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33 Due to this short time frame, NINTH AND LENORA LLC requested a prehearing
34
35 conference and scheduling order that would preserve and protect Ninth and Lenora LLC’s
36
37 right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct
38
39 depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay
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41 between SEPA and the City’s assessment of taxes for Pier 58 and Pike/Pine improvements).
42
43 The Hearing Examiner erroneously denied that request. For this reason, Ninth and Lenora
44
45 LLC appeals the following portions of the Examiner’s Recommendation: I.B.
46
47

1 **VII. Relief Requested**

2 NINTH AND LENORA LLC respectfully requests that the City Council:

- 3
- 4 1. Reject the Hearing Examiner's recommended denial of Ninth and Lenora LLC's
- 5 objection; and
- 6
- 7 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
- 8 assessment dated December 30, 2019; or
- 9
- 10 b. Revise Ninth and Lenora LLC's Waterfront Local Improvement District No.
- 11 6751 proposed final assessment to \$0 (zero), or such amount as Ninth and
- 12 Lenora LLC establishes at the hearing in this matter; or
- 13
- 14 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
- 15 and reduce Ninth and Lenora LLC's assessment using recognized appraisal
- 16 techniques consistent with USPAP and:
- 17
- 18 i. Excluding any property value increase attributable to viaduct removal
- 19 and other planned WSDOT Improvements;
- 20
- 21 ii. Taking into account the effects of the COVID-19 pandemic on the
- 22 value of Ninth and Lenora LLC's property and other relevant
- 23 developments since October 2019;
- 24
- 25 iii. Accounting for and excluding (1) any special benefits from existing
- 26 or planned improvements that already provide similar benefits to
- 27 Ninth and Lenora LLC's property, and (2) any special detriments
- 28 from construction and other anticipated LID-related disamenities;
- 29
- 30 iv. Accounting for and including only those actual benefits anticipated to
- 31 accrue to Ninth and Lenora LLC's property based on its location
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1 relative to Pier 58, Overlook Walk, and the Promenade, and specific
2 elements of the LID Improvements;

3
4
5 v. Discounting anticipated special benefits to present value, based on
6 reliable estimates regarding when special benefits will start accruing
7 following completion of the LID Improvements; and
8

9
10 vi. Accounting for such other issues specific to Ninth and Lenora LLC's
11 property relevant to calculation of such assessment; and
12

13
14
15 2. Grant such further relief as the City Council deems just and proper.
16

17 DATED: September 22, 2020

PERKINS COIE LLP

18
19
20
21
22
23 By: 

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Attorneys for NINTH AND LENORA LLC

3:51 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0411
Date: Tuesday, February 16, 2021 3:32:02 PM
Attachments: [Stratus 2 Amended LID Appeal before City Council \(CWF-0411\).pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Stratus 2 Amended LID Appeal before City Council (CWF-0411).pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0411

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON NINTH AND
LENORA LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0660000545

32
33
34 NINTH AND LENORA LLC (“Taxpayer”) files this amended appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
36 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
37
38 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
39
40 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
41
42 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
43
44 Recommendation issued February 1, 2021.
45
46
47

1 **I. NINTH AND LENORA LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 NINTH AND LENORA LLC

6 Attn: Tax Manager

7 125 High Street

8 Boston, MA 02110

9 425-635-1400

10 jlutz@perkinscoie.com

11
12 **II. NINTH AND LENORA LLC's Representatives**

13 NINTH AND LENORA LLC'S representatives in this matter are:

14
15
16
17 R. Gerard Lutz, WSBA No. 17692

18 JLutz@perkinscoie.com

19 Perkins Coie LLP

20 10885 N.E. Fourth Street, Ste 700

21 Bellevue, Washington 98004

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24
25
26 **III. Statement of NINTH AND LENORA LLC's Interest and Incorporation of**
27 **Prior Arguments**

28 NINTH AND LENORA LLC owns the property that is subject to the proposed final
29 assessment described in Section IV.

30
31
32 NINTH AND LENORA LLC is amending its appeal as authorized in City of Seattle
33 Resolution 31979 to include additional arguments relevant to the revised Final
34 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
35 2020, NINTH AND LENORA LLC timely filed an objection to the assessment, which was
36 based on the Final Study. NINTH AND LENORA LLC further timely filed an appeal of the
37 Hearing Examiner's 2020 recommendations to the City Council. NINTH AND LENORA
38 LLC maintains and incorporates all objections and arguments raised in its appeal filed with
39 the City Clerk on September 22, 2020. This amendment is a supplement is to be read

1 together with NINTH AND LENORA LLC's appeal filed on September 22, 2020. NINTH
2 AND LENORA LLC incorporates by reference all filings, evidence, and pleadings filed by
3 any party before the Hearing Examiner as authorized by the Hearing Examiner, including
4 without limitation all records pertaining to the November 2020 through February 2021
5 remand hearing ordered by Council.
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11 **IV. Amended Arguments on Appeal**

12 NINTH AND LENORA LLC supplements its appeal of the Hearing Examiner's
13 recommendation to deny NINTH AND LENORA LLC's objection to the City of Seattle's
14 Waterfront Local Improvement District No. 6751 proposed final assessment dated
15 December 30, 2019 against the following property:
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21 King County Parcel No. 0660000545
22 Site Address: 2101 9th Ave. Seattle, Washington (Property Id search)
23 2118 Westlake Ave. (Special Benefit Study)
24 820 Lenora St. (King County Assessor)
25 Proposed Final LID Assessment for Parcel: \$166,133
26

27 To avoid repetition, NINTH AND LENORA LLC incorporates the evidence and
28 arguments raised before the Hearing Examiner and before the City in its September 22, 2020
29 appeal, into this amended appeal.
30
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32

33 **A. The Anticipated Special Benefits to NINTH AND LENORA LLC's**
34 **Property should be Discounted to Present Value and Assessments**
35 **Adjusted as Appropriate**
36

37 On remand, the City's appraiser acknowledged that special benefits to parcels can be
38 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
39 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
40 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
41 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
42 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
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1 accepted that recommendation. The City’s appraiser further acknowledged that benefit
2 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
3 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
4 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
5 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
6 calculations to present value because the general benefits are not anticipated from the LID
7 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
8 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
10 benefit calculation, and related assessments, to account for the delay between the assessment
11 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
12 standard appraisal practice, and renders the other proposed Waterfront LID special
13 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
14 “fundamentally wrong methods.”

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)

1 property while treating all or most others (including Taxpayer's) differently, and
2 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
3 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
4 for some properties because the benefits are too distant, while assessing other properties as
5 though distant benefits have already been secured. As Taxpayer identified in its September
6 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
7 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
8 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
9 reject the improper calculation of the benefit or remand and require the appraiser to discount
10 the benefits to net present value.
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21 **B. In Light of Covid's Continuing Impact on NINTH AND LENORA LLC**
22 **and other Downtown Property Owners and other Material Changes**
23 **Since October 2019, the LID Should be Cancelled, or at Least**
24 **Assessments Recalculated, to take Into Account Property Value**
25 **Reductions**
26

27 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
28 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
29 other relevant developments since October 2019." When Washington's first COVID
30 restrictions were imposed in March and April 2020, there was an assumption that they
31 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
32 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
33 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
34 gotten much worse. The City has already imposed higher minimum wages and taxes on
35 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
36 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
37 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
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1 years from completion, as a best case. In current circumstances, a downtown tax to fund
2 new, non-essential park improvements against financially strapped taxpayers, and likely
3 passed through to financially strapped tenants and customers would be unfair to taxpayers
4 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
5 rethinks its budget priorities for the next few years, and its potentially funding sources,
6
7 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
8 property owners) have a chance to recover, and that any assessment take into account the
9 changed circumstances since this appeal process started on February 4, 2020 to avoid
10 unnecessarily and perhaps permanently killing downtown properties and businesses in the
11 name of bettering them.
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21 **V. Relief Requested**

22 Particularly in light of the Committee's decision not to take further comment,
23
24 NINTH AND LENORA LLC respectfully request that each Committee member carefully
25 review the record transmitted to Council before voting on our appeal.
26
27

28 NINTH AND LENORA LLC respectfully reiterates its request from the September
29 22, 2020 appeal that the City Council:
30
31

- 32 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
33 assessment dated December 30, 2019; or
34
35
- 36 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
37 proposed final assessment to \$0 (zero), or such amount as Taxpayer
38 establishes at the hearing in this matter; or
39
40
- 41 3. Grant the Examiner's recommended remand but with instructions to
42 recalculate and reduce Taxpayer's assessment using recognized appraisal
43 techniques consistent with USPAP and
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- 1 a. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
3
4
5 b. Taking into account the effects of the COVID-19 pandemic on the
6 value of Taxpayer's property and other relevant developments since
7 October 2019;
8
9
10 c. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
14
15
16 d. Accounting for and including only those actual benefits anticipated to
17 accrue to Taxpayer's property based on its location relative to Pier 58,
18 Overlook Walk, and the Promenade, and specific elements of the LID
19 Improvements;
20
21
22 e. Discounting anticipated special benefits to present value, based on
23 reliable estimates regarding when special benefits will start accruing
24 following completion of the LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property
28 relevant to calculation of such assessment; and
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37 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
3
4

PERKINS COIE LLP

5 By:

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22 Attorneys for NINTH AND LENORA LLC
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3:01 pm, Tue, September 22, 2020

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0412
Date: Tuesday, September 22, 2020 2:36:02 PM
Attachments: [CWF-0412.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0412.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0412

A – Master List of Evidence

B – D-138 Cirrus

C – Discounting for CWF-0412

CWF-0412 Appeal Notice for Cirrus

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Cirrus Apartments

Map Nos.:	D-138
Tax Parcel Nos.:	066000-0575
Property key:	7112
Address	2030 8th Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions
Previous sale:	\$13,400,000 3/25/2014 \$872.40 per SF of land area
Proximity to project:	1,700± feet to Pine Street
Ownership:	Windsor Cirrus LLC
Description:	15,360 SF site on the southeast corner of 8th Avenue and Lenora Street, improved with a 354-unit high-rise apartment building constructed in 2014, 244 stalls and 3,817 SF of street-level retail.

INCOME ANALYSIS Before	Year Built	2014
	Parking	244

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	23	509	11,707	\$2,328	\$4.57
1-bedroom	252	784	197,568	\$2,717	\$3.47
2-bedroom	76	1,063	80,788	\$4,224	\$3.97
3-bedroom	3	1,530	4,590	\$6,360	\$4.16
Total apartments	354	832	294,653	\$3,046	\$3.66
	GBA	NRA			
Retail	3,817	3,817		SF NRA @	\$32.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	3,817	3,817			
Parking Area/Stalls	87,614		244	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	492,461	286,732		SF NRA @	\$49.07
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			

Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	25.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$13.62	28.8%
Net operating income				

Indicated Value

Land Value

	15,360	SF @	\$1,750.00
Residual Improvements	286,732	SF NRA @	\$736.40
	492,461	SF GRA @	\$428.76

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,750.00	\$26,880,000	\$211,150,000	N/A
With LID				
Scenario A1	\$1,753.50	\$26,934,000	\$211,337,000	0.09%
Scenario A2	\$1,753.50	\$26,934,000	\$211,819,000	0.32%
Scenario B1	\$1,753.50	\$26,934,000	\$211,980,000	0.39%
Scenario B2	\$1,753.50	\$26,934,000	\$211,390,000	0.11%
Percent change in land value	0.20%		\$211,632,000	0.23%

Overall Summary

Without LID	\$1,750.00	\$26,880,000	\$211,150,000	N/A
With LID	\$1,753.50	\$26,934,000	\$211,475,000	0.15%

Cirrus Apartments

Scenario A: Rental and Vacancy Rate Changes

et, zoned DMC 240/290-440,
2014, with 244 on-site parking

		INCOME ANALYSIS After		Year Built	2014
		Potential Gross Income			
			Units	SF NRA	
	\$642,528	Studio	23	509	
	\$8,216,208	1-bedroom	252	784	
	\$3,852,288	2-bedroom	76	1,063	
	\$228,960	3-bedroom	3	1,530	
	\$12,939,984	Total apartments	354	832	
			GBA	NRA	
per SF =	\$122,144	Retail	3,817	3,817	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$122,144	Subtotals	4,525	8,535	
/month	\$878,400	Parking Area/Stalls	87,614	0	244
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$129,400	Other			
/SF =	\$14,069,928	Total Bldg Area & Gross Income	492,461	286,732	SF
	(\$517,599)	Less: Vacancy/credit allowance			of apartment
	(\$6,107)				of commercial
	\$0				of parking
	(\$523,707)	Total vacancy/credit allowance			
	\$13,546,221	Effective gross income			
		Less: Operating expenses			
	(\$677,311)	Management fee @	5.0%		of total EGI

	\$0
	(\$3,105,596)
	(\$123,115)
\$11,034	(\$3,906,022)
	\$9,640,199
Capitalized @	4.05%
Indicated value	\$238,029,600
(R) \$238,030,000	
Per DU	\$672,401
per SF =	\$26,880,000
per SF =	\$211,150,000

Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	25.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		

Indicated Value	
Land Value	
	15,360
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit	% Change	
\$238,030,000	N/A	N/A	
			Per DU
\$238,271,000	\$241,000	0.10%	\$681
\$238,753,000	\$723,000	0.30%	\$2,042
\$238,914,000	\$884,000	0.37%	\$2,497
\$238,324,000	\$294,000	0.12%	\$831
\$238,030,000	N/A		
\$238,409,000	\$379,000	0.16%	\$1,071

Cirrus Apartments

Scenario B: Overall Capitalization F

			Low	High
	<u>Per DU</u>	<u>Per DU</u>	0.10%	0.30%
	\$2,330	\$2,335	\$643,171	\$644,456
	\$2,720	\$2,725	\$8,224,424	\$8,240,857
	\$4,228	\$4,237	\$3,856,140	\$3,863,845
	\$6,366	\$6,379	\$229,189	\$229,647
	\$3,049	\$3,055	\$12,952,924	\$12,978,804
			0.10%	0.30%
• NRA @	\$32.03	\$32.10	\$122,266	\$122,510
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$122,266	\$122,510
	<u>Per Month</u>	<u>Per Month</u>	0.10%	0.30%
stalls @	\$300.30	\$300.90	\$879,278	\$881,035
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$129,529	\$129,788
• NRA @	\$49.12	\$49.22	\$14,083,998	\$14,112,138
revenue	4.00%	4.00%	(\$518,117)	(\$519,152)
revenue	5.00%	5.00%	(\$6,113)	(\$6,126)
revenue	0.00%	0.00%	\$0	\$0
			(\$524,230)	(\$525,278)
			\$13,559,768	\$13,586,860
			(\$677,988)	(\$679,343)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom	
3-bedroom	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	

	\$0	\$0
	(\$3,108,702)	(\$3,114,913)
	(\$123,115)	(\$123,115)
	(\$3,909,805)	(\$3,917,371)
	\$9,649,962	\$9,669,489
Capitalized @	4.05%	4.05%
	\$238,270,670	\$238,752,809
(R)	\$238,271,000	\$238,753,000
Per DU	\$673,082	\$674,444
% change	0.10%	0.30%
SF @ \$1,753.50 per SF =	\$26,934,000	\$26,934,000
	\$211,337,000	\$211,819,000
Per SF NRA	\$737.05	\$738.74
	\$241,000	\$723,000

Parking operating expenses @
Apartment operating expenses
Structural maintenance/reserve
Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements
Special Benefit Summary

0.20%

Rates Changes

Year Built		2014				
Units	SF NRA	Total NRA	Rent	Rent/SF		
23	509	11,707	\$2,328	\$4.57		\$642,528
252	784	197,568	\$2,717	\$3.47		\$8,216,208
76	1,063	80,788	\$4,224	\$3.97		\$3,852,288
3	1,530	4,590	\$6,360	\$4.16		\$228,960
354	832	294,653	\$3,046	\$3.66		\$12,939,984
3,817	3,817		SF NRA @	\$32.00	per SF =	\$122,144
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
4,525	8,535					\$122,144
87,614	0	244	stalls @	\$300.00	/month	\$878,400
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$129,400
492,461	286,732		SF NRA @	\$49.07	/SF	\$14,069,928
4.0% of apartment revenue						(\$517,599)
5.0% of commercial revenue						(\$6,107)
0.0% of parking revenue						\$0
						(\$523,707)
						\$13,546,221
5.0% of total EGI						(\$677,311)

0.0%	of parking EGI	\$0
25.0%	of apartment EGI	(\$3,105,596)
\$0.25	per SF of GBA	(\$123,115)
		(\$3,906,022)
		\$9,640,199

	Low	High
Capitalized @	4.035%	4.045%
Indicated Value	\$238,914,469	\$238,323,827
(R)	\$238,914,000	\$238,324,000
Per DU	\$674,898	\$673,232
% change	0.37%	0.12%
15,360 SF @ \$1,753.50 per SF =	\$26,934,000	\$26,934,000
	\$211,980,000	\$211,390,000
per SF NRA	\$739.30	\$737.24
	\$884,000.00	\$294,000.00

0.20%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0412	Cirrus	2030 8th Avenue	0660000575

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$379,000	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$50,949

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0412	Cirrus	2030 8th Avenue	0660000575

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$238,030,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D	(B*(1+C) unless no value for B, then A*(1+C))	Corrected FMV for Assessment	\$208,276,250

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$379,000		
H/A	As Percentage of Final City Before Value	0.159%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$331,625		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$113,725	\$31,248
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$44,580	\$12,249

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0412

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EIGHTH AND
LENORA LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0660000575

33 TAXPAYER (“EIGHTH AND LENORA LLC”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
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39 Recommendation”).
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44 **I. Eighth and Lenora LLC / Appellant**

45 The taxpayer filing this appeal is:
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1 EIGHTH AND LENORA LLC
2 Attn: Tax Manager
3 125 High St.
4 Boston, MA 02110
5 (425) 635-1400
6 JLutz@perkinscoie.com
7

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9 **II. Eighth and Lenora LLC's Representatives**

10 EIGHTH AND LENORA LLC'S representatives in this matter are:
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12

13
14 R. Gerard Lutz, WSBA No. 17692
15 JLutz@perkinscoie.com
16 Megan Lin, WSBA No. 53716
17 Perkins Coie LLP
18 10885 N.E. Fourth Street, Suite 700
19 Bellevue, Washington 98004
20 Telephone: 425.635.1400
21 Facsimile: 425.635.2400
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23

24 Robert L. Mahon, WSBA No. 26523
25 RMahon@perkinscoie.com
26 1201 Third Avenue, Suite 4900
27 Seattle, Washington 98101
28 Telephone: 206.359.8000
29 Facsimile: 206.359.9000
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32 **III. Statement of Eighth and Lenora LLC's Interest**
33

34 EIGHTH AND LENORA LLC owns the property that is subject to the proposed
35 final assessment described in Section IV. The property is called the Cirrus and is an
36 apartment building with ground floor retail and a restaurant, located near the Denny Triangle
37 area.
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41 The basis of the proposed assessment is a Final Special Benefit/Proportionate
42 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
43 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
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1 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
2 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
3 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
4 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
5 to exclude charges for other improvement projects in the Central Waterfront, and
6 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
7 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
8 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
9 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
10 because construction was not complete on the LID Improvements or the WSDOT
11 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
12 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
13 facts. On February 4, 2020, Eighth and Lenora LLC timely filed an objection to the
14 assessment, which was based on the Final Study.

28 **IV. Matter Under Appeal**

29 EIGHTH AND LENORA LLC appeals the Hearing Examiner’s recommendation to
30 deny Eighth and Lenora LLC’s objection to the City of Seattle’s Waterfront Local
31 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
32 the following property:

33 King County Parcel No. 0660000575
34 Site Address: 2030 8th Ave. Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$148,501

36 See Examiner’s Recommendation at 61-62, 104. To avoid repetition, Eighth and Lenora
37 LLC incorporates the evidence and arguments raised before the Hearing Examiner into this
38 appeal. In particular, Eighth and Lenora LLC points the City Council to Eighth and Lenora

1 LLC's initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its case-
2 in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close of the
3 City's case-in-chief (dated 7/7/2020).¹
4

5
6 As discussed more fully below, Eighth and Lenora LLC specifically appeals the
7 following Findings and Recommendations in the Hearing Examiner's September 8, 2020
8 Recommendation: Pages 61-62, 104, Sections II.6, II.7, II.14, II.15, II.18, II.19, II.20, II.21,
9 II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1,
10 IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
11 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8,
12 IV.C.9, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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15 Eighth and Lenora LLC also appeals the Hearing Examiner's failure to make
16 findings of fact or recommendations on material issues raised during Eighth and Lenora
17 LLC's appeal that were supported by law, expert testimony, and fact. The Final Study fails
18 in numerous ways to satisfy the basic requirements of a LID assessment study, and the
19 Examiner's Recommendation ignores the many deficiencies in the Final Study. In fact, the
20 only instances in which the Examiner recommended anything other than denial of objectors'
21 appeals were where the City's appraiser confessed error. The appraiser's proposed
22 assessments, and the Examiner's Recommendations, would have the City impose arbitrary
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 and capricious Waterfront LID special assessments based on “fundamentally wrong
2 methods.”
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4 The special benefit for which special taxes are assessed must be “actual, physical and
5 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
6 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
7 with the law, the assessments may not materially exceed the actual special benefit conferred
8 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
9 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
10 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
11 assessment. In this case, the proposed assessment fails each of the legal requirements for
12 special assessments and must be annulled as arbitrary or capricious, or founded on
13 fundamentally wrong methods.
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26 **Legal Requirement:** Actual, non-speculative special benefit

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28 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
29 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
30 October 2019 (they were not), and an “After” value purporting to assess the value of
31 properties with the LID improvements in place at least five years before anticipated
32 completion.
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35 **Legal Requirement:** Cannot materially exceed the special benefit

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37 **ABS Study:** ABS calculates a special benefit of \$379,000 assuming the LID
38 Improvements were in place and providing benefit in October 2019. However, the LID
39 Improvements will not be completed until the end of 2024 if the City meets its current
40 schedule, and many of WSDOT’s alternative improvements will not be built. The present
41 value of future improvements deliverable in five years is significantly lower than the
42 current value of improvements that already exist. Further, ABS’s own materials show that
43 benefits may not accrue for at least five years after they are completed, in 2029. If the
44 hypothesized special benefits are discounted to present value, the assessments materially
45 exceed the hypothesized special benefits.
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Legal Requirement: Actual, non-speculative special benefit—Date of valuation/COVID

ABS Study: The City has not finalized the assessment roll. After the City’s appraiser prepared his Final Study in October 2019, and the City issued its preliminary roll in December 2019, COVID devastated downtown hotel and retail properties. The Hearing Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made and must be based on actual special benefits. While that does not mean ABS’s appraisal was wrong when completed, values and benefits need to be reanalyzed before assessments are finalized in light of the unprecedented changes to the downtown real property market.

Legal Requirement: Actual benefit that cannot materially exceed special benefit—
Assessment cannot include value attributable to future WSDOT Improvements.

ABS Study: The City’s appraiser asserts that the City is not collecting assessments “based on the value of WSDOT’s planned improvements.” *See* Final Study at 3. However, the City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition, the City’s appraiser increased 2019 property market values as though WSDOT had completed its work by 2019. The proposed assessment is against this hypothetical WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent) higher than actual 2019 market values. The City is collecting an assessment against both the 2019 current values and the phantom 2019 WSDOT market value lift, in direct contravention of law and the City’s promise not to impose an assessment based on the value of viaduct demolition and the other components of WSDOT’s planned work.

Legal Requirement: Benefits must be special, not general

ABS Study: The City’s appraiser fails to determine or explain what general benefits arise due to the LID Improvements. However, the far-reaching and public nature of the improvements make any benefit arising from them general—not special.

Legal Requirement: Must comply with appraisal standards

ABS Study: ABS’s valuation methodology cannot be tested. It is a hybrid of “Individual” and “Mass” appraisal techniques, but fails to meet USPAP requirements for either. Until the Examiner admonished ABS, ABS even asserted its analysis was “confidential and proprietary.” ABS’s analysis and conclusions can neither be tested nor replicated. The Final Study fails to meet basic standards for admissibility and must be remanded.

Legal Requirement: Actual and measurable special benefit

ABS Study: ABS's proposed assessments are assigned rather than measured, as demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based on a host of "micro-judgments" that are not supported by any documentation, nor capable of replication or quality assurance/quality control. The assessments are undocumented, unreliable, and not supported by empirical studies, data, or reports.

Legal Requirement: Actual and measurable special benefit—Park benefits must be supported by empirical evidence

ABS Study: Dr. John Crompton, the world's preeminent expert regarding the economic value of parks and other public amenities and on whom ABS purported to rely, testified that ABS had completely misapplied his work and dramatically overstated both the distance to which economic benefits might extend from the LID Improvements and the extent of any anticipated benefit within the potentially benefited area.

Legal Requirement: Actual special benefit—Must take into account potential disamenities

ABS Study: The appraiser ignores the negative value impact of five years or more of construction, as well as other potential disamenities associated with public places.

Legal Requirement: Cannot prematurely commit to build

ABS Study: The City has not completed NEPA review or other entitlement process for its Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments are being imposed. But finalizing the roll is a commitment by the City to build the improvements, which is a violation of legal process and commits the City to build things it may not secure permission to build.

In addition to these general objections, there are property-specific issues raised by Eighth and Lenora LLC as to which the Examiner also erred, discussed in the course of the appeal statement below.

1 **V. Standard of Review**

2 “When considering the assessment roll, the city council sits ‘as a board of
3 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
4 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
5 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
6 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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10 The proposed assessments are presumed correct, “unless overcome by clear, cogent
11 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
12 than the heightened presumption of correctness on judicial appeal because “applying these
13 elevated standards at the municipal hearing would afford unwarranted deference to a report
14 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
15 presumption is not evidence and its efficacy is lost when the other party adduces credible
16 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
17 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
18 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
19 presented credible evidence showing that the City’s proposed assessment is arbitrary,
20 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
21 to the City to prove the assessments are actual, measurable, special, non-speculative and
22 proportionate. The City failed that burden.
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38 **VI. Grounds for Appeal**

39 EIGHTH AND LENORA LLC appeals the Hearing Examiner’s Findings and
40 Recommendations on the following grounds.
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Eighth and Lenora LLC Not Required to Provide A Special Benefit Study

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3 1. Contrary to the Examiner’s findings and recommendations, there is no
4 requirement that experts or property owners provide an alternative special benefit
5 calculation under these circumstances—to do so would also require the same improper
6 speculation the City’s expert engaged in, given the timing and information provided. *See*,
7
8 *e.g.*, Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
9 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained:
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11 “[W]e have explicitly rejected an argument that, because certain protestors ‘failed to offer
12 expert testimony at the city council hearing[,] the presumptions [in favor of the assessment]
13 were still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian*
14 *Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App.
15 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided
16 expert opinion showing that improvements actually diminished value of the property). Here,
17 Ben Scott testified that he is an expert in reviewing mass appraisal reports and analyzing
18 their impact on individual properties - precisely the matter at issue in this appeal. *See*
19 3/5/2020 Hrg. Tr. at 13:1-4 (laying foundation as expert witness while testifying on behalf
20 of a different appellate represented by Perkins Coie). The Hearing Examiner erroneously
21 dismissed the weight of Mr. Scott’s testimony, given his professional expertise and
22 experience. In fact, no independent evidence is required at all if, for example, objectors
23 show that the assessment was grounded on a fundamentally wrong basis due to an error in
24 the City’s appraiser’s methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
25 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
26 a property owner could simply point out that the square footage assumed in the City’s
27 appraisal was incorrect. For these reasons, Eighth and Lenora LLC appeals the following
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portions of the Examiner’s Recommendation: Sections II.14, II.15, IV.A, IV.B.11(a), IV.C.8, IV.C.9, and IV.C.11.

No Actual, Measurable, Non-speculative, Proportionate, Special Benefit

2. RCW 35.43.040 provides cities and towns authority for ordering local improvements and for levying and collecting special assessments “on property specially benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.

3. No analysis of general benefits. Special assessments have been “held valid for the construction and improvement of streets, curbs, gutters, sidewalks, and for the installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element: they are for the construction of local improvements that are appurtenant to specific land and bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*

4. Eighth and Lenora LLC’s property is not specially benefited by the LID Improvements. The primary purpose and effect of the LID Improvements are to benefit “members of the whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public library is for the benefit of the members of the whole community individually and collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual states clearly that appraisers should “[c]onsider general benefits as well as special benefits” (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits

² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,

1 probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Eighth and
2 Lenora LLC’s expert confirmed that if an appraiser “identifies both general and special
3 benefits, these benefits should be clearly distinguished and explained, and only special
4 benefits should be included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4
5 (dated 7/7/2020); *see also* 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that
6 Mr. Macaulay did not analyze or measure general benefits, including those arising from
7 construction necessary to meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual)
8 at 58 (“[c]onsideration may also be given to those construction costs related to meeting
9 design standards which may be general benefits as distinct from construction costs
10 emanating from requirements of the LID project”). To the extent Eighth and Lenora LLC’s
11 property may benefit from the LID improvements, the benefit is general and incidental, and
12 failure to consider general benefits was a fatal flaw in the City’s methodology. For these
13 reasons, Eighth and Lenora LLC appeals the following portions of the Examiner’s
14 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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29 5. LID Improvements not necessary. Unlike typical LID projects, the
30 Waterfront LID improvements are largely unnecessary to the functionality of any particular
31 property, including Eighth and Lenora LLC’s property. *See In re Schmitz*, 44 Wn.2d 429,
32 433, 268 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road
33 by 16 to 18 feet held invalid where owners would have benefitted equally from increase of
34 only 9 feet); *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land
35 at intersection for new water main for hydrant held invalid because land was already
36 afforded functional hydrant at nearby street). Here, Eighth and Lenora LLC provide

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Eighth and Lenora LLC has attached a master list of the hearing exhibits as Attachment A to this
appeal notice.

1 evidence. Here, Eighth and Lenora LLC provided testimony through Elton Lee, taxpayer
2 representative, who testified that the Cirrus caters to Denny Triangle and South Lake Union,
3 rather than the waterfront area. See 3/11/2020 (E. Lee) Hrg. Tr. at 149:7-25. The building
4 has brief tenancies with demand driven primarily by Amazon employees desiring to live
5 near Amazon's South Lake Union employment centers. *Id.* at 150:18-151:2. There is simply
6 no special benefit to the Cirrus building for additional access to the Seattle waterfront. The
7 fact that there is no case law differentiating between binary improvements and parks does
8 not change the law prohibiting assessments on properties already adequately served by
9 existing amenities. *See* Examiner's Recommendation at IV.C.3 (reasoning that "no case law
10 is provided to support the differentiation between a hardscape benefit and the more
11 ephemeral benefits of park"). Nor does the Examiner's reasoning excuse the City's failure
12 to account for existing amenities as part of the special benefit calculation. As Dr. Crompton
13 testified, existing view amenities may in fact diminish the incremental effect of new park
14 improvements on the value of properties, much like turning on a weak light in an already
15 brightly illuminated room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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31 6. To the extent benefits can be considered "special" as opposed to general, they
32 are nominal or nonexistent for many properties even in the Central Waterfront, which
33 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
34 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
35 change due to expansion of sewer service *near* owners' parcel which were already
36 connected). Here, again, Eighth and Lenora LLC provided testimony that the primary reason
37 tenants choose the Cirrus is not proximity to the water, but instead proximity to major
38 employment centers like Amazon in the South Lake Union area. Even if the City could
39 assess for a view change (and it has promised not to assess for viaduct removal), the fair
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1 market value of EIGHTH AND LENORA LLC'S property has not changed because the LID
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3 Improvements have not improved the property's waterfront view or access to the waterfront,
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5 nor will they when the City anticipates completion in 2024. For these reasons, Eighth and
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7 Lenora LLC appeals the following portions of the Examiner's Recommendation: Sections
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9 IV.C.3, IV.B.9, and IV.C.3.

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11 7. No analysis of special detriments. The Final Study fails to properly account
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13 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
14
15 owners for removal and cleanup of underground storage tanks discovered during the
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17 improvement project). Mr. Lee testified that the market would not support increasing rental
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19 rates today to absorb the LID assessment when the special benefits, to the extent any exist,
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21 will not be effective until at least 2024. 3/11/2020 Hrg. Tr. at 157:21-158:15. Therefore, the
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23 LID assessment is an immediate expense that comes with no immediate increase in revenue,
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25 thereby decreasing the property value. This was not accounted for by Mr. Macaulay.
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27 Although Mr. Macaulay claims he analyzed impacts on the City's planned elimination of
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29 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how lost parking
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31 might be a detriment, and no property-specific parking analysis in any of his materials.
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33 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.

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35 8. Likewise, there was no analysis of the risks associated with disamenities such
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37 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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39 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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41 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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43 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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45 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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1 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
2 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
3 the maintenance agreement. *Id.* at 13:4-14:2.
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6 9. There was also no consideration of negative impacts from another four-plus
7 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
8 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
9 law allowing him to dismiss these actual, non-speculative impacts. Because future special
10 benefits calculations are inherently speculative, Washington's eminent domain statute
11 specifically allows condemnees to postpone special benefits assessments until improvements
12 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
13 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
14 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
15 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
16 Greenway, the Greenway district "significantly" lagged in value). For these reasons, Eighth
17 and Lenora LLC appeals the following portions of the Examiner's Recommendation:
18 Sections II.25, IV.B.8, and IV.B.9.
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32 10. Special benefit estimate is speculative. When calculating a special benefit,
33 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
34 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
35 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335-36, 324
36 P.2d 1078 (1958)).
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 11. Assuming without conceding that one day, the City’s planned LID
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3 Improvements might increase the value of neighboring properties to some extent, that
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5 potential benefit is many years away and speculative. While appraisers tolerate some degree
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7 of estimation and judgment, Eighth and Lenora LLC’s expert testified that Mr. Macaulay’s
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9 Final Study is far too speculative to satisfy industry practices and standards.

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11 12. Although LIDs are sometimes finalized prior to completion of improvements,
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13 this is typically just six month or a year prior, and the assessments are otherwise supported
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15 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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17 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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19 will not be realized for four or five years. In the meantime, there is permitting risk,
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21 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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23 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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25 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
26
27 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
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29 projects because “we can’t read the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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31 testified: “I just don’t know what the market value would be as of the date the project would
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33 be finally constructed” because “[t]here could be a lot of elements in the market that did
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35 occur between now and then that impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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37 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
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39 in 2024 because “markets tend to fluctuate over time” and “I can’t predict the future”).

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41 13. The record is clear that while no one can know what “special benefit” might
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43 accrue to these properties in four years (if any), we do know that there are no actual benefits
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45 now. The LID improvements provide no immediate special benefit to property owners
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47 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917

1 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
2 sewer system for future users).

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5 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
6 for the LID Improvements, and it is unlawful to move to final assessments without such
7 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
8 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
9 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
10 dollars on projects still early in the design process. *See* Washington Attorney General
11 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
12 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
13 of programs and included “only so much of the overall costs” that took place within and
14 benefitted the assessed properties).

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17 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
18 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
19 anticipated to be delivered five years later. Even before COVID, it was speculative to
20 assume that market highs experienced in October 2019¹ would be sustained through 2024,
21 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
22 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
23 my analysis in October 2019, who would have thought that this COVID issue would
24 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
25 process was that the market was going to continue to go up.” *See* Gibbons Decl. ISO
26 Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as
27 of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has impacted
28 *current* values and rendered the hypothetical October 2019 Final Study valuations outdated.
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1 16. As another example of how future events could affect the accuracy and
2 reliability of the City’s 2019 proposed assessment, Eighth and Lenora LLC recently
3 requested the Hearing Examiner re-open the record to allow the City to explain whether the
4 assessments against property owners within the LID are, in fact, being used by the City to
5 fund the emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the
6 City plans to use LID funding to pay for the expedited, emergency repairs and replacement.⁵
7 If true, the City would be improperly imposing costs on property owners within the LID for
8 improvements that are required to maintain the safety of Pier 58 and to remove a threat to
9 critical salmon habitat and City infrastructure—this does not provide any special benefit to
10 LID property owners.
11

12 17. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Eighth and Lenora LLC’s experts Reid
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34 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

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44 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
45 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 Shockey and Richard Shiroyama testified via declaration as to the City’s permitting gauntlet,
2 and potential delays and project changes inherent in those processes, that call into question
3 the assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
4 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
5 Decl., dated 4/15/2020).
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10 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
11 he could not point to a single one where the assessment roll was finalized five years in
12 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
13 he has never recommended final special assessments based on designs less than 30 percent
14 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
15 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
16 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
17 at 66:17-25. He performed no independent due diligence to determine the reliability of the
18 City’s estimates for completion of the LID Improvements, or to ensure that proposed
19 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
20 agreed that if any of his assumptions are incorrect, his opinion of market value would need
21 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
22 68:11-18.
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36 19. The City has cited no authority—and Eighth and Lenora LLC is aware of
37 none—that affirms the use of hypothetical, anticipatory Before and After values in order to
38 estimate and assess taxes for “actual” special benefits that will not accrue for another five
39 years (if all goes off without a hitch). To the contrary, the hypothetical assumption that all
40 of the Before and After Improvements are constructed as of October 1, 2019 allows Mr.
41 Macaulay to base his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
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1 411. For these reasons, Eighth and Lenora LLC appeals the following portions of the
2 Examiner's Recommendation: Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5,
3 IV.B.6, IV.B.11(c), IV.C.12, IV.C.14, and IV.C.18.
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6 20. Failure to discount special benefit estimates to account for risks and present
7 value. Due to the inherent uncertainty, Eighth and Lenora LLC's expert opine that the Final
8 Study should have accounted for risks associated with delivery of the improvements
9 (including permitting risk, construction risk, general economic risk) and any special
10 damages associated with interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-
11 120:9, 59:20-60:20. In addition, as is typical appraisal practice, Mr. Macaulay should have
12 discounted the anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-
13 55:1; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers
14 routinely consider the impact of future conditions [through] discounted cash flow
15 analysis.").

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17 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
18 future condition not in place at the date of valuation and can discount for the time value of
19 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
20 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
21 Discounting would also have been consistent with his approach for analyzing special
22 benefits to vacant land. He testified that the difference between similarly situated vacant
23 sites slated for development and already developed sites was that the labor, capital and risks
24 associated with development had not yet been borne for those vacant sites. Therefore, the
25 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
26 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
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1 fully permitted, has not completed environmental review, and has not reached full design is
2 presently worth significantly less.
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4 22. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
5 present value, an appraiser would consider discount rates for land development to account
6 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
7 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
8 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
9 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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17 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
18 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
19 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
20 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
21 ignoring momentarily all of the other methodological and other flaws discussed here and in
22 Eighth and Lenora LLC's case-in-chief, and assuming that the LID Improvements provide
23 special benefits as soon as they are complete in 2024, Mr. Macaulay's hypothetical
24 assessment materially exceeds special benefits when reduced to present value. Further, to
25 the extent the City is arguing that because they are permitted to assess 100% of the special
26 benefit, the special benefit estimate can be off by 60.8% because they only assess 39.2% of
27 that benefit, the City is again wrong. After applying proper discounting, the City's proposed
28 special benefit assessment is far more than 39.2% of the total estimated special benefit, and
29 in fact exceeds 100% of the total estimated special benefit.
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43 24. But even the assumption that the LID improvements would deliver benefits
44 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
45 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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1 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
2 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
3 indicates that during the construction period, the Greenway district “significantly” lagged in
4 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
5 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
6 30-31 (discussing New York City High Line and San Francisco Embarcadero
7 improvements). Given the lengthy delay, any prediction of future special benefits is
8 speculative, especially during the construction phase where values are likely to decline. And
9 assuming the LID Improvements take a similarly long period of time after they are complete
10 to start producing tangible property value benefits, each additional year of delay results in
11 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
12 Closing Stmt., ¶ 19, Ex. A.

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15 25. Applying the same discounting methods described above and in Mr. Gibbons
16 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
17 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
18 before applying the 39.2% percentage assessment. *Id.* For Eighth and Lenora LLC, this
19 means at most the 100% assessment should be no more than \$35,701.80. Anything more
20 would permit the City to assess Eighth and Lenora LLC based on a hypothetical assumption
21 that these improvements are in place and providing benefit, and ignore the risks,
22 construction disamenity, and time value of money that normal appraisal principles would
23 take into account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be
24 only 39.2% of that assessment cap, or \$13,995.11.

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26 26. Attachment C includes two Excel spreadsheets applying these discounting
27 methods to Eighth and Lenora LLC’s assessment. It is undisputed that special benefits will

1 not actually accrue until the LID Improvements are complete in 2024. Accordingly, the first
2 spreadsheet demonstrates that discounting the City's hypothetical October 2019 special
3 benefits to present value would reduce Eighth and Lenora LLC's assessment to \$50,949,
4 exclusive of any other flaws in the City's proposed assessment. The second spreadsheet
5 shows even more drastic reductions after taking into account: (1) a rough discount for
6 property value loss due to COVID-19 and (2) discounting to present value for 5 years (*i.e.*,
7 from 2024 when the City anticipates completing the LID Improvements) and 10 years (*i.e.*,
8 from 2029 to account for the time it takes for the improvements to capture property value).
9 After such reductions, Eighth and Lenora LLC's assessment would be just \$44,580 (for the
10 5-year discount) or \$12,249 (for the 10-year discount). Further, the spreadsheet concludes a
11 "zero" benefit for this property because, based on Dr. Crompton's testimony, Eighth and
12 Lenora LLC's property is more than 2,000 feet from the core "park" improvements and
13 therefore too distant to receive any special benefit. Neither of these spreadsheets address
14 other issues raised by Eighth and Lenora LLC's appeal, but are intended to help demonstrate
15 how unfair and inflated the City's proposed hypothetical assessment is. The Hearing
16 Examiner's Recommendation simply dismisses Eighth and Lenora LLC's discounting
17 argument without legal or factual analysis; that failure is error.

28 Appraisal and Assessment Calculation Methods Are Flawed

29 27. The "general rule is that each lot, piece, or parcel of land should be assessed
30 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
31 Wn.2d at 97.

32 28. It is proper to sustain a challenge to an assessment, even without the appraisal
33 testimony from the owner, where the objector's expert establishes that the assessment was

1 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
2
3 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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5 29. The City’s appraiser purports to utilize the income method of valuation but
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7 relied on inaccurate revenue and market data, as discussed further below.
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9 30. The City’s appraiser purports to utilize the comparable sales method of
10 valuation, but no City witness attempted “to characterize any one, or all of them, as
11 comparable to [Eighth and Lenora LLC’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406
12 (finding “several serious flaws” in ABS’s LID analysis in that case, including that the
13 appraiser “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt
14 to characterize any one, or all of them, as comparable to any particular property within the
15 LID”). And no City witness could explain how specific adjustments were made to these sales
16 to account for value increases due to the hypothesized Before and After Improvements. For
17 this reason, Eighth and Lenora LLC appeals Section II.23 of the Examiner’s
18 Recommendation.
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28 31. Special assessment improperly includes value lift from the Before
29 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
30 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
31 Improvements, which WSDOT had independently committed to fund. However, Mr.
32 Macaulay did not calculate the actual market value of LID properties in October 2019, and
33 did not separately analyze the hypothetical increase to property values attributable to
34 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
35 current value and then separately calculate a hypothetical “With WSDOT” Before value);
36 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
37 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
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1 3-4. Without any documented basis or support, Mr. Macaulay simply “ma[de] a judgment a
2 call” on what occupancy and rates would have been for the commercial properties assuming
3 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
4 130:11. This outright omission precludes any independent evaluation of the true market
5 “Before” values. See 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
6 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
7 must explain how he analyzed that data and other information to come up with the
8 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
9 removal of the viaduct, but also other road, pedestrian and landscaping improvements
10 WSDOT had already committed to make.
11

12 32. However, because Mr. Macaulay testified that he did include some WSDOT-
13 related value-lift in the “Before” values, it follows that part of the special assessment
14 improperly is based on value attributable to the WSDOT Improvements. As shown by
15 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
16 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
17 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
18 special benefit assignment would result in \$300,000 of over-assessment. See Gibbons Decl.
19 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
20 to properly exclude the value of Before Improvements from the assessments. For these
21 reasons, Eighth and Lenora LLC appeals the following portions of the Examiner’s
22 Recommendation: Sections II.19, II.29, and IV.B.11(a)(ii)
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24 33. Special benefits were assigned rather than measured. Mr. Macaulay
25 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
26 property. See 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
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1 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
2
3 Macaulay used to analyze the commercial properties, Eighth and Lenora LLC's experts
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5 concluded that Mr. Macaulay based adjustments on hypothesized very small increases to
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7 property revenue and very small reductions to cap rates to "calculate" an "After" value due
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9 to the coming 2024 LID Improvements. Attachment B (ABS Spreadsheet). These series of
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11 micro adjustments were based on "professional judgment" that are neither shown nor
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13 replicable.

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15 34. For these reasons, Eighth and Lenora LLC appeals the following portions of
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17 the Examiner's Recommendation: Sections II.19 and IV.B.11(a)(iii).

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19 35. Special benefit falls within margin of error. The Final Special Benefit Study
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21 applies an estimated value enhancement of less than 4%, which is generally within the
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23 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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25 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
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27 Eighth and Lenora LLC's experts explained that if two appraisers independently arrive at
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29 values within 5% of one another, this difference is considered reasonable as it falls within
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31 the standard margin of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at
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33 164:2-9. Because Mr. Macaulay's micro-special benefit percentages fall far below that 5%
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35 margin, "there is no way of authenticating" such incremental changes because "[m]arket
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37 forces completely obliterate any tiny little noise factor like that." *See* 3/3/2020 (A. Gibbons)
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39 Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too
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41 small to measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to
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43 measure a difference in revenue and cap rates for Eighth and Lenora LLC's property within
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45 that margin. Additionally, the fact that "Before" values are also based on a hypothetical that
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47 adds some unstated incremental value to actual 2019 values exacerbates this issue—the

1 ability for an appraiser to discern the micro-value differences between hypothetical
2 conditions that are so similar (the WSDOT improvements compared to the LID
3 improvements) “verges on being ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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6 36. Even if it were possible to accurately tease out such a miniscule hypothetical
7 value change due to improvements coming five years later, experts testified that there is no
8 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
9 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
10 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
11 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Eighth and
12 Lenora LLC appeals the following portions of the Examiner’s Recommendation: II.27 and
13 IV.B.4.
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17 37. No analysis of value increase attributable to individual components of the
18 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
19 percentage difference between hypothetical Before and After conditions. Throughout his
20 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
21 descriptions in the Addenda even though he testified that he relied on these to calculate
22 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
23 someone might be able to determine how he attributed value to After conditions described in
24 the Addenda, he answered that that was “not the scope of the assignment” because he was
25 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
26 that the six components were not actually a continuous project, that he was viewing them
27 together because the City asked him to, and that if he were to view them independently,
28 there was a low probability that properties in the north would specially benefit from
29 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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1 38. Not only did he fail to analyze benefits from each of these non-contiguous
2 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.*,
3 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
4 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
5 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
6 objectives that guided regulators’ assessment of architectural plans for buildings along a
7 “signature street” were so vague that they amounted to ad hoc review based on the
8 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
9 even though he used the renderings as “visual aid[s] in appraising the property in the before
10 and after” to “visually see what the differences would be,” he could not explain what
11 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
12 when shown a rendering of a two-lane road going down to one-lane in the After condition
13 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
14 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
15 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
16 could explain the depiction of the same trees in the After condition nearly twice as tall as in
17 the Before. *Id.* at 173:17-175:4. For these reasons, Eighth and Lenora LLC appeals the
18 following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 39. Special assessment is not supported by comparable studies, data or reports.
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3 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
4 that the LID Improvements will lead to meaningfully increased real estate values for Eighth
5 and Lenora LLC. Indeed, no City witness was able to explain how ABS Valuation used
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7 comparable sales or information from the "over twenty-five studies and reports" to arrive at
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9 very precise special benefit increases for the commercial properties, including Eighth and
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11 Lenora LLC's property. For example, although Mr. Macaulay stated that no single report or
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13 study was directly on point due to the unique nature of the LID Improvements (*see, e.g.,*
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15 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments
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17 in his parcel-by-parcel analysis other than to say that the studies generally provided "some
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19 background to base decisions on." *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
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21 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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23 similarities and differences between these improvements and the comparable parks he
24
25 looked at).
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28 40. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
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30 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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32 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
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34 research misinterprets his work in critical ways, including because the LID Improvements
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36 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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38 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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40 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
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42 related value increases are in fact smaller; that estimated increases are "best guesses" rather
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44 than predictions of property value increases in a particular city; and that percentages do not
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46 account for diminishing returns after taking into account water views, which would be the
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1 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
2 topography grants most properties in downtown a water view.
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5 41. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
6 that this was just one source of information that was not entirely relevant because, among
7 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
8 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
9 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
10 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
11 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
12 Crompton concluded that 500 feet via road from "park" improvements is just one or two
13 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
14 significantly beyond that which the park study indicated (even if it was legitimate to use the
15 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
16 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
17 impact applicable to "community parks"—which the LID Improvements are not. *Id.* Eighth
18 and Lenora LLC's property is not within 2,000 road network feet from the "park"
19 improvements. *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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23 42. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
24 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
25 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
26 based on the attention given to Dr. Crompton's work in the Final Study and supporting
27 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
3 parcel-by-parcel analysis.
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6 43. The destination parks discussed in the Final Special Benefit Study do not
7 provide reliable, comparable, and valid support for the calculation of special assessments
8 here. *See* Gibbons 5/2/2018 Letter at 4; Hrg. Exhibit 49. None of the parks cited in the
9 Final Special Benefit Study were funded by a LID. And in virtually all of those cases, the
10 park improvements dramatically restored unimproved or blighted areas, and properties
11 evaluated were within two or three blocks of the park.
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14 44. ABS's claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁸ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
21 the LID Improvements and could not explain how this impacted his condo analysis.
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36 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
37 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
38 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
39 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
40 park (or streetscape) improvement—other studies estimated premiums for real estate only much
41 closer or cited to Dr. Crompton.
42

43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
2 Property Values” primarily focused on whether the benefits accrue to the larger community
3 rather than properties adjacent to the park. And the 2014 New York City Department of
4 Transportation study is not based on real estate transactions and market sales and fails to
5 substantiate any link between increased retail sales and property values. Moreover, this
6 study only looked at impact either directly abutting the streetscape improvement, or a couple
7 hundred feet for plaza-like improvements.
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15 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
16 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
17 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
18 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
19 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
20 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
21 asked whether he considered that HR&A’s estimated LID impact is six times greater than
22 TPL’s assessment of Seattle’s entire park system, his surmised that it was because the
23 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
24 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
25 assumptions to account for this difference, which may be partly explained by the fact that
26 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
27 approximately 3.44% of King County tourists visit Seattle primarily because of the city
28 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
29 waterfront improvements.
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44 46. Although proximity to the improvements is a key factor in all of these
45 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
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1 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
2 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
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4 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
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6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
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8 Improvements is approximate 20 acres and it is not a community park.⁹
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11 47. There is no explanation in the Final Study or the supporting materials of how
12 the studies or comparable sales were used to derive values for Eighth and Lenora LLC's
13 property. For these reasons, Eighth and Lenora LLC appeals the following portions of the
14 Examiner's Recommendation: Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30,
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16 II.32, and IV.C.5.
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21 48. Failure to comply with USPAP. Eighth and Lenora LLC's assessment also
22 rests on a fundamentally wrong basis due to the City's appraiser's decision to utilize a
23 hybrid mass-appraisal method. Randall Scott, a former mass appraiser responsible (and
24 professionally recognized) for developing the MAI standards for mass appraisals, testified
25 that the Final Study does not meet mass appraisal standards nor allow for independent
26 assessment of the accuracy of Mr. Macauley's conclusions.
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33 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
34 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
35 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
36 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
37 testimony suggests that he incorrectly believed that the only difference between direct
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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3 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
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5 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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7 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
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9 Gordon uses in doing his limited restricted report”).

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11 50. But the difference is not only in reporting—mass appraisal techniques must
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13 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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15 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
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17 parcel approach:

18 The mass appraisal technique is an appraisal method used to evaluate
19 a group of properties that are subject to similar market forces as of a
20 certain date through the use of market data, statistical analysis and
21 testing. As a result, the mass appraisal technique does not require or
22 involve analysis of each individual property’s specific data.
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25 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

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27 51. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
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29 universe of properties as a given date using standard methodology, employing common data,
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31 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
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33 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
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35 model” is “a mathematical expression of how supply and demand factors interact in a
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37 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
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39 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
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41 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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43 52. Regardless of client direction, Mr. Macaulay is required to comply with
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45 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
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1 economically feasible because it would have taken “an incredible amount of time and cost”
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3 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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5 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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7 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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9 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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11 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
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13 value, fails to calibrate the model structure to determine the contribution of the individual
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15 characteristics affecting value, and does not review the mass appraisal results against actual
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17 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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19 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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21 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
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23 proximity to the elements, the increase in market rent, market vacancy changes,
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25 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
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27 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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29 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
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31 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
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36 relationship between characteristics that affect value, and to calibrate that model to specify how
37
38 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
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40 21). The purpose is to rationally determine what characteristics will create value, and by how much.
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42 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
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44 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
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46 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
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against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
include explanation of the model specification, data requirements, calibration methods, and
mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
(o). Without this reporting, it is impossible for users of the appraisal report to determine how the
appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
Hrg. Tr. at 206:15-207:17.

1 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
2 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
3 were hypothetical, it was not possible to identify matched pair sales and no City witness
4 explained how ABS Valuation made adjustments to “comparable” sales in order to check
5 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
6 him to explain his model structure.
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12 55. For these reasons, Eighth and Lenora LLC appeals the following portions of
13 the Examiner’s Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Eighth and
14 Lenora LLC renews Objectors’ Motion To Exclude The Expert Testimony of Robert J.
15 Macaulay, filed on April 8, 2020, and appeals the Examiner’s denial of that motion.
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21 56. Finally, Eighth and Lenora LLC’s property is not appurtenant—or even in
22 close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the
23 burden of proving special benefit” shifted to the City because the protestors’ parcels merely
24 stood “in close proximity to the property on which expert testimony was given”). Indeed,
25 Eighth and Lenora LLC’s property is not even within 2,000 road network feet from the core
26 “park” improvements. And, as described above, the special assessment is overstated
27 because the Final Study makes no attempt to determine general benefits, existing amenities
28 for Eighth and Lenora LLC’s specific property, or special detriments. In addition, it is
29 speculative due to the fact that, as of October 2019, improvements were not in place—
30 and, in fact, much of the waterfront is a construction zone following removal of the viaduct
31 and now Pier 58 demolition. Under these circumstances, rather than relying on entirely
32 imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have
33 discounted the special benefit estimates or waited to perform the Study until the
34 improvements were at least close to complete.
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Erroneous Pre-Improvement Valuation

57. The proposed final assessment erroneously overstates the pre-improvement value of Eighth and Lenora LLC's property as of October 1, 2019 and, as a result, overstates the special benefit to the Eighth and Lenora LLC's property. This variation in pre-improvement valuation calls into question the City's assessments because the City's Final Special Benefit Study uses the pre-improvement valuation to then calculate the assessment amount.

58. Thus, aside from multiple other reasons why computation of the special benefits was flawed (discussed further below), the assessment is based incorrectly on pre-improvement values that do not accurately reflect market data. For these reason, Eighth and Lenora LLC appeals the following portions of the Examiner's Recommendation: Section III.

Erroneous Computation of Special Benefit

59. "Special benefit" is "the increase in fair market value attributable to the local improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?" *Id.* 165–66.

60. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

61. Spreadsheets show arbitrary changes to revenue and capitalization rates. For the Cirrus, Mr. Macaulay assumed rental rates would increase by 0.10% (low) and 0.30%

1 (high) due to the 2024 LID Improvements. Based on formulas in the spreadsheets, Mr.
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3 Macaulay then uses these same percentages (0.10% and 0.30%) to increase other revenue
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5 sources, such as retail and parking. He then uses this hypothesized increased revenue to
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7 calculate a new net operating income for the commercial properties and capitalizes that to
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9 come up with an “After” valuation.

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11 62. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
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13 operating income remains the same as in the hypothetical “Before” condition, but changes
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15 the cap rate. For the Cirrus, the cap rate goes from 4.05% to 4.035% (low scenario, creating
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17 a bigger value increase) and 4.045% (high scenario, creating a lower value increase).

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19 63. Mr. Macaulay then averages his four “After” values to arrive at a final special
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21 benefit conclusion. For the Cirrus, this is an increase in property value of 0.16% due to the
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23 LID Improvements.

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25 64. Mr. Macaulay offered little justification for his micro adjustments to revenue
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27 and capitalization rates. When asked precisely what the basis is for his special benefit
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29 percentage increases to revenue for each commercial property, he could not point to
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31 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
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33 is nothing in the report to allow a reader to understand how he came up with these
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35 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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37 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
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39 the basis for his belief that certain factors—liked increased connectivity—will increase
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41 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
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43 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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45 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
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47 sources equally even though there was no separate analysis done for food and beverage or

1 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Eighth and Lenora LLC's
2 expert's conclusion that the adjustments are arbitrary and fall below generally accepted
3 margins of error, and that there is no actual, measurable, non-speculative special benefit to
4 Eighth and Lenora LLC's properties.
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8 65. Mr. Macaulay testified that he used comparable sales as a reasonableness
9 check for commercial properties. But as explained above, no City witness has explained
10 how anyone, or all, of the sales are comparable to any particular commercial property within
11 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
12 in order to make sales "comparable," he would have had to make adjustments to account for
13 Before and After conditions, but there is no way to understand how adjustments were made
14 because he "didn't do a separate sales comparison approach where we showed adjustments
15 and whatnot." 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
16 his adjustments were reliable, he said it would have simply been a "test of reasonableness."
17 *Id.* at 127:10-128:24.
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21 66. It also bears noting that any "internal review" of the special benefit estimates
22 would have been largely arbitrary given Mr. Macaulay's testimony that there is no margin of
23 error. Indeed, given all the same information, he seemed to suggest that it would be
24 perfectly reasonable for another experienced appraiser to come up with special benefit
25 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
26 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
27 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
28 margin of error conflicts with the testimony of Eighth and Lenora LLC's experts and
29 reaffirms that there are absolutely no standards governing his process. *See id.* at 91:6-94:5.
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31 Even if the typical margin of error (5%) is a "rule of thumb" and not a "hard legal standard,"
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1 there are still reasonable and unreasonable variations within the appraisal field. *See*
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3 Examiner's Recommendation at IV.B.4. Thus, the special assessment is not actual,
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5 measurable or special because it is arbitrarily assigned; and it is too small to realistically be
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7 supported by appraisal techniques.

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9 67. No evidence of special benefit. Meanwhile, there is "no actual evidence from
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11 any seller or purchaser that the price was higher because of the LID improvements."
12
13 *Bellevue Plaza, Inc*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
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15 identified any seller or buyer, or any particular property where the existence of the LID
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17 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Eighth and
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19 Lenora LLC has explained that the property has not increased rental rates or revenue due to
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21 the forthcoming LID Improvements, because, among other reasons (and apart from
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23 COVID), the improvements ABS believes will generate value do not exist, and will not for a
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25 number of years to come. There are no comparable sales because the LID Improvements are
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27 not in place, nor will they be until the end of 2024 if completed on schedule.

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29 68. The fair market value of EIGHTH AND LENORA LLC'S property has not
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31 changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property
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33 was not specially benefited from installation of new water main and fire hydrant where it
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35 was already adequately supplied with water and afforded adequate fire protection). And in
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37 any event, any value attributable to removal of the viaduct was to be excluded from the
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39 assessment calculation.

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41 69. There is no special benefit because LID improvements in fact diminish the
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43 value of Eighth and Lenora LLC's property by drawing visitors away towards improvements
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45 that do not abut the property, increasing competition for the retail component. *See Kusky*,

1 85 Wn. App. 493 (testimony of owners' expert that LID actually diminished value of
2 property was sufficient to rebut presumption that assessment was proper).
3

4
5 70. Moreover, the assessment formula is an attempt to distribute costs that do not
6 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
7
8 "merely a mathematical model that distributes costs").
9

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11 71. The Special Benefit Study fails to address whether the \$346,000,000
12 estimated LID project cost takes into account the investment that would have occurred in the
13 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
14 invested. This is a critical component of estimating which properties receive a direct benefit
15 from the improvements, versus more incidental benefits further from the park.
16
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18
19 72. Mr. Macaulay also included personal property in his valuation of hotels even
20 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
21 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
22 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
23 "[a]ppraisal applies to the land and building improvements only" (C-17 at 197). *See also*
24 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
25 receiving a disproportionately high LID assessment in comparison to other property types,
26 since hotels were the only property type subject to personal property LID assessments.
27 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
28 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
29 notice procedures because hotel property owners only received notice that their real estate
30 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
31
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34 73. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
35 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
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1 a television at the waterfront Marriott is assigned a greater special benefit than the same
2 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
3 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
4 unreasonable to assign a value lift to personal property that is replaceable at the same cost
5 and may be obsolete before the LID improvements are even completed. Further, personal
6 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
7 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
8 be redone to correct for this error.
9

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11 74. The proposed final assessment substantially exceeds the special benefit to the
12 property and is grossly disproportionate to similarly situated properties within the LID. For
13 these reasons, Eighth and Lenora LLC appeals the following portions of the Examiner's
14 Recommendation: Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).
15

16 **State Environmental Policy Act and Other Environmental Permitting**

17 75. While this appeal is not challenging the City's environmental review and
18 permitting processes, those processes are relevant in determining the legality of the
19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
21 pursue projects that have not yet undergone environmental review (thus limiting the choice
22 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
23 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
24 is just beginning. Further, the City has segmented environmental review, and still has a
25 gauntlet of federal, state and tribal review processes to complete before it will be clear what
26 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
27 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
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1 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
2 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
3 committing to reconstruction of Pier 58 and major street improvements without
4 environmental review, or the City's Final Special Study has improperly included and is
5 proposing to assess the Eighth and Lenora LLC the costs and special benefits of
6 improvements that may not get built. Either way, it is faulty process.
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12 **Due Process Rights**

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14 76. The City's failed to notify EIGHTH AND LENORA LLC sufficiently in
15 advance of the hearing to allow EIGHTH AND LENORA LLC to obtain evidence and
16 prepare to properly challenge the assessments. Because LID assessments involve a
17 deprivation of property, affected owners have the right to a hearing as to whether the
18 improvement resulted (or will result) in special benefits to their properties and whether their
19 assessments are proportionate, which necessarily includes the right to adequate notice of the
20 hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761
21 (2010).
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30 77. The LID statute specifies that cities must mail notices giving the time and
31 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
32 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
33 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
34 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
35 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
36 secure their own appraisal), evaluate proportionality of the proposed assessments, and
37 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
38 for anybody to get an appraisal”).
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1 78. The City's Notice of Assessment was sent on December 30, 2019. And the
2
3 Final Special Benefit Study has only been available for public review since January 7, 2020.
4
5 Due to this short time frame, EIGHTH AND LENORA LLC requested a prehearing
6
7 conference and scheduling order that would preserve and protect Eighth and Lenora LLC's
8
9 right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct
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11 depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay
12
13 between SEPA and the City's assessment of taxes for Pier 58 and Pike/Pine improvements).
14
15 The Hearing Examiner erroneously denied that request. For this reason, Eighth and Lenora
16
17 LLC appeals the following portions of the Examiner's Recommendation: I.B.

18
19 **VII. Relief Requested**

20 EIGHTH AND LENORA LLC respectfully requests that the City Council:
21

- 22
23 1. Reject the Hearing Examiner's recommended denial of Eighth and Lenora LLC's
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25 objection; and
26
27 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
28
29 assessment dated December 30, 2019; or
30
31 b. Revise Eighth and Lenora LLC's Waterfront Local Improvement District No.
32
33 6751 proposed final assessment to \$0 (zero), or such amount as Eighth and
34
35 Lenora LLC establishes at the hearing in this matter; or
36
37 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
38
39 and reduce Eighth and Lenora LLC's assessment using recognized appraisal
40
41 techniques consistent with USPAP and:
42
43 i. Excluding any property value increase attributable to viaduct removal
44
45 and other planned WSDOT Improvements;
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- 1 ii. Taking into account the effects of the COVID-19 pandemic on the
2 value of Eighth and Lenora LLC's property and other relevant
3 developments since October 2019;
4
5 iii. Accounting for and excluding (1) any special benefits from existing
6 or planned improvements that already provide similar benefits to
7 Eighth and Lenora LLC's property, and (2) any special detriments
8 from construction and other anticipated LID-related disamenities;
9
10 iv. Accounting for and including only those actual benefits anticipated to
11 accrue to Eighth and Lenora LLC's property based on its location
12 relative to Pier 58, Overlook Walk, and the Promenade, and specific
13 elements of the LID Improvements;
14
15 v. Discounting anticipated special benefits to present value, based on
16 reliable estimates regarding when special benefits will start accruing
17 following completion of the LID Improvements; and
18
19 vi. Accounting for such other issues specific to Eighth and Lenora LLC's
20 property relevant to calculation of such assessment; and
21
22 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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PERKINS COIE LLP

By: 

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Attorneys for EIGHTH AND LENORA LLC

FILED

3:48 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0412
Date: Tuesday, February 16, 2021 3:29:37 PM
Attachments: [Cirrus Amended LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
Cirrus Amended LID Appeal before City Council.pdf

Kimball Mullins | Perkins Coie LLP

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0412

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON EIGHTH AND
LENORA LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0660000575

33
34 EIGHTH AND LENORA LLC (“Taxpayer”) files this amended appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
36 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
37 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
38 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
39 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
40 Recommendation issued February 1, 2021.
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1 **I. EIGHTH AND LENORA LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 EIGHTH AND LENORA LLC

6 Attn: Tax Manager

7 125 High St.

8 Boston, MA 02110

9 425-635-1400

10 jlutz@perkinscoie.com

11
12 **II. EIGHTH AND LENORA LLC's Representatives**

13 EIGHTH AND LENORA LLC'S representatives in this matter are:

14
15
16
17 R. Gerard Lutz, WSBA No. 17692

18 JLutz@perkinscoie.com

19 Perkins Coie LLP

20 10885 N.E. Fourth Street, Ste 700

21 Bellevue, Washington 98004

22 Telephone: 425.635.1400

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24 Robert L. Mahon, WSBA No.

25 26523

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27 1201 Third Avenue, Suite 4900

28 Seattle, Washington 98101

29 Telephone: 206.359.8000

30 Facsimile: 206.359.9000

31
32 **III. Statement of EIGHTH AND LENORA LLC's Interest and Incorporation of Prior Arguments**

33 EIGHTH AND LENORA LLC owns the property that is subject to the proposed
34 final assessment described in Section IV.

35 EIGHTH AND LENORA LLC is amending its appeal as authorized in City of
36 Seattle Resolution 31979 to include additional arguments relevant to the revised Final
37 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
38 2020, EIGHTH AND LENORA LLC timely filed an objection to the assessment, which was
39 based on the Final Study. EIGHTH AND LENORA LLC further timely filed an appeal of
40 the Hearing Examiner's 2020 recommendations to the City Council. EIGHTH AND
41 LENORA LLC maintains and incorporates all objections and arguments raised in its appeal
42 filed with the City Clerk on September 22, 2020. This amendment is a supplement is to be

1 read together with EIGHTH AND LENORA LLC's appeal filed on September 22, 2020.
2
3 EIGHTH AND LENORA LLC incorporates by reference all filings, evidence, and pleadings
4
5 filed by any party before the Hearing Examiner as authorized by the Hearing Examiner,
6
7 including without limitation all records pertaining to the November 2020 through February
8
9 2021 remand hearing ordered by council.

10
11 **IV. Amended Arguments on Appeal**

12 EIGHTH AND LENORA LLC supplements its appeal of the Hearing Examiner's
13
14 recommendation to deny EIGHTH AND LENORA LLC's objection to the City of Seattle's
15
16 Waterfront Local Improvement District No. 6751 proposed final assessment dated
17
18 December 30, 2019 against the following property:

19
20
21 King County Parcel No. 0660000575
22 Site Address: 2030 8th Ave., Seattle, Washington
23 Proposed Final LID Assessment for Parcel: \$148,501
24

25 To avoid repetition, EIGHTH AND LENORA LLC incorporates the evidence and
26
27 arguments raised before the Hearing Examiner and before the City in its September 22, 2020
28
29 appeal, into this amended appeal.

30
31 **A. The Anticipated Special Benefits to EIGHTH AND LENORA LLC's**
32 **Property should be Discounted to Present Value and Assessments**
33 **Adjusted as Appropriate**
34

35 On remand, the City's appraiser acknowledged that special benefits to parcels can be
36
37 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
38
39 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
40
41 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
42
43 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
44
45 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
46
47 accepted that recommendation. The City's appraiser further acknowledged that benefit

1 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
2 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
3 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
4 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
5 calculations to present value because the general benefits are not anticipated from the LID
6 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
9 benefit calculation, and related assessments, to account for the delay between the assessment
10 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
11 standard appraisal practice, and renders the other proposed Waterfront LID special
12 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
13 “fundamentally wrong methods.”

14 All special benefit taxes assessed by a municipality must be based on “actual,
15 physical and material [special benefits that are] not merely speculative or conjectural.”
16 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
17 Additionally, the assessments may not materially exceed the actual special benefit conferred
18 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
19 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
20 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
21 discount benefits the City estimated would accrue to the properties from improvements to be
22 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
23 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
24 property while treating all or most others (including Taxpayer’s) differently, and

1 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
2 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
3 for some properties because the benefit are too distant, while assessing other properties as
4 though distant benefits have already been secured. As Taxpayer identified in its September
5 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
6 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8 reject the improper calculation of the benefit or remand and require the appraiser to discount
9 the benefits to net present value.
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19 **B. In Light of Covid's Continuing Impact on EIGHTH AND LENORA**
20 **LLC and other Downtown Property Owners and other Material**
21 **Changes Since October 2019, the LID Should be Cancelled, or at Least**
22 **Assessments Recalculated, to take Into Account Property Value**
23 **Reductions**
24

25 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
26 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
27 other relevant developments since October 2019." When Washington's first COVID
28 restrictions were imposed in March and April 2020, there was an assumption that they
29 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
30 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
31 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
32 gotten much worse. The City has already imposed higher minimum wages and taxes on
33 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
34 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
35 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
36 years from completion, as a best case. In current circumstances, a downtown tax to fund
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1 new, non-essential park improvements against financially strapped taxpayers, and likely
2 passed through to financially strapped tenants and customers would be unfair to taxpayers
3 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
4 rethinks its budget priorities for the next few years, and its potentially funding sources,
5 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
6 property owners) have a chance to recover, and that any assessment take into account the
7 changed circumstances since this appeal process started on February 4, 2020 to avoid
8 unnecessarily and perhaps permanently killing downtown properties and businesses in the
9 name of bettering them.

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19 **V. Relief Requested**

20 Particularly in light of the Committee's decision not to take further comment,
21 EIGHTH AND LENORA LLC respectfully request that each Committee member carefully
22 review the record transmitted to Council before voting on our appeal.

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26
27 EIGHTH AND LENORA LLC respectfully reiterates its request from the September
28 22, 2020 appeal that the City Council:

- 29
30
31 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
32 assessment dated December 30, 2019; or
33
34 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
35 proposed final assessment to \$0 (zero), or such amount as Taxpayer
36 establishes at the hearing in this matter; or
37
38 3. Grant the Examiner's recommended remand but with instructions to
39 recalculate and reduce Taxpayer's assessment using recognized appraisal
40 techniques consistent with USPAP and
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- 1 a. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
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4
5 b. Taking into account the effects of the COVID-19 pandemic on the
6 value of Taxpayer's property and other relevant developments since
7 October 2019;
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10 c. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
14
15
16 d. Accounting for and including only those actual benefits anticipated to
17 accrue to Taxpayer's property based on its location relative to Pier 58,
18 Overlook Walk, and the Promenade, and specific elements of the LID
19 Improvements;
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21
22 e. Discounting anticipated special benefits to present value, based on
23 reliable estimates regarding when special benefits will start accruing
24 following completion of the LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property
28 relevant to calculation of such assessment; and
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37 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

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5 By:

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22 Attorneys for EIGHTH AND LENORA LLC
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2:49 pm, Tue, September 22, 2020

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0413
Date: Tuesday, September 22, 2020 2:22:00 PM
Attachments: [CWF-0413.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0413.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0413
A – Master List of Evidence
B – D-146 Hyatt Regency
C – Discounting for CWF-0413
CWF-0413 Appeal Notice for Hyatt Regency

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Hyatt Regency**

Map Nos.	D-146
Tax Parcel Nos.	066000-0708
Property key:	7392
Address	808 Howell Street
Zoning:	DOC2 500/300-550
Proximity to park	2,900± feet to park, 13-minute walk
Ownership	HT-Seattle Owner, LLC

Description: 63,883 SF site bounded by 8th Avenue, 9th Avenue, Howell Street and 500/300-550, improved with a 1,260-room hotel built in 2018, with 44 structure.

INCOME ANALYSIS Before	Year Built	2018
	Rooms	1,260
	Parking	445

Revenues
Occupancy rate: 80.0%
Occupied rooms: 367,920

Revenues				
Room revenue	367,920	occupied rooms @	\$365.00	per occupie
Food & beverage revenue	367,920	occupied rooms @	\$40.00	per occupie
Parking & other income	162,425	occupied rooms @	\$50.00	per occupie

Total revenues

Less: Departmental expenses

Rooms	367,920	occupied rooms @	29.0%	of room rev
Food & beverage	367,920	occupied rooms @	79.0%	of food & b
Parking & other	162,425	occupied rooms @	50.0%	of parking &

Total departmental expenses

Total departmental net income

	<u>GBA</u>	<u>NRA</u>		
Retail rental income	0	0	SF NRA @	\$0.00
Office rental income	0	0	SF NRA @	\$0.00
Other rental income	0	0	SF NRA @	\$0.00
Total Bldg Area & Gross Income	1,400,666	1,062,251	SF NRA @	\$96.49

Less: Undistributed expenses

Admin, marketing, utilities, maintenance, insurance @	\$20,000	per available room
Franchise fees @	7.5%	of room revenue
Management fee @	3.0%	of total revenue
Real estate taxes		
Replacement reserve @	4.0%	of total revenue

Total undistributed expenses

Total operating expenses 66.2% of total revenue

Net operating income

Indicated Value

Land Value			
	63,883	SF @	\$1,600.00
Residual Improvements	1,062,251	SF NRA @	\$593.78
	1,400,666	SF GBA @	\$450.31

Special Benefit Summary

	Per SF	Land Total	Improved	% Change
Without LID	\$1,600.00	\$102,213,000	\$630,739,000	N/A
With LID				
Scenario A1	\$1,606.40	\$102,622,000	\$632,577,000	0.29%
Scenario A2	\$1,606.40	\$102,622,000	\$635,385,000	0.74%
Scenario B1	\$1,606.40	\$102,622,000	\$635,420,000	0.74%
Scenario B2	\$1,606.40	\$102,622,000	\$632,358,000	0.26%
Percent change in land value	0.40%		average \$633,935,000	0.51%
Summary				
Without LID	\$1,600.00	\$102,213,000	\$630,739,000	N/A
With LID	\$1,606.40	\$102,622,000	\$633,900,000	0.50%

Hyatt Regency

Scenario A - Rate and Vacancy Changes

Stewart Street, zoned DOC2
5-stall basement parking

		INCOME ANALYSIS After	Year Built	2018
		Revenues		
		Revenues		
Room revenue	\$134,290,800	Room revenue		
Food & beverage revenue	\$14,716,800	Food & beverage revenue		
Parking & other income	\$8,121,250	Parking & other income		
	\$157,128,850	Total revenues		
		Less: Departmental expenses		
Room revenue	(\$38,944,332)	Rooms	29.0%	of room revenue
Food & beverage revenue	(\$11,626,272)	Food & beverage	79.0%	of food & beverage revenue
Parking & other income	(\$4,060,625)	Parking & other	50.0%	of parking & other income
	(\$54,631,229)	Total departmental expenses		
	\$102,497,621	Total departmental net income		
per SF =	\$0		GBA	NRA
per SF =	\$0	Retail rental income	0	0
per SF =	\$0	Office rental income	0	0
/SF =	\$102,497,621	Other rental income	0	0
		Total Bldg Area & Gross Income	1,400,666	1,062,251
		Less: Undistributed expenses		
	(\$25,200,000)	Admin, marketing, utilities, maintenance, insurance @		
	(\$10,071,810)	Franchise fees @	7.5%	of room revenue
	(\$4,713,866)	Management fee @	3.0%	of total revenue
	(\$3,087,740)	Real estate taxes		
	(\$6,285,154)	Replacement reserve @	4.0%	of total revenue
	(\$49,358,570)	Total undistributed expenses		
	(\$103,989,799)	Total operating expenses		
	\$53,139,052	Net operating income		
		Indicated Values		
Capitalized @	7.25%			

Indicated value	\$732,952,434
(R) \$732,952,000	
Per SF NRA	\$690.00
Per room	\$581,708
per SF =	\$102,213,000
per SF =	\$630,739,000

Land Value	
	63,883
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit % Change		
\$732,952,000	N/A	N/A	
			Per Room
\$735,199,000	\$2,247,000	0.31%	\$1,783
\$738,007,000	\$5,055,000	0.69%	\$4,012
\$738,042,000	\$5,090,000	0.69%	\$4,040
\$734,980,000	\$2,028,000	0.28%	\$1,610
\$732,952,000	N/A		
\$736,522,000	\$3,570,000	0.49%	\$2,833

			Low	High
Occupancy rate:			80.00%	80.00%
Occupied rooms:			367,920	367,920
	Per Room	Per Room	0.20%	0.45%
	\$365.73	\$366.64	\$134,559,382	\$134,895,109
	\$40.08	\$40.18	\$14,746,234	\$14,783,026
	\$50.10	\$50.23	\$8,137,493	\$8,157,796
			\$157,443,108	\$157,835,930
Average revenue			(\$39,022,221)	(\$39,119,581)
other income			(\$11,649,525)	(\$11,678,590)
			(\$4,068,746)	(\$4,078,898)
			(\$54,740,491)	(\$54,877,070)
			\$102,702,616	\$102,958,860
	Per SF	Per SF		
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$96.68	\$96.93	\$102,702,616	\$102,958,860
\$20,000 per available room			(\$25,200,000)	(\$25,200,000)
			(\$10,091,954)	(\$10,117,133)
			(\$4,723,293)	(\$4,735,078)
			(\$3,087,740)	(\$3,087,740)
			(\$6,297,724)	(\$6,313,437)
			(\$49,400,711)	(\$49,453,388)
			(\$104,141,203)	(\$104,330,458)
			\$53,301,905	\$53,505,472
Capitalized @			7.25%	7.25%

			\$735,198,691	\$738,006,511
		(R)	\$735,199,000	\$738,007,000
		Per SF NRA	\$692.11	\$694.76
		Per room	\$583,491	\$585,720
		% change	0.31%	0.69%
SF @	\$1,606.40	per SF =	\$102,622,000	\$102,622,000
		Per SF NRA	\$632,577,000	\$635,385,000
			\$595.51	\$598.15
			\$2,247,000	\$5,055,000

0.40%

Hyatt Regency**Scenario B - OAR Changes**

INCOME ANALYSIS After		Year Built	2018	
Potential Gross Income				
Revenues				
Room revenue	367,920	occupied rooms @	\$365.00	per occupied room
Food & beverage revenue	367,920	occupied rooms @	\$40.00	per occupied room
Parking & other income	162,425	occupied rooms @	\$50.00	per occupied room
Total revenues				
Less: Departmental expenses				
Rooms	29.0% of room revenue			
Food & beverage	79.0% of food & beverage revenue			
Parking & other	50.0% of parking & other income			
Total departmental expenses				
Total departmental net income				
	<u>GBA</u>	<u>NRA</u>		
Retail rental income	0	0	SF NRA @	\$0.00 per SF =
Office rental income	0	0	SF NRA @	\$0.00 per SF =
Other rental income	0	0	SF NRA @	\$0.00 per SF =
Total Bldg Area & Gross Income	1,400,666	1,062,251	SF NRA @	\$96.49 /SF
Less: Undistributed expenses				
Admin, marketing, utilities, maintenance, insurance @			\$20,000	per available room
Franchise fees @	7.5%	of room revenue		
Management fee @	3.0%	of total revenue		
Real estate taxes				
Replacement reserve @	\$0.04	of total revenue		
Total undistributed expenses				
Total operating expenses				
Net operating income				
Indicated Values				
		Capitalized @		

	Indicated Value			
	(R)			
	Per SF NRA			
	Per room			
	% change			
Land Value				
	63,883	SF @	\$1,606.40	per SF =
Residual Improvements				
	per SF NRA			
Special Benefit Summary				

	\$134,290,800
	\$14,716,800
	\$8,121,250
	\$157,128,850
	(\$38,944,332)
	(\$11,626,272)
	(\$4,060,625)
	(\$54,631,229)
	\$102,497,621
	\$0
	\$0
	\$0
	\$102,497,621
	(\$25,200,000)
	(\$10,071,810)
	(\$4,713,866)
	(\$3,087,740)
	(\$6,285,154)
	(\$49,358,570)
	(\$103,989,799)
	\$53,139,052
Low	High
7.200%	7.230%

\$738,042,382	\$734,979,965
\$738,042,000	\$734,980,000
\$694.79	\$691.91
\$585,748	\$583,317
0.69%	0.28%
\$102,622,000	\$102,622,000
\$635,420,000	\$632,358,000
\$598.18	\$595.30
\$5,090,000	\$2,028,000

0.40%

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0413	Hyatt Regency Seattle F-UU	808 Howell Street	0660000708

	ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE	Value	5-yr delay
H	City LID special benefit for subject	\$3,570,000	
J	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr Percentage of Special benefit to be assessed by City	39.20%	34.29%
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only		\$479,912

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0413	Hyatt Regency Seattle F-UU	808 Howell Street	0660000708

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$732,952,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$494,800,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A *(1+C)			Corrected FMV for Assessment \$432,950,000

excludes personal property

SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit		
F	Discount to present value (Dollars)	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)	34.29%	9.42%

CORRECTION OF ASSESSMENT		5-yr delay	10-yr delay
H	City LID special benefit for subject		
H/A	As Percentage of Final City Before Value		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		
I	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		
J	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		
J * I	Percentage of Special benefit to be assessed by City		
	Recomputed Assessment (5-yr delay, and 10-yr delay)	\$283,481	\$77,891

DISTANCE FROM PARK IMPROVEMENTS		5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0413

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON ELLIOTT NE
LLC’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
0660000708

32
33 Elliott NE LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070, Seattle
34 Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office
35 of the City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
36 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
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41
42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:

44
45 Elliott NE LLC
46
47

1 217 Pine St. Suite 200
2 Seattle, WA 98101
3 Zahoor Ahmed
4 206-624-8909
5 ahmed@rchco.com
6

7
8 **II. Taxpayer's Representatives**

9 Taxpayer's representatives in this matter are:

10
11
12 R. Gerard Lutz, WSBA No. 17692
13 JLutz@perkinscoie.com
14 Megan Lin, WSBA No. 53716
15 MLin@perkinscoie.com
16 Perkins Coie LLP
17 10885 N.E. Fourth Street, Suite 700
18 Bellevue, Washington 98004
19 Telephone: 425.635.1400
20 Facsimile: 425.635.2400
21
22

23 Robert L. Mahon, WSBA No. 26523
24 RMahon@perkinscoie.com
25 1201 Third Avenue, Suite 4900
26 Seattle, Washington 98101
27 Telephone: 206.359.8000
28 Facsimile: 206.359.9000
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31 **III. Statement of Taxpayer's Interest**

32 Elliott NE LLC is the taxpayer for the property that is subject to the proposed final
33 assessment described in Section IV. This property is the Hyatt Regency Seattle, a 45-story
34 hotel containing 1,260 guest rooms and 100,242 square feet of meeting space.
35
36

37 The basis of the proposed assessment is a Final Special Benefit/Proportionate
38 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
39 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
40 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
41 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Taxpayer appeals the Hearing Examiner’s recommendation to remand Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 0660000708
34 Site Address: 808 Howell St., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$1,398,805

36
37 See Examiner’s Recommendation at 61-62, 104. To avoid repetition, Taxpayer incorporates
38
39 the evidence and arguments raised before the Hearing Examiner into this appeal. In
40
41 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
42
43 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
44
45
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47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4
5 As discussed more fully below, Taxpayer specifically appeals the following Findings
6 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
7
8 Pages 61-62, 104, Sections II.6, II.7, II.12, II.14, II.16, II.17, II.18, II.19, II.20, II.21, II.22,
9 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
10 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
11 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5,
12 IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14, and IV.C.18
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14

15 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
16 recommendations on material issues raised during Taxpayer's appeal that were supported by
17 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
18 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
19 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
20 recommended anything other than denial of objectors' appeals were where the City's
21 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
22 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
23 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

23
24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$3,570,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
9

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11 **Legal Requirement:** Must comply with appraisal standards
12

13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
18
19

20 **Legal Requirement:** Actual and measurable special benefit
21

22 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
23 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
24 on a host of "micro-judgments" that are not supported by any documentation, nor capable
25 of replication or quality assurance/quality control. The assessments are undocumented,
26 unreliable, and not supported by empirical studies, data, or reports.
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28

29 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
30 supported by empirical evidence
31

32 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
33 value of parks and other public amenities and on whom ABS purported to rely, testified
34 that ABS had completely misapplied his work and dramatically overstated both the
35 distance to which economic benefits might extend from the LID Improvements and the
36 extent of any anticipated benefit within the potentially benefited area.
37
38

39 **Legal Requirement:** Actual special benefit—Must take into account potential
40 disamenities
41

42 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
43 construction, as well as other potential disamenities associated with public places.
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1 **Legal Requirement:** Cannot prematurely commit to build

2
3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
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9

10 In addition to these general objections, there are property-specific issues raised by
11 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
12 statement below.
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17 **V. Standard of Review**

18 “When considering the assessment roll, the city council sits ‘as a board of
19 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
20 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
21 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
22 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
23
24

25 The proposed assessments are presumed correct, “unless overcome by clear, cogent
26 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
27 than the heightened presumption of correctness on judicial appeal because “applying these
28 elevated standards at the municipal hearing would afford unwarranted deference to a report
29 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
30 presumption is not evidence and its efficacy is lost when the other party adduces credible
31 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
32 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
33 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
34 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
4

5 **VI. Grounds for Appeal**

6 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
7 following grounds.
8

9 **Taxpayer Not Required to Provide A Special Benefit Study**

10 1. Contrary to the Examiner's findings and recommendations, there is no
11 requirement that experts or property owners provide an alternative special benefit
12 calculation under these circumstances—to do so would also require the same improper
13 speculation the City's expert engaged in, given the timing and information provided. *See*,
14 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
15 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
16 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
17 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
18 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
19 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
20 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
21 provided expert opinion showing that improvements actually diminished value of the
22 property). In fact, no independent evidence is required at all if, for example, objectors show
23 that the assessment was grounded on a fundamentally wrong basis due to an error in the
24 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
25 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
26 a property owner could simply point out that the square footage assumed in the City's
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1 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
2 Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8,
3 and IV.C.11.
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6
7 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
8

9 2. RCW 35.43.040 provides cities and towns authority for ordering local
10 improvements and for levying and collecting special assessments "on property specially
11 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
12 upon all the property in accordance with the special benefits conferred thereon." RCW
13 35.44.010.
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18 3. No analysis of general benefits. Special assessments have been "held valid
19 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
20 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
21 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
22 they are for the construction of local improvements that are appurtenant to specific land and
23 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
24
25

26
27 4. Taxpayer's property is not specially benefited by the LID Improvements.
28 The primary purpose and effect of the LID Improvements are to benefit "members of the
29 whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public
30 library is for the benefit of the members of the whole community individually and
31 collectively who may be served by it"). Mr. Macaulay's own chapter of the LID Manual
32 states clearly that appraisers should "[c]onsider general benefits as well as special benefits"
33 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that "general benefits probably accrue
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46 ² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
47 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil

1 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
2 that if an appraiser “identifies both general and special benefits, these benefits should be
3 clearly distinguished and explained, and only special benefits should be included in the
4 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
6 183:4; Peter Shorett January 30, 2020 Appraisal Review (attached to Petition) at Attachment
7 p. 15 (explaining the examples in the Final Study only provide information about general
8 benefits and Study does not use proper measure of analysis to show special benefits).

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17 5. It is undisputed that Mr. Macaulay did not analyze or measure general
18 benefits, including those arising from construction necessary to meet basic design standards.
19 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
20 construction costs related to meeting design standards which may be general benefits as
21 distinct from construction costs emanating from requirements of the LID project”). To the
22 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
23 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
24 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
25 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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35 6. LID Improvements not necessary. Unlike typical LID projects, the
36 Waterfront LID improvements are largely unnecessary to the functionality of any particular
37 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
38 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
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(March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 held invalid where owners would have benefitted equally from increase of only 9 feet);
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3 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
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5 intersection for new water main for hydrant held invalid because land was already afforded
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7 functional hydrant at nearby street). Here, Taxpayer provide evidence that the LID
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9 Improvements are not necessary to their hotel business, which already has sufficient access
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11 to the waterfront, downtown restaurants, and other amenities necessary for their clients and
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13 users. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 25.

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15 7. The fact that there is no case law differentiating between binary
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17 improvements and parks does not change the law prohibiting assessments on properties
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19 already adequately served by existing amenities. *See* Examiner's Recommendation at
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21 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
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23 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
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25 reasoning excuse the City's failure to account for existing amenities as part of the special
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27 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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29 the incremental effect of new park improvements on the value of properties, much like
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31 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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33 (Crompton's Report) at 12-13.

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35 8. To the extent benefits can be considered "special" as opposed to general, they
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37 are nominal or nonexistent for many properties even in the Central Waterfront, which
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39 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
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41 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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43 change due to expansion of sewer service *near* owners' parcel which were already
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45 connected). Ultimately, the primary reasons users choose a particular hotel is not proximity
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47 to the waterfront. Instead, like most of the downtown hotels, the Hyatt Regency caters

1 primarily to business travelers attending conventions and meetings. *See, e.g.*, Hrg. Exhibit
2 114 (Decl. of Z. Ahmed), ¶ 26. For this reason, Mr. Ahmed—taxpayer’s representative—
3 explained that the Hyatt Regency does not expect the LID Improvements to increase impact
4 on demand for rooms or room rates. *Id.* Even if the City could assess for a view change (and
5 it has promised not to assess for viaduct removal), the fair market value of Taxpayer’s
6 property has not changed because the LID Improvements have not improved the property’s
7 waterfront view or access to the waterfront, nor will they when the City anticipates
8 completion in 2024. For these reasons, Taxpayer appeals the following portions of the
9 Examiner’s Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.
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11 9. No analysis of special detriments. The Final Study fails to properly account
12 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
13 owners for removal and cleanup of underground storage tanks discovered during the
14 improvement project). Here, property values may in fact be negatively impacted by the LID
15 Improvements due to loss of parking or increased traffic and noise. Although Mr. Macaulay
16 claims he analyzed impacts on the City’s planned elimination of 450 parking stalls on a
17 parcel-by-parcel basis, there is no explanation of how lost parking might be a detriment, and
18 no property-specific parking analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-
19 24; 186:14-187:12.
20

21 10. Likewise, there was no analysis of the risks associated with disamenities such
22 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
23 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
24 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
25 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
26 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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1 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
2 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
3 the maintenance agreement. *Id.* at 13:4-14:2.
4

5
6 11. There was also no consideration of negative impacts from another four-plus
7 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
8 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
9 law allowing him to dismiss these actual, non-speculative impacts. Because future special
10 benefits calculations are inherently speculative, Washington's eminent domain statute
11 specifically allows condemnees to postpone special benefits assessments until improvements
12 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
13 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
14 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
15 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
16 Greenway, the Greenway district "significantly" lagged in value).
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19 12. Meanwhile, Mr. Ahmed testified that the assessment is an immediate expense
20 for the Hyatt Regency that comes with no immediate increase in revenue, thereby decreasing
21 property values. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed), ¶ 27. Mr. Ahmed further
22 testified that the Hyatt Regency will receive no special benefit from the proposed
23 improvements, and in fact the property is more valuable without the proposed LID
24 improvements and the corresponding assessment. *Id.*, ¶ 28. For these reasons, Taxpayer
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 appeals the following portions of the Examiner’s Recommendation: Sections II.25, IV.B.8,
2 and IV.B.9.
3

4 13. Special benefit estimate is speculative. When calculating a special benefit,
5 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
6 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
7 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
8 P.2d 1078 (1958)).
9

10 14. Assuming without conceding that one day, the City’s planned LID
11 Improvements might increase the value of neighboring properties to some extent, that
12 potential benefit is many years away and speculative. While appraisers tolerate some degree
13 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
14 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
15 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
16 the level of precision implied in the Final Study due to the size of the LID and use of
17 hypotheticals).
18

19 15. Although LIDs are sometimes finalized prior to completion of improvements,
20 this is typically just six month or a year prior, and the assessments are otherwise supported
21 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
22 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
23 will not be realized for four or five years. In the meantime, there is permitting risk,
24 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
25 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
26 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
27 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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1 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
2 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
3 market value would be as of the date the project would be finally constructed” because
4 “[t]here could be a lot of elements in the market that did occur between now and then that
5 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
6 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
7 fluctuate over time” and “I can’t predict the future”).
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15 16. The record is clear that while no one can know what “special benefit” might
16 accrue to these properties in four years (if any), we do know that there are no actual benefits
17 now. The LID improvements provide no immediate special benefit to property owners
18 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
19 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
20 sewer system for future users). For example, notwithstanding the questionable hypothesis
21 that hotels will benefit from an expected increase in tourism (higher room rates or
22 occupancy) when the improvements are complete, it is undisputed that tourists are not
23 coming in larger numbers and paying higher room rates now because of something
24 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23.
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35 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
36 for the LID Improvements, and it is unlawful to move to final assessments without such
37 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
38 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
39 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
40 dollars on projects still early in the design process. *See* Washington Attorney General
41 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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1 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
2 of programs and included “only so much of the overall costs” that took place within and
3 benefitted the assessed properties).
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6 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
7 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
8 anticipated to be delivered five years later. Even before COVID, it was speculative to
9 assume that market highs experienced in October 2019¹ would be sustained through 2024,
10 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
11 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
12 my analysis in October 2019, who would have thought that this COVID issue would
13 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
14 process was that the market was going to continue to go up”—in fact, it did not for
15 Taxpayer’s property. *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that
16 downtown hotel values had already dropped an estimated 10-15% from their October 2019
17 levels, and occupancy rates were at zero or in single digits. *See* Gordon Decl. (dated
18 4/21/2020) at ¶ 9. Hotels without guests will derive no benefit, special or otherwise, from
19 the planned LID Improvements. And even assuming hotels recover prior to 2024, there is
20 no basis for assuming that values hypothesized in October 2019 will remain relevant; they
21 are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020).
22 Although COVID does not change actual values as of October 2019 (*see* Examiner’s
23 Recommendation at 109), the pandemic has impacted *current* values and rendered the
24 hypothetical October 2019 Final Study valuations outdated.
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26 19. As another example of how future events could affect the accuracy and
27 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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1 Examiner re-open the record to allow the City to explain whether the assessments against
2 property owners within the LID are, in fact, being used by the City to fund the emergency
3 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
4 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
5 would be improperly imposing costs on property owners within the LID for improvements
6 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
7 habitat and City infrastructure—this does not provide any special benefit to LID property
8 owners.
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11 20. There is also no certainty the improvements will be delivered on time. Mr.
12 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
13 delay in construction schedule would not constitute a “material change” under the City
14 Council’s ordinance authorizing the improvements. In other words, the City cannot
15 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
16 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
17 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
18 potential delays and project changes inherent in those processes, that call into question the
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

40 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
41 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
2 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
3 Decl., dated 4/15/2020).
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6 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
7 he could not point to a single one where the assessment roll was finalized five years in
8 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
9 he has never recommended final special assessments based on designs less than 30 percent
10 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
11 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
12 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
13 at 66:17-25. He performed no independent due diligence to determine the reliability of the
14 City’s estimates for completion of the LID Improvements, or to ensure that proposed
15 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
16 agreed that if any of his assumptions are incorrect, his opinion of market value would need
17 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
18 68:11-18.
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22 22. The City has cited no authority—and Taxpayer is aware of none—that
23 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
24 assess taxes for “actual” special benefits that will not accrue for another five years (if all
25 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
26 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
27 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
28 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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1 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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3 IV.C.14, and IV.C.18.

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5 23. Failure to discount special benefit estimates to account for risks and present
6 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
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8 have accounted for risks associated with delivery of the improvements (including permitting
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10 risk, construction risk, general economic risk) and any special damages associated with
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12 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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14 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
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16 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
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18 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
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20 the impact of future conditions [through] discounted cash flow analysis.").

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23 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
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25 future condition not in place at the date of valuation and can discount for the time value of
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27 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
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29 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
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31 Discounting would also have been consistent with his approach for analyzing special
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33 benefits to vacant land. He testified that the difference between similarly situated vacant
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35 sites slated for development and already developed sites was that the labor, capital and risks
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37 associated with development had not yet been borne for those vacant sites. Therefore, the
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39 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
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41 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
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43 fully permitted, has not completed environmental review, and has not reached full design is
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45 presently worth significantly less.
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1 25. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
2 present value, an appraiser would consider discount rates for land development to account
3 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
4 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
5 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
6 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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12 26. Applying the Q19 Korpacz rates and assuming arguendo that Macauley's
13 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
14 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
15 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
16 ignoring momentarily all of the other methodological and other flaws discussed here and in
17 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
18 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
19 exceeds special benefits when reduced to present value. Further, to the extent the City is
20 arguing that because they are permitted to assess 100% of the special benefit, the special
21 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
22 is again wrong. After applying proper discounting, the City's proposed special benefit
23 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
24 100% of the total estimated special benefit.
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38 27. But even the assumption that the LID improvements would deliver benefits
39 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
40 on. Rather, those studies demonstrate that a discount period of five years is conservative.
41 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
42 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
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1 indicates that during the construction period, the Greenway district “significantly” lagged in
2 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
3 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
4 30-31 (discussing New York City High Line and San Francisco Embarcadero
5 improvements). Given the lengthy delay, any prediction of future special benefits is
6 speculative, especially during the construction phase where values are likely to decline.
7
8 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
9 Improvements take a similarly long period of time after they are complete to start producing
10 tangible property value benefits, each additional year of delay results in further discount to
11 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
12 A.
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15 28. Applying the same discounting methods described above and in Mr. Gibbons
16 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
17 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
18 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
19 100% assessment should be no more than \$336,294. Anything more would permit the City
20 to assess Taxpayer based on a hypothetical assumption that these improvements are in place
21 and providing benefit, and ignore the risks, construction disamenity, and time value of
22 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
23 would counsel that the assessment should be only 39.2% of that assessment cap, or
24 \$131,827.
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27 29. Attachment C includes two Excel spreadsheets applying these discounting
28 methods to Taxpayer’s assessment. It is undisputed that special benefits will not actually
29 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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1 demonstrates that discounting the City’s hypothetical October 2019 special benefits to
2 present value would reduce Taxpayer’s assessment to \$479,912, exclusive of any other
3 flaws in the City’s proposed assessment. The second spreadsheet shows even more drastic
4 reductions after taking into account: (1) Taxpayer’s experts’ estimated “Before” value based
5 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
6 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
7 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
8 the time it takes for the improvements to capture property value). After such reductions,
9 Taxpayer’s assessment would be just \$283,481 (for the 5-year discount) or \$77,891 (for the
10 10-year discount). Further, the spreadsheet concludes a “zero” benefit for this property
11 because, based on Dr. Crompton’s testimony, Taxpayer’s property is more than 2,000 feet
12 from the core “park” improvements and therefore too distant to receive any special benefit.
13 Neither of these spreadsheets address other issues raised by Taxpayer’s appeal, but are
14 intended to help demonstrate how unfair and inflated the City’s proposed hypothetical
15 assessment is. The Hearing Examiner’s Recommendation simply dismisses Taxpayer’s
16 discounting argument without legal or factual analysis; that failure is error.

32 **Appraisal and Assessment Calculation Methods Are Flawed**

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34 30. The “general rule is that each lot, piece, or parcel of land should be assessed
35 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
36 Wn.2d at 97.

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38 31. It is proper to sustain a challenge to an assessment, even without the appraisal
39 testimony from the owner, where the objector’s expert establishes that the assessment was
40 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
41 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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1 32. The City’s appraiser purports to utilize the income method of valuation but
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3 relied on inaccurate revenue and market data, as discussed further below.

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5 33. The City’s appraiser purports to utilize the comparable sales method of
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7 valuation, but no City witness attempted “to characterize any one, or all of them, as
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9 comparable to [Taxpayer’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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11 “several serious flaws” in ABS’s LID analysis in that case, including that the appraiser
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13 “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
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15 characterize any one, or all of them, as comparable to any particular property within the LID”).
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17 And no City witness could explain how specific adjustments were made to these sales to
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19 account for value increases due to the hypothesized Before and After Improvements. For this
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21 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.

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23 34. Special assessment improperly includes value lift from the Before
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25 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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27 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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29 Improvements, which WSDOT had independently committed to fund. However, Mr.
30
31 Macauley did not calculate the actual market value of LID properties in October 2019, and
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33 did not separately analyze the hypothetical increase to property values attributable to
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35 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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37 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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39 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
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41 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
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43 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
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45 documented basis or support, Mr. Macauley simply “ma[de] a judgment a call” on what
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47 occupancy and rates would have been for the commercial properties assuming all of the

1 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
2 outright omission precludes any independent evaluation of the true market “Before” values.
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4 See 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
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6 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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8 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
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10 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
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12 other road, pedestrian and landscaping improvements WSDOT had already committed to
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14 make.
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17 35. However, because Mr. Macaulay testified that he did include some WSDOT-
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19 related value-lift in the “Before” values, it follows that part of the special assessment
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21 improperly is based on value attributable to the WSDOT Improvements. As shown by
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23 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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25 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
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27 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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29 special benefit assignment would result in \$300,000 of over-assessment. See Gibbons Decl.
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31 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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33 to properly exclude the value of Before Improvements from the assessments. For these
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35 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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37 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)
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39 36. Special benefits were assigned rather than measured. Mr. Macaulay
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41 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
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43 property. See 1/30/2020 Gibbons Letter (attached to Petition); 3/12/2020 (P. Shorett) Hrg.
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45 Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 33/3/2020 (A. Gibbons) Hrg Tr. at
46
47 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay used to

1 analyze the commercial properties, Taxpayer's experts concluded that Mr. Macaulay based
2 adjustments on hypothesized very small increases to property revenue and very small
3 reductions to cap rates to "calculate" an "After" value due to the coming 2024 LID
4 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
5 based on "professional judgment" that are neither shown nor replicable.
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10 37. For these reasons, Taxpayer appeals the following portions of the Examiner's
11 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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14 38. Special benefit falls within margin of error. The Final Special Benefit Study
15 applies an estimated value enhancement of less than 4%, which is generally within the
16 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
17 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
18 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
19 of one another, this difference is considered reasonable as it falls within the standard margin
20 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
21 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
22 percentages fall far below that 5% margin, "there is no way of authenticating" such
23 incremental changes because "[m]arket forces completely obliterate any tiny little noise
24 factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
25 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Yet,
26 Mr. Macaulay assigned or purported to measure a difference in revenue and cap rates for
27 Taxpayer's property within that margin. Additionally, the fact that "Before" values are also
28 based on a hypothetical that adds some unstated incremental value to actual 2019 values
29 exacerbates this issue—the ability for an appraiser to discern the micro-value differences
30 between hypothetical conditions that are so similar (the WSDOT improvements compared to
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1 the LID improvements) “verges on being ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at
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3 89:4-90:7.

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5 39. Even if it were possible to accurately tease out such a miniscule hypothetical
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7 value change due to improvements coming five years later, experts testified that there is no
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9 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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11 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
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13 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at
14
15 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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17 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
18
19 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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21 40. No analysis of value increase attributable to individual components of the
22
23 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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25 percentage difference between hypothetical Before and After conditions. Throughout his
26
27 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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29 descriptions in the Addenda even though he testified that he relied on these to calculate
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31 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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33 someone might be able to determine how he attributed value to After conditions described in
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35 the Addenda, he answered that that was “not the scope of the assignment” because he was
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37 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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39 that the six components were not actually a continuous project, that he was viewing them
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41 together because the City asked him to, and that if he were to view them independently,
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43 there was a low probability that properties in the north would specially benefit from
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45 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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1 41. Not only did he fail to analyze benefits from each of these non-contiguous
2 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.*,
3 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
4 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
5 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
6 objectives that guided regulators’ assessment of architectural plans for buildings along a
7 “signature street” were so vague that they amounted to ad hoc review based on the
8 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
9 even though he used the renderings as “visual aid[s] in appraising the property in the before
10 and after” to “visually see what the differences would be,” he could not explain what
11 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
12 when shown a rendering of a two-lane road going down to one-lane in the After condition
13 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
14 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
15 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
16 could explain the depiction of the same trees in the After condition nearly twice as tall as in
17 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
18 of the Examiner’s Recommendation: II.27 and IV.B.4.
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 42. Special assessment is not supported by comparable studies, data or reports.
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3 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
4 that the LID Improvements will lead to meaningfully increased real estate values for
5 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
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7 comparable sales or information from the "over twenty-five studies and reports" to arrive at
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9 very precise special benefit increases for the commercial properties, including Taxpayer's
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11 property. For example, although Mr. Macaulay stated that no single report or study was
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13 directly on point due to the unique nature of the LID Improvements (*see, e.g.,* 6/25/2020
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15 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
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17 parcel-by-parcel analysis other than to say that the studies generally provided "some
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19 background to base decisions on." *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
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21 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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23 similarities and differences between these improvements and the comparable parks he
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25 looked at).
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28 43. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
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30 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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32 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
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34 research misinterprets his work in critical ways, including because the LID Improvements
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36 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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38 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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40 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
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42 related value increases are in fact smaller; that estimated increases are "best guesses" rather
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44 than predictions of property value increases in a particular city; and that percentages do not
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46 account for diminishing returns after taking into account water views, which would be the
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1 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
2 topography grants most properties in downtown a water view.
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5 44. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
6 that this was just one source of information that was not entirely relevant because, among
7 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
8 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
9 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
10 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
11 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
12 Crompton concluded that 500 feet via road from "park" improvements is just one or two
13 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
14 significantly beyond that which the park study indicated (even if it was legitimate to use the
15 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
16 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
17 impact applicable to "community parks"—which the LID Improvements are not. *Id.* The
18 Hyatt Regency is not within 2,000 road network feet from the "park" improvements. *See*
19 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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23 45. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
24 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
25 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
26 based on the attention given to Dr. Crompton's work in the Final Study and supporting
27 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
3 parcel-by-parcel analysis.
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6 46. The destination parks discussed in the Final Special Benefit Study do not
7 provide reliable, comparable, and valid support for the calculation of special assessments
8 here. *See* Shorett Appraisal Review (attached to Petition) at 15-19 (Shorett's critique of
9 every case study cited concludes the changes to those "dwarf the difference between the
10 before-after condition of the property with LID"); Gibbons 5/2/2018 Letter at 4; Hrg.
11 Exhibit 49 (P. Shorett's Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at 208:8-24;
12 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing Stmt., ¶ 5
13 (explaining again why the San Francisco, Boston, and Portland case studies are not in fact
14 comparable). None of the parks cited in the Final Special Benefit Study were funded by a
15 LID. And in virtually all of those cases, the park improvements dramatically restored
16 unimproved or blighted areas, and properties evaluated were within two or three blocks of
17 the park.
18

19 47. ABS's claimed reliance on three economic studies to support property value
20 increase is also flawed. The HR&A study does not inform what value increases are
21 expected from the LID Improvements because it projects increases to tourism from *all* of the
22 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
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42 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dissimilar parks in other cities,⁸ making the methodological application to the LID
2 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
3 conclusion that there would be *no new net visitors* from downtown residents as a result of
4 the LID Improvements and could not explain how this impacted his condo analysis.
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9 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
10 Property Values" primarily focused on whether the benefits accrue to the larger community
11 rather than properties adjacent to the park. And the 2014 New York City Department of
12 Transportation study is not based on real estate transactions and market sales and fails to
13 substantiate any link between increased retail sales and property values. Moreover, this
14 study only looked at impact either directly abutting the streetscape improvement, or a couple
15 hundred feet for plaza-like improvements.
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22 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
23 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
24 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
25 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
26 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
27 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
28 asked whether he considered that HR&A's estimated LID impact is six times greater than
29 TPL's assessment of Seattle's entire park system, he surmised that it was because the
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41 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
42 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
43 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
44 expected tourists visiting the LID park was calculated using data from only from New York City, a
45 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
46 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
47 how hotel visitors actually select hotels to stay in.

1 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
2 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
3 assumptions to account for this difference, which may be partly explained by the fact that
4 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
5 approximately 3.44% of King County tourists visit Seattle primarily because of the city
6 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
7 waterfront improvements.
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15 49. Although proximity to the improvements is a key factor in all of these
16 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
17 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
18 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
19 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
20 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
21 Improvements is approximate 20 acres and it is not a community park.⁹
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29 50. There is no explanation in the Final Study or the supporting materials of how
30 the studies or comparable sales were used to derive values for Taxpayer's property. For
31 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
32 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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37 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
38 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
39 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 recognized) for developing the MAI standards for mass appraisals, testified that the Final
2 Study does not meet mass appraisal standards nor allow for independent assessment of the
3 accuracy of Mr. Macauley's conclusions.
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6 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
7 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
8 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
9 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
10 testimony suggests that he incorrectly believed that the only difference between direct
11 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
12 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
13 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
14 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
15 Gordon uses in doing his limited restricted report").
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17 53. But the difference is not only in reporting—mass appraisal techniques must
18 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
19 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
20 parcel approach:
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22 The mass appraisal technique is an appraisal method used to evaluate
23 a group of properties that are subject to similar market forces as of a
24 certain date through the use of market data, statistical analysis and
25 testing. As a result, the mass appraisal technique does not require or
26 involve analysis of each individual property's specific data.
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28 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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30 54. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
31 universe of properties as a given date using standard methodology, employing common data,
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1 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
2 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
3 model” is “a mathematical expression of how supply and demand factors interact in a
4 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
5 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
6 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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12 55. Regardless of client direction, Mr. Macaulay is required to comply with
13 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
14 economically feasible because it would have taken “an incredible amount of time and cost”
15 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
16 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
17 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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23 56. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
24 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
25 value, fails to calibrate the model structure to determine the contribution of the individual
26 characteristics affecting value, and does not review the mass appraisal results against actual
27 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
28 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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37 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
38 relationship between characteristics that affect value, and to calibrate that model to specify how
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
40 21). The purpose is to rationally determine what characteristics will create value, and by how much.
41 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
42 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
43 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
44 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
45 include explanation of the model specification, data requirements, calibration methods, and
46 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
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1 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
9 values were hypothetical, it was not possible to identify matched pair sales and no City
10 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
11 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
12 requires him to explain his model structure.
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15 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
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21 59. Finally, Taxpayer’s property is not appurtenant—or even in close
22 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
24 close proximity to the property on which expert testimony was given”). The Hyatt Regency
25 is more than 3/4 of a mile walk—approximately 3,500 feet as the crow flies—from Pier 58
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45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 and the proposed waterfront improvements. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed), ¶
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3 24. And, as described above, the special assessment is overstated because the Final Study
4 makes no attempt to determine general benefits, existing amenities for Taxpayer’s specific
5 property, or special detriments. In addition, it is speculative due to the fact that, as of
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7 October 2019, improvements were not in place—and, in fact, much of the waterfront is a
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9 construction zone following removal of the viaduct and now Pier 58 demolition. Under
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11 these circumstances, rather than relying on entirely imaginary income and shaky
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13 hypotheticals, Mr. Macaulay at the very least should have discounted the special benefit
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15 estimates or waited to perform the Study until the improvements were at least close to
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17 complete.
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20 21 **Erroneous Pre-Improvement Valuation**

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23 60. The proposed final assessment erroneously overstates the pre-improvement
24 value of Taxpayer’s property as of October 1, 2019 and, as a result, overstates the special
25 benefit to the Taxpayer’s property.
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28 61. The City’s Final Study was used to compute the proposed final assessment of
29 the Hyatt Regency. The City’s Study purportedly uses data from the King County
30 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
31 Study does not accurately reflect this data. For example, the City’s Study values Taxpayer’s
32 property at \$732,952,000 as of October 1, 2019. However, the King County assessor
33 determined the true and fair value of the property to be \$486,906,100, valued in 2019 for tax
34 year 2020. In other words, the Final Special Benefit Study’s valuation is 151% the King
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45 ¹¹ *See, e.g.*, Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment’s online “eReal
47 Property” search tool).

1 County's assessed value. The Final Special Benefit Study does not explain this difference—
2
3 or any differences—between its pre-improvement valuation and its supposed source for
4
5 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
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7 Recommendation.

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9 62. Further, the City's analysis was based on unreliable market data. For the
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11 hotels, Mr. Macaulay's decision to rely on inaccurate market data notably deviates from
12
13 standard appraisal practices because more reliable data in the form of STR reports are
14
15 readily available. Examiner Recommendation at Section IV.C.10; 3/12/2020 (J. Gordon)
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17 Hrg. Tr. at 196:5-197:12; 215:9-18. Without the STR reports or actual input from the hotels,
18
19 Mr. Macaulay's "Before" valuations are drastically overstated in large part because he relies
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21 on publicly available "room rack rates" to estimate hotel income. *See id.* (J. Gordon) at
22
23 162:3-18; 170:16-171:13; 179:25-180:14; 192:15-22. As the Examiner found, "Mr. Gordon
24
25 is a specialist expert in appraising hotels and his expert opinion, in addition to the specific
26
27 information he relied on for that opinion, is superior to the opinion and supporting data of
28
29 the City in its valuation." Examiner's Recommendation at II.16. The Examiner concluded
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31 that Mr. Gordon's valuations were more reliable "due to the specialist nature of Mr.
32
33 Gordon's background and the specificity of the valuation data upon which he relied"—
34
35 namely STR reports or actual revenue data from the hotel. *Id.* at IV.C.10. Therefore, "the
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37 valuation of [this] property should be remanded for recalculation by the City appraiser based
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39 on the information provided by [this] Objector." *Id.*

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41 63. Specifically, the evidence and testimony presented showed that the actual
42
43 average daily room rate (ADR) for the Hyatt Regency in 2019 was \$205, stabilized at \$222.
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45 However, Mr. Macaulay incorrectly estimated an ADR of \$365 for this property which is
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47 78% higher than the actual ADR, far exceeds the most optimistic assumptions about future

1 growth in hotel room rates for the Hyatt Regency, and is not a reasonable assumption in
2 valuing a hotel of this type in the downtown Seattle market. In addition, the Hyatt Regency
3 had an average occupancy rate of 67.8% in 2019, which is substantially lower than the 80%
4 occupancy rate assumed by Mr. Macaulay in valuing the property. And the Hyatt Regency
5 has significantly reduced operations as a result of the COVID-19 outbreak.
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10 64. Due to these errors alone, Mr. Macaulay artificially raised the property's
11 Before value; Mr. Gordon valued the property at \$494,800,000 (without personal property),
12 which is \$238,152,000 (or about 32.5%) less than ABS Valuation's estimate. Setting aside
13 that ABS Valuation's inclusion of personal property when valuing hotels is disproportionate
14 and flawed, Mr. Gordon's estimate of value including personal property is \$507,400,000,
15 which is still significantly lower than ABS Valuation's estimate (\$732,952,000). *See* Fourth
16 Decl. of Gordon, at ¶ 5 (dated 7/7/2020).
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24 65. Taxpayer expects an opportunity to respond to the revised assessment once
25 that is provided (*see* Examiner's Recommendation at V) and appeals the remainder of
26 Section IV.C.10 of the Examiner's Recommendation rejecting Taxpayer's other bases for
27 reducing the assessment. For example, Taxpayer disagrees with the Examiner's conclusion
28 that one of the reasons Mr. Gordon's appraisals concludes a lower value for this property is
29 because he was not valuing the properties in the "Before" condition. Examiner's
30 Recommendation at Section II.16. This does not explain the 78% difference between ABS
31 Valuation's estimate and actual average room rates for the Hyatt Regency. Further, Mr.
32 Lukens—who reviewed ABS's valuation estimates for reasonableness—was not even aware
33 that the Before values were supposed to include the WSDOT Improvements. 6/26/2020
34 Hrg. Tr. at 165:2-166:22.
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1 66. Thus, aside from multiple other reasons why computation of the special
2 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
3 improvement values that do not accurately reflect market data. For these reason, Taxpayer
4 appeals Section II.16 of the Examiner’s Recommendation.
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9 **Erroneous Computation of Special Benefit**

10 67. “Special benefit” is “the increase in fair market value attributable to the local
11 improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property
12 may receive by reason of the improvement is not measured alone by the physical character
13 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
14 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
15 the particular tract or property benefited by the entire improvement, and is it assessed
16 proportionately with the other property included within the assessment district?” *Id.* 165–
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26 68. The proposed final assessment erroneously overstates the special benefit of
27 LID improvements in a number of ways.
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30 69. Overstated Before value led to overstated special benefit. ABS Valuation’s
31 overstated Before value resulted in an inflated special benefit estimate and assessment after
32 Mr. Macaulay made micro adjustments to “Before” revenue and capitalization rates to
33 calculate an After value. Mr. Macaulay conceded that using his methods and his
34 spreadsheets, changing the room rate alone would change the special assessment. 6/25/2020
35 Hrg. Tr. at 42:21-43:15 (explaining that changing the room rate will result in a different
36 assessment and the same is true for every hotel); *see also* 6/23/2020 Hrg. Tr. at 111:9-11,
37 132:12-133:10, 140:20-141:9. And he agreed that if Mr. Gordon’s numbers are accurate—
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1 and there is no evidence they are not—then ABS would need to redo the appraisal for the
2 Hyatt Regency to determine if adjustments are needed. *See id.* 109:17-110:2.

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4 70. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
5 the Hyatt Regency, Mr. Macaulay assumed room/rental rates would increase by 0.20% (low)
6 and 0.45% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not
7 possible to accurately conclude that the reason for this level of percentage increase would be
8 due to the LID Improvements, and there appears to be no support for assignment of these
9 percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same
10 percentages (0.20% and 0.45%) to increase food and beverage revenue, and parking and
11 other income. He then uses this hypothesized increased revenue to calculate a new net
12 operating income for the commercial properties and capitalizes that to come up with an
13 “After” valuation.
14

15 71. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
16 operating income remains the same as in the hypothetical “Before” condition, but changes
17 the cap rate. For the Hyatt Regency, the cap rate goes from 7.25% to 7.2% (low scenario,
18 creating a bigger value increase) and 7.23% (high scenario, creating a lower value increase).
19 Mr. Gordon likewise explained that cap rate changes of 0.05% or 0.02% are not typically
20 measurable, and there appears to be no support for these changes in the Final Study or any
21 of its supporting materials.
22

23 72. Mr. Macaulay then averages his four “After” values to arrive at a final special
24 benefit conclusion. For the Hyatt Regency, this is an increase in property value of 0.49%
25 due to the LID Improvements.
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27 73. Mr. Macaulay offered little justification for his micro adjustments to revenue
28 and capitalization rates. When asked precisely what the basis is for his special benefit
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1 percentage increases to revenue for each commercial property, he could not point to
2 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
3 is nothing in the report to allow a reader to understand how he came up with these
4 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
5 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
6 the basis for his belief that certain factors—liked increased connectivity—will increase
7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
8 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
9 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
10 sources equally even though there was no separate analysis done for food and beverage or
11 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
12 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
13 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
14 properties.

15
16 74. When asked the basis for making such adjustments specifically for hotels,
17 Mr. Macaulay pointed to “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7
18 (“Mr. Lukens helped significantly in that regard in helping, you know, look at probable
19 adjustments”). However, Mr. Lukens testified that he did not review the percentage
20 increases. *See* 6/25/2020 Hrg. Tr. at 170:24-172:20.¹² And he did not review any work or
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¹² As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different special benefit and capitalization rate increases to the parking and retail parcels associated with the Grand Hyatt and the Four Season even though these sources of revenue receive identical increases when they are part of the same legal parcel as the hotel. But he ends up concluding the same special benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt parcels). When asked whether this was a matter of coincidence, his answer was that is “just our estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a

1 data to determine whether the revenue percentage adjustments in the spreadsheets were
2 reasonable, nor did he ever find them to be unreasonable or suggest any changes. *Id.* at
3 172:3-20. Instead, he appeared to be considering them for the first time on cross
4 examination, testifying that the adjustments “appear to be a kind of sensitivity analysis” and
5 “appear to be a very minor change.” *Id.* at 170:18-172:13. Likewise, he had no
6 understanding of what factors went into determining the change in capitalization rates in the
7 spreadsheets. *Id.* at 173:23-174:1. And he did not know how ABS Valuation reconciled the
8 four scenarios to come to final estimated special benefit. *Id.* at 174:22-175:4.
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11 75. Mr. Macaulay testified that he used comparable sales as a reasonableness
12 check for commercial properties. But as explained above, no City witness has explained
13 how anyone, or all, of the sales are comparable to any particular commercial property within
14 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
15 in order to make sales “comparable,” he would have had to make adjustments to account for
16 Before and After conditions, but there is no way to understand how adjustments were made
17 because he “didn’t do a separate sales comparison approach where we showed adjustments
18 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
19 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
20 *Id.* at 127:10-128:24.
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23 76. It also bears noting that any “internal review” of the special benefit estimates
24 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
25 error. Indeed, given all the same information, he seemed to suggest that it would be
26 perfectly reasonable for another experienced appraiser to come up with special benefit
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46 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
47 though it is one block closer to the waterfront.

1 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
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3 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
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5 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
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7 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
8
9 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
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11 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
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13 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
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15 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
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17 special because it is arbitrarily assigned; and it is too small to realistically be supported by
18
19 appraisal techniques.

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21 77. No evidence of special benefit. There is "no actual evidence from any seller
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23 or purchaser that the price was higher because of the LID improvements." *Bellevue Plaza,*
24
25 *Inc*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not identified any
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27 seller or buyer, or any particular property where the existence of the LID improvements had
28
29 an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has explained that the
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31 property has not increased rental rates or revenue due to the forthcoming LID
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33 Improvements, because, among other reasons (and apart from COVID), the improvements
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35 ABS believes will generate value do not exist, and will not for a number of years to come.
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37 There are no comparable sales because the LID Improvements are not in place, nor will they
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39 be until the end of 2024 if completed on schedule. Notably, this property is further than
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41 2,000 feet from the core waterfront improvement, making any basis for finding a special
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43 benefit extremely tenuous given Dr. Crompton's testimony and reports.

44
45 78. The fair market value of Taxpayer's property has not changed due to
46
47 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially

1 benefited from installation of new water main and fire hydrant where it was already
2 adequately supplied with water and afforded adequate fire protection). And in any event,
3 any value attributable to removal of the viaduct was to be excluded from the assessment
4 calculation.
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8 79. There is no special benefit because LID improvements in fact diminish the
9 value of Taxpayer's property potentially drawing visitors away towards improvements that
10 do not abut the property and increasing competition in other areas of the city. *See Kuskys*, 85
11 Wn. App. 493 (testimony of owners' expert that LID actually diminished value of property
12 was sufficient to rebut presumption that assessment was proper).
13
14

15 80. Moreover, the assessment formula is an attempt to distribute costs that do not
16 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
17 "merely a mathematical model that distributes costs").
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20 81. The Special Benefit Study fails to address whether the \$346,000,000
21 estimated LID project cost takes into account the investment that would have occurred in the
22 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
23 invested. This is a critical component of estimating which properties receive a direct benefit
24 from the improvements, versus more incidental benefits further from the park.
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27 82. Assessments are disproportionate. Taxpayer also presented evidence
28 showing that the assessments are disproportionate. For example, the City disproportionately
29 assessed hotels a greater percentage of the cost of the Improvements even though there no
30 evidence that hotel properties will in fact benefit. And even within the hotels, the
31 assessments are disproportionate. Mr. Gordon testified that the differences between the
32 special benefit increases for the Hyatt at Olive 8, the Grand Hyatt, and Hyatt Regency—
33 which are all very close together—made little sense and raised doubts as to proportionality.
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1 83. Mr. Macaulay also included personal property in his valuation of hotels even
2 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
3 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
4 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
5 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
7 receiving a disproportionately high LID assessment in comparison to other property types,
8 since hotels were the only property type subject to personal property LID assessments.
9 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
10 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
11 notice procedures because hotel property owners only received notice that their real estate
12 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).

13 84. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
14 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
15 a television at the waterfront Marriott is assigned a greater special benefit than the same
16 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
17 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
18 unreasonable to assign a value lift to personal property that is replaceable at the same cost
19 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
20 Shorett ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
21 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
22 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
23 for this error.

1 85. The only evidence the City provided specific to this property was to rebut
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3 Mr. Gordon’s “Before” valuation. But the Hearing Examiner has already found that Mr.
4
5 Gordon’s valuation is more reliable. The remainder of the City’s evidence and testimony
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7 regarding this property provides only general responses which have already been rebutted by
8
9 Taxpayer in its case-in-chief and cross-examination. *See* Lukens Decl., at ¶¶ 31-33 (dated
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11 4/30/2020); Second Decl. of Bird, at ¶¶ 74-82 (6/26/2020).

12 86. The proposed final assessment substantially exceeds the special benefit to the
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14 property and is grossly disproportionate to similarly situated properties within the LID. For
15
16 these reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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18 Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.10.

19
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21 **State Environmental Policy Act and Other Environmental Permitting**

22 87. While this appeal is not challenging the City’s environmental review and
23
24 permitting processes, those processes are relevant in determining the legality of the
25
26 assessments, and to assessing the delivery risk, the present value of the City’s plans, and
27
28 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
29
30 pursue projects that have not yet undergone environmental review (thus limiting the choice
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32 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
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34 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
35
36 is just beginning. Further, the City has segmented environmental review, and still has a
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38 gauntlet of federal, state and tribal review processes to complete before it will be clear what
39
40 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
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42 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
43
44 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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46 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
47

1 committing to reconstruction of Pier 58 and major street improvements without
2 environmental review, or the City's Final Special Study has improperly included and is
3 proposing to assess the Taxpayer the costs and special benefits of improvements that may
4 not get built. Either way, it is faulty process.
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8 **Due Process Rights**

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10 88. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
11 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
12 Because LID assessments involve a deprivation of property, affected owners have the right
13 to a hearing as to whether the improvement resulted (or will result) in special benefits to
14 their properties and whether their assessments are proportionate, which necessarily includes
15 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
16 555, 569–70, 229 P.3d 761 (2010).
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24 89. The LID statute specifies that cities must mail notices giving the time and
25 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
26 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
27 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
28 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
29 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
30 secure their own appraisal), evaluate proportionality of the proposed assessments, and
31 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
32 for anybody to get an appraisal”).
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42 90. The City's Notice of Assessment was sent on December 30, 2019. And the
43 Final Special Benefit Study has only been available for public review since January 7, 2020.
44 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
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1 order that would preserve and protect Taxpayer's right to analyze and respond to the Final
2 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
3 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City's
4 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
5 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
6 the Examiner's Recommendation: I.B.
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13 **VII. Relief Requested**

14 Taxpayer respectfully requests that the City Council:

- 15 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
16 assessment dated December 30, 2019; or
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18 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
19 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
20 hearing in this matter; or
21
22 3. Grant the Examiner's recommended remand but with instructions recalculate
23 and reduce Taxpayer's assessment using recognized appraisal techniques consistent with
24 USPAP and;
25
26 a. Excluding any property value increase attributable to viaduct removal and
27 other planned WSDOT Improvements;
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29 b. Excluding any value attributable to personal property;
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31 c. Taking into account the effects of the COVID-19 pandemic on the value of
32 Taxpayer's property and other relevant developments since October 2019;
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34 d. Accounting for and excluding (1) any special benefits from existing or
35 planned improvements that already provide similar benefits to Taxpayer's
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property, and (2) any special detriments from construction and other anticipated LID-related disamenities;

- e. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
- f. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
- g. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and

4. Grant such further relief as the City Council deems just and proper.

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2 DATED: September 22, 2020
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FILED

3:53 pm, Tue, February 16, 2021

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Subject: Waterfront LID Amended Appeal for Case No. CWF-0413
Date: Tuesday, February 16, 2021 3:34:13 PM
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CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
[Hyatt Regency Amended LID Appeal before City Council.pdf](#)

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0413

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON ELLIOT NE
LLC’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
0660000708

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34 ELLIOT NE LLC (“Taxpayer”), known as the Hyatt Regency Hotel, files this
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36 amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of
37
38 Seattle Resolution 31915, City of Seattle Resolution 31979, the notice of the Seattle Office
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40 of the City Clerk dated December 30, 2019, the notice of the Seattle Office of the City Clerk
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42 dated February 1, 2021, the Hearing Examiner’s Findings and Recommendation issued
43
44 September 8, 2020 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings
45
46 and Recommendation issued February 1, 2021.
47

1 **I. Elliot NE LLC / Appellant**

2 The taxpayer filing this amended appeal is:

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4
5 ELLIOT NE LLC
6 217 Pine St. Suite 200
7 Seattle, WA 98101
8 Zahoor Ahmed
9 206-624-8909
10 ahmed@rchco.com
11

12 **II. Elliot NE LLC's Representatives**

13 ELLIOT NE LLC'S representatives in this matter are:

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15
16
17 R. Gerard Lutz, WSBA No. 17692
18 JLutz@perkinscoie.com
19 Perkins Coie LLP
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Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

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26 **III. Statement of Elliot NE LLC's Interest and Incorporation of Prior Arguments**

27 ELLIOT NE LLC is the taxpayer for the property that is subject to the proposed
28
29 final assessment described in Section IV.

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31 Elliot NE LLC is amending its appeal as authorized in City of Seattle Resolution
32 31979 to include additional arguments relevant to the revised Final Recommendations of the
33
34 Hearing Examiner issued on February 1, 2021. On February 4, 2020, Elliot NE LLC timely
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36 filed an objection to the assessment, which was based on the Final Study. Elliot NE LLC
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38 further timely filed an appeal of the Hearing Examiner's 2020 recommendations to the City
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40 Council. Elliot NE LLC maintains and incorporates all objections and arguments raised in
41
42 its appeal filed with the City Clerk on September 22, 2020. This amendment is a
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44 supplement is to be read together with Elliot NE LLC's appeal filed on September 22, 2020.
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1 Elliot NE LLC incorporates by reference all filings, evidence, and pleadings filed by any
2 party before the Hearing Examiner as authorized by the Hearing Examiner, including
3 without limitation all records pertaining to the November 2020 through February 2021
4 remand hearing ordered by Council.
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9 **IV. Amended Arguments on Appeal**

10 ELLIOT NE LLC supplements its appeal of the Hearing Examiner's
11 recommendation to deny in part and revise on remand in part Elliot NE LLC's objection to
12 the City of Seattle's Waterfront Local Improvement District No. 6751 proposed final
13 assessment dated December 30, 2019 against the following property:
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18 King County Parcel No. 0660000708
19 Site Address: 808 Howell St., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$1,205,636
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23 To avoid repetition, Elliot NE LLC incorporates the evidence and arguments raised
24 before the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
25 amended appeal.
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29 **A. The Anticipated Special Benefits to Elliot NE LLC's Property should be**
30 **Discounted to Present Value and Assessments Adjusted as Appropriate**
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32 On remand, the City's appraiser acknowledged that special benefits to parcels can be
33 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
34 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
35 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
36 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
37 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
38 accepted that recommendation. The City's appraiser further acknowledged that benefit
39 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
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1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
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15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefits are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
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17 **B. The City's Appraiser's Disregard of Hotel STR Report Performance**
18 **Data is Another Example of How His Analysis is Unreliable, Not**
19 **Admissible under Frye or ER 702, and His Proposed Special**
20 **Assessments are not based on Actual, Measurable and Special Value**
21 **Increases from the anticipated LID Improvements.**
22

23 The City's appraiser was provided actual performance data for the remanded hotels,
24 including their average daily room rates, from which he had been instructed to "recalculate"
25 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
26 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
27 would be "too low." Instead, he divined an alternative value from "comparable sales", and
28 then worked backwards to calculate small adjustments to his average daily room rate
29 assumptions, substituting them in his "income spreadsheets," and thereby correlating his
30 income analysis to his preconceived value estimate. His remand analysis demonstrates that
31 his whole "income approach to valuation", used for both hotels and other commercial
32 properties, is contrived speculation on speculation. The City's appraiser disregarded these
33 hotels' actual net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J.
34 Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on
35 Remand for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436). Taxpayer's
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1 appraiser submitted an appraisal with room rates much closer to the actual performance of
2 the hotel and should be incorporated. *See* Declaration of John D. Gordon in City Council's
3 LID Remand, (Jan. 8, 2021).
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6 For example, compare the room rate and valuation for the appraisals in the table
7 below, where the actual average daily room rate for 2019 was \$205. Elliot NE LLC testified
8 that the City Appraiser's assumed room rate was too high - it not only had not been
9 achieved, but even pre-Covid, was not reasonably achievable.
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Hyatt Regency Hotel CWF-0413	City's Revised Appraisal	Elliot NE LLC's Appraisal
Hotel Value	\$646,935,000	\$507,4000,000
Less Personal Property	\$12,600,000	\$22,700,000
Real Estate Value	\$634,335,000	\$484,700,000
Benefit Ratio	0.49%	0.49%
Special Benefit	\$3,077,000	\$2,351,000
Levy Ratio	39.18%	39.18%
LID Levy	\$1,205,636	\$921,173
Average Room Rate	\$335	\$222
Daily RevPAR	\$268	\$169

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33 To correct the "before value" alone, the City Council should instead adopt Elliot NE
34 LLC's valuation, which was developed using actual data, and otherwise applying the City
35 appraiser's assessment formula:
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Hyatt Regency Hotel CWF-0413	Appraisal Amount
Hotel Value	\$323,614,000
Less Personal Property	\$22,700,000
Real Estate Value	\$300,914,000
Benefit Ratio	0.49%
Special Benefit	\$1,460,000
Levy Ratio	39.18%
LID Levy	\$572,060

The City's appraiser only slightly reduced his original values in ways that are still entirely inconsistent with historical performance data. The City's appraisal and analysis is speculative and should be rejected. The City Council should at least adopt Elliot NE LLC's "before values" and resultant LID assessments.

C. In Light of Covid's Continuing Impact on Elliot NE LLC and other Downtown Property Owners and other Material Changes Since October 2019, the LID Should be Cancelled, or at Least Assessments Recalculated, to take Into Account Property Value Reductions

In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e] into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019." When Washington's first COVID restrictions were imposed in March and April 2020, there was an assumption that they would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover for another 5 years. Retail stores are boarded up. Homelessness and related challenges have gotten much worse. The City has already imposed higher minimum wages and taxes on businesses to try to fund recovery. The West Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several

1 years from completion, as a best case. In current circumstances, a downtown tax to fund
2 new, non-essential park improvements against financially strapped taxpayers, and likely
3 passed through to financially strapped tenants and customers would be unfair to taxpayers
4 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
5 rethinks its budget priorities for the next few years, and its potentially funding sources,
6
7 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
8 property owners) have a chance to recover, and that any assessment take into account the
9 changed circumstances since this appeal process started on February 4, 2020 to avoid
10 unnecessarily and perhaps permanently killing downtown properties and businesses in the
11 name of bettering them.
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21 **V. Relief Requested**

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23 Particularly in light of the Committee's decision not to take further comment, Elliot
24 NE LLC respectfully request that each Committee member carefully review the record
25 transmitted to Council before voting on our appeal.
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29 ELLIOT NE LLC respectfully reiterates its request from the September 22, 2020
30 appeal that the City Council:
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33 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
34 assessment dated December 30, 2019; or
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36 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
37 proposed final assessment to \$0 (zero), or such amount as Taxpayer
38 establishes at the hearing in this matter; or
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40 3. Grant the Examiner's recommended remand but with instructions to
41 recalculate and reduce Taxpayer's assessment using recognized appraisal
42 techniques consistent with USPAP and
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- 1 a. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
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5 b. Taking into account the effects of the COVID-19 pandemic on the
6 value of Taxpayer's property and other relevant developments since
7 October 2019;
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10 c. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
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16 d. Accounting for and including only those actual benefits anticipated to
17 accrue to Taxpayer's property based on its location relative to Pier 58,
18 Overlook Walk, and the Promenade, and specific elements of the LID
19 Improvements;
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22 e. Discounting anticipated special benefits to present value, based on
23 reliable estimates regarding when special benefits will start accruing
24 following completion of the LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property
28 relevant to calculation of such assessment; and
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37 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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PERKINS COIE LLP

5 By:

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22 Attorneys for ELLIOT NE LLC
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2:50 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0414
Date: Tuesday, September 22, 2020 2:24:04 PM
Attachments: [CWF-0414.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0414.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0414
A – Master List of Evidence
B – D-147 Hyatt Lot B
C – Discounting for CWF-0414
CWF-0414 Appeal Notice for Lot B

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Hyatt Regency Site			
Map No.	D-147	Historic:	
Tax Parcel Nos.	066000-0740	Stories:	
Address		Current Ren:	
Zoning:	DOC2 500/300-550	NOTE:	
Property rights:	-		
Proximity to project:	2,900± feet to park, 13-minute walk		
Previous sales:			
Ownership	LOT B LLC		
Land Value Without "Before"			
	26,820	SF @	\$1,750.00

Land Value With "After"			
	26,820	SF @	\$1,757.00

Special Benefit			\$7.00
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INCOME ANALYSIS WITHOUT "Before"	Year Built		
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	Parking	0	
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Potential Gross Income			
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	GBA	NRA		
Retail	0	0	SF NRA @	\$0.00
Office	0	0	SF NRA @	\$0.00
Restaurant space	0	0	SF NRA @	\$0.00
Other-Lt Industrial Manu. 1900	0	0	SF NRA @	\$0.00
Other-Storage WH 1918	0	0	SF NRA @	\$0.00
Other	0	0	SF NRA @	\$0.00
Building Area		0		
Parking Area/Stalls	0	0	0 stalls @	\$0.00
Basement-unfinished	0	0	SF NRA @	\$5.00
			0.0%	of GRI
Total Bldg Area & Gross Income	0	0	SF NRA @	\$0.00

Less: Vacancy/credit allowance @	0.0%		
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	5.0%		
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Effective gross income			
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Less: Operating expenses			
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Management fee @	7.0%	of total EGI	
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Parking operating expenses @	0.0%	of parking EGI	
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Structural maintenance/reserve	\$0.20	per SF of NRA	
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Total operating expenses			
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Net operating income			
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Indicated Value		Capitalized @	6.50%
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Land Value			
	26,820	SF @	\$1,750.00
Residual Improvements	0	SF NRA @	\$0.00
	0	SF GBA @	\$0.00

Special Benefit Summary				
	Land			
	Per SF	Total		Improved % Change
Without LID	\$1,750.00	\$46,935,000		\$0 N/A
With LID	\$1,757.00	\$47,123,000		\$0 0.00%
Summary				
Without LID	\$1,750.00	\$46,935,000		\$0 N/A
With LID	\$1,757.00	\$47,123,000		\$0 0.00%
Percent change in land value	0.40%			

per SF =	\$46,935,000

per SF =	\$47,123,000
per SF =	\$188,000
per SF =	\$0
per SF =	\$0
per SF =	\$0
per SF =	\$0
per SF =	\$0
per SF =	\$0
	\$0
/month	\$0
per SF =	\$0
	\$0
/SF =	\$0
	\$0
	\$0.00
	\$0
\$0	
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<u>\$0</u>	
\$0	
	\$0
	\$0
	\$0
(R)	

Per SF NRA	\$0.00
per SF =	\$46,935,000
per SF =	\$0

Total Estimated Value	
	Special Benefit
\$46,935,000	N/A
\$47,123,000	\$188,000
\$46,935,000	N/A
\$47,123,000	\$188,000

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0414	Hyatt Regency -- ASSOC w/ PIN 660000708	815 Howell Street	0660000740

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$188,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$25,273

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0414	Hyatt Regency -- ASSOC w/ PIN 660000708	815 Howell Street	0660000740

	BEFORE	Appraiser	Value
A	Final City Before Value	City	\$46,935,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (parking lot)
C	COVID 19 Discount and value	-12.5%	
D			
(B*(1+C) unless no value for B, then A*(1+C)	Corrected FMV for Assessment		\$41,068,125

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$188,000		
H/A	As Percentage of Final City Before Value	0.401%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$164,500		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$56,412	\$15,500
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$22,114	\$6,076

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0414

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON LOT B LLC’S
OBJECTION TO WATERFRONT LID NO.
6751 PROPOSED FINAL ASSESSMENT
FOR PARCEL NO. 0660000740

31
32 Lot B LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070, Seattle
33 Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office
34 of the City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
35 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
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41 **I. Taxpayer / Appellant**

42 The Taxpayer filing this appeal is:
43
44

45 Lot B LLC
46 217 Pine St., Suite 200
47

1 Seattle, WA 98101
2 Zahoor Ahmed
3 206-624-8909
4 ahmed@rchco.com
5

6 **II. Taxpayer's Representatives**
7

8 Taxpayer's representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
16 Bellevue, Washington 98004
17 Telephone: 425.635.1400
18 Facsimile: 425.635.2400
19

20
21
22 Robert L. Mahon, WSBA No. 26523
23 RMahon@perkinscoie.com
24 1201 Third Avenue, Suite 4900
25 Seattle, Washington 98101
26 Telephone: 206.359.8000
27 Facsimile: 206.359.9000
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30 **III. Statement of Taxpayer's Interest**
31

32 Lot B LLC is the taxpayer for the property that is subject to the proposed final
33 assessment described in Section IV. This property is an undeveloped lot east of the Hyatt
34 Regency Seattle. It is leased to a third party who operates a surface parking lot on the
35 property and pays rent to Lot B LLC.
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39 The basis of the proposed assessment is a Final Special Benefit/Proportionate
40 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
41 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
42 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
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1 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
2 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4 to exclude charges for other improvement projects in the Central Waterfront, and
5 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
6 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
7 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
8 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
9 because construction was not complete on the LID Improvements or the WSDOT
10 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
11 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
12 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
13 was based on the Final Study.
14

15 **IV. Matter Under Appeal**

16 Taxpayer appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
17 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
18 final assessment dated December 30, 2019 against the following property:
19

20 King County Parcel No. 066000-0740
21 Site Address: 815 Howell Street, Seattle, Washington 98101
22 Proposed Final LID Assessment for Parcel: \$73,666
23

24 See Examiner’s Recommendation at 61-62, 104. To avoid repetition, Taxpayer incorporates
25 the evidence and arguments raised before the Hearing Examiner into this appeal. In
26 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
27 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
28

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4
5 As discussed more fully below, Taxpayer specifically appeals the following Findings
6 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
7
8 Pages 61-62, 104, Sections II.6, II.7, II.12, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
9 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
10 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
11 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
12 IV.C.12, IV.C.14, and IV.C.18.
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15 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
16 recommendations on material issues raised during Taxpayer's appeal that were supported by
17 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
18 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
19 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
20 recommended anything other than denial of objectors' appeals were where the City's
21 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
22 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
23 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$188,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

7
8 **Legal Requirement:** Actual and measurable special benefit
9

10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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5

6
7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
15

16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
12 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
13 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
14 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
15 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
16 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
17 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
18 provided expert opinion showing that improvements actually diminished value of the
19 property). In fact, no independent evidence is required at all if, for example, objectors show
20 that the assessment was grounded on a fundamentally wrong basis due to an error in the
21 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
22 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
23 a property owner could simply point out that the square footage assumed in the City's
24 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
25 Examiner's Recommendation: Sections II.12, II.14, IV.A, IV.B.11(a), IV.C.2, IV.C.8, and
26 IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
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4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
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7 upon all the property in accordance with the special benefits conferred thereon.” RCW
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9 35.44.010.
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11 3. No analysis of general benefits. Special assessments have been “held valid
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13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14
15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
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17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
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19 they are for the construction of local improvements that are appurtenant to specific land and
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21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
22

23 4. Taxpayer’s property is not specially benefited by the LID Improvements.
24
25 The primary purpose and effect of the LID Improvements are to benefit “members of the
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27 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
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29 library is for the benefit of the members of the whole community individually and
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31 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
32
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
34
35 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
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37 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 that if an appraiser “identifies both general and special benefits, these benefits should be
2 clearly distinguished and explained, and only special benefits should be included in the
3 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
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5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
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7 183:4; Peter Shorett January 30, 2020 Appraisal Review (attached to Appeal Petition) at
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9 Attachment p. 15 (explaining the examples in the Final Study only provide information
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11 about general benefits and Study does not use proper measure of analysis to show special
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13 benefits).
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17 5. It is undisputed that Mr. Macaulay did not analyze or measure general
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19 benefits, including those arising from construction necessary to meet basic design standards.
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21 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
22
23 construction costs related to meeting design standards which may be general benefits as
24
25 distinct from construction costs emanating from requirements of the LID project”). To the
26
27 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
28
29 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
30
31 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
32
33 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
34

35 6. LID Improvements not necessary. Unlike typical LID projects, the
36
37 Waterfront LID improvements are largely unnecessary to the functionality of any particular
38
39 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
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41 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
42
43 held invalid where owners would have benefitted equally from increase of only 9 feet);
44
45 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
46
47 intersection for new water main for hydrant held invalid because land was already afforded

1 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
2 not necessary to the business of this income-producing properties, which Taxpayer leases to
3 a third party who operates a surface parking lot. Hrg. Exhibit 114 (Decl. of Z. Ahmed) at
4 ¶¶77-82.
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7
8 7. The fact that there is no case law differentiating between binary
9 improvements and parks does not change the law prohibiting assessments on properties
10 already adequately served by existing amenities. See Examiner's Recommendation at
11 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
12 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
13 reasoning excuse the City's failure to account for existing amenities as part of the special
14 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
15 the incremental effect of new park improvements on the value of properties, much like
16 turning on a weak light in an already brightly illuminated room. See Hrg. Exhibit 94
17 (Crompton's Report) at 12-13.
18
19

20 8. To the extent benefits can be considered "special" as opposed to general, they
21 are nominal or nonexistent for many properties in the Central Waterfront, which already has
22 a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v. Spokane*
23 *Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not change due
24 to expansion of sewer service *near* owners' parcel which were already connected). Even if
25 the City could assess for a view change (and it has promised not to assess for viaduct
26 removal), the fair market value of Taxpayer's property has not changed because the LID
27 Improvements have not improved the property's waterfront view or access to the waterfront,
28 nor will they when the City anticipates completion in 2024. For these reasons, Taxpayer
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1 appeals the following portions of the Examiner's Recommendation: Sections IV.C.3,
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3 IV.B.9, and IV.C.3.

4
5 9. No analysis of special detriments. The Final Study fails to properly account
6
7 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
8
9 owners for removal and cleanup of underground storage tanks discovered during the
10
11 improvement project). Mr. Ahmed testified that Taxpayer will not be able to recover the
12
13 cost of the LID assessment from its tenant under the lease in place or through future rent
14
15 increases. A parking lot operator will not be able to charge more or attract more customers
16
17 because of proposed future improvements located 3/4 of a mile away. Further, if the City is
18
19 correct that improvements (when constructed) will attract visitors to the waterfront,
20
21 Taxpayer's tenant may see a decrease in business as visitors patronize businesses nearer the
22
23 waterfront. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 83. Accordingly, the assessment
24
25 is a substantial additional cost of Taxpayer, which will decrease the fair market value of the
26
27 property. *Id.* at ¶ 84. And Mr. Ahmed testified that the property is more valuable without
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29 the proposed LID Improvements and the corresponding assessment. *Id.* at ¶ 85.

30
31 10. Although Mr. Macaulay claims he analyzed impacts on the City's planned
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33 elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how
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35 lost parking might be a detriment, and no property-specific parking analysis in any of his
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37 materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg. Tr. at
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39 153:18-154:19 (did not actually analyze impact of decreased parking on condos).

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41 11. Likewise, there was no analysis of the risks associated with disamenities such
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43 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
44
45 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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47 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss

1 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
2 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
3 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
4 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
5 the maintenance agreement. *Id.* at 13:4-14:2.
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10 12. There was also no consideration of negative impacts from another four-plus
11 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
12 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
13 law allowing him to dismiss these actual, non-speculative impacts. Because future special
14 benefits calculations are inherently speculative, Washington's eminent domain statute
15 specifically allows condemnees to postpone special benefits assessments until improvements
16 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
17 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
18 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
19 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
20 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
21 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
22 II.25, IV.B.8, and IV.B.9.
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36 13. Special benefit estimate is speculative. When calculating a special benefit,
37 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
38 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
3

4
5 14. Assuming without conceding that one day, the City’s planned LID
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7 Improvements might increase the value of neighboring properties to some extent, that
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9 potential benefit is many years away and speculative. While appraisers tolerate some degree
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11 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
12
13 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
14
15 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
16
17 the level of precision implied in the Final Study due to the size of the LID and use of
18
19 hypotheticals).
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21 15. Although LIDs are sometimes finalized prior to completion of improvements,
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23 this is typically just six month or a year prior, and the assessments are otherwise supported
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25 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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27 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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29 will not be realized for four or five years. In the meantime, there is permitting risk,
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31 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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33 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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35 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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37 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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39 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
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41 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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43 market value would be as of the date the project would be finally constructed” because
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45 “[t]here could be a lot of elements in the market that did occur between now and then that
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47 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if

1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

3
4
5 16. The record is clear that while no one can know what “special benefit” might
6 accrue to these properties in four years (if any), we do know that there are no actual benefits
7 now. The LID improvements provide no immediate special benefit to property owners
8 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
10 sewer system for future users). For example, notwithstanding the questionable hypothesis
11 that parking lots may benefit from an expected increase in tourism when the improvements
12 are complete, it is undisputed that tourists are not coming in larger numbers and paying
13 higher rates now because of something happening five years down the road. *See* Hrg.
14 Exhibit 114 (Decl. of Z. Ahmed) at ¶ 83. And no potential property owner would invest
15 \$73,663 today in a project that will have no return for either the five years of planning and
16 construction of the period afterward. *Id.* at ¶ 84.

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19 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
20 for the LID Improvements, and it is unlawful to move to final assessments without such
21 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
22 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
23 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
24 dollars on projects still early in the design process. *See* Washington Attorney General
25 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
26 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
27 of programs and included “only so much of the overall costs” that took place within and
28 benefitted the assessed properties).

1 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
2 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
3 anticipated to be delivered five years later. Even before COVID, it was speculative to
4 assume that market highs experienced in October 2019¹ would be sustained through 2024,
5 after an already extraordinarily long expansion period. 3/3/2020 (A. Gibbons) Hrg. Tr. at
6 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my analysis
7 in October 2019, who would have thought that this COVID issue would happen?”
8
9 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was
10 that the market was going to continue to go up.” However, given COVID and numerous
11 other unknowns, there is no basis for assuming that values hypothesized in October 2019
12 will remain relevant; they are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶
13 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
14 (see Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
15 rendered the hypothetical October 2019 Final Study valuations outdated.
16
17

18 19. As another example of how future events could affect the accuracy and
19 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
20 Examiner re-open the record to allow the City to explain whether the assessments against
21 property owners within the LID are, in fact, being used by the City to fund the emergency
22 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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29 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
30 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
31 58 (Waterfront Park) Emergency Demolition Project, *available at*
32 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=)
33 [ry=UxFpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=); *see also* Aug. 13, 2020 Ltr. from H.
34 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
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1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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10 20. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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32 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
33 he could not point to a single one where the assessment roll was finalized five years in
34 advance of the anticipated project completion. See 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
35 he has never recommended final special assessments based on designs less than 30 percent
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42 available at
43 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
44 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
2
3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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5 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
6
7 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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11 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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13 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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15 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
16
17 68:11-18.

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19 22. The City has cited no authority—and Taxpayer is aware of none—that
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21 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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23 assess taxes for “actual” special benefits that will not accrue for another five years (if all
24
25 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
26
27 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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29 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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35 IV.C.14, and IV.C.18.

36
37 23. Failure to discount special benefit estimates to account for risks and present
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39 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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41 have accounted for risks associated with delivery of the improvements (including permitting
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43 risk, construction risk, general economic risk) and any special damages associated with
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45 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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47 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the

1 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
2 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
3 the impact of future conditions [through] discounted cash flow analysis.”).
4

5
6 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
7 future condition not in place at the date of valuation and can discount for the time value of
8 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
9 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
10 Discounting would also have been consistent with his approach for analyzing special
11 benefits to vacant land. He testified that the difference between similarly situated vacant
12 sites slated for development and already developed sites was that the labor, capital and risks
13 associated with development had not yet been borne for those vacant sites. Therefore, the
14 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
15 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
16 fully permitted, has not completed environmental review, and has not reached full design is
17 presently worth significantly less.
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30 25. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
31 present value, an appraiser would consider discount rates for land development to account
32 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
33 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
34 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
35 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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42 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley’s
43 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
44 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
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1 Ex. A. Notably, this is lower than the City’s proposed \$171,000,000 assessment. Thus,
2
3 ignoring momentarily all of the other methodological and other flaws discussed here and in
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5 Taxpayer’s case-in-chief, and assuming that the LID Improvements provide special benefits
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7 as soon as they are complete in 2024, Mr. Macaulay’s hypothetical assessment materially
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9 exceeds special benefits when reduced to present value. Further, to the extent the City is
10
11 arguing that because they are permitted to assess 100% of the special benefit, the special
12
13 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
14
15 is again wrong. After applying proper discounting, the City’s proposed special benefit
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17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
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19 100% of the total estimated special benefit.

20
21 27. But even the assumption that the LID improvements would deliver benefits
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23 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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25 on. Rather, those studies demonstrate that a discount period of five years is conservative.
26
27 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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29 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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31 indicates that during the construction period, the Greenway district “significantly” lagged in
32
33 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
34
35 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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37 30-31 (discussing New York City High Line and San Francisco Embarcadero
38
39 improvements). Given the lengthy delay, any prediction of future special benefits is
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41 speculative, especially during the construction phase where values are likely to decline.
42
43 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
44
45 Improvements take a similarly long period of time after they are complete to start producing
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47 tangible property value benefits, each additional year of delay results in further discount to

1 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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3 A.

4
5 28. Applying the same discounting methods described above and in Mr. Gibbons
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7 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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9 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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11 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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13 100% assessment should be no more than \$17,709. Anything more would permit the City to
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15 assess Taxpayer based on a hypothetical assumption that these improvements are in place
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17 and providing benefit, and ignore the risks, construction disamenity, and time value of
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19 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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21 would counsel that the assessment should be only 39.2% of that assessment cap, or \$6,942.

22
23 29. Attachment C includes two Excel spreadsheets applying these discounting
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25 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
26
27 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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29 demonstrates that discounting the City's hypothetical October 2019 special benefits to
30
31 present value would reduce Taxpayer's assessment to \$25,273, exclusive of any other flaws
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33 in the City's proposed assessment. The second spreadsheet shows even more drastic
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35 reductions after taking into account: (1) a rough discount for property value loss due to
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37 COVID-19; and (2) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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39 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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41 the time it takes for the improvements to capture property value). After such reductions,
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43 Taxpayer's assessment would be just \$22,114 (for the 5-year discount) or \$6,076 (for the
44
45 10-year discount). Further, the spreadsheet concludes a "zero" benefit for this property
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47 because, based on Dr. Crompton's testimony, Taxpayer's property is more than 2,000 feet

1 from the core “park” improvements and therefore too distant to receive any special benefit.
2
3 Neither of these spreadsheets address other issues raised by Taxpayer’s appeal, but are
4
5 intended to help demonstrate how unfair and inflated the City’s proposed hypothetical
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7 assessment is. The Hearing Examiner’s Recommendation simply dismisses Taxpayer’s
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9 discounting argument without legal or factual analysis; that failure is error.

10 **Appraisal and Assessment Calculation Methods Are Flawed**

11 30. The “general rule is that each lot, piece, or parcel of land should be assessed
12
13 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
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15 Wn.2d at 97.

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17 31. It is proper to sustain a challenge to an assessment, even without the appraisal
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19 testimony from the owner, where the objector’s expert establishes that the assessment was
20
21 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
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23 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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25 32. The City’s appraiser purports to utilize the income method of valuation but
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27 relied on inaccurate revenue and market data, as discussed further below.

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29 33. The City’s appraiser purports to utilize the comparable sales method of
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31 valuation, but no City witness attempted “to characterize any one, or all of them, as
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33 comparable to [Taxpayer’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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35 “several serious flaws” in ABS’s LID analysis in that case, including that the appraiser
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37 “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
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39 characterize any one, or all of them, as comparable to any particular property within the LID”).
40
41 And no City witness could explain how specific adjustments were made to these sales to
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43 account for value increases due to the hypothesized Before and After Improvements. For this
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45 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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47

1 34. Special assessment improperly includes value lift from the Before
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3 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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5 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
6
7 Improvements, which WSDOT had independently committed to fund. However, Mr.
8
9 Macauley did not calculate the actual market value of LID properties in October 2019, and
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11 did not separately analyze the hypothetical increase to property values attributable to
12
13 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
14
15 current value and then separately calculate a hypothetical "With WSDOT" Before value);
16
17 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
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19 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
20
21 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
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23 documented basis or support, Mr. Macauley simply "ma[de] a judgment a call" on what
24
25 occupancy and rates would have been for the commercial properties assuming all of the
26
27 WSDOT Improvements are completed as of 2019. Macauley Depo. at 129:19-130:11. This
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29 outright omission precludes any independent evaluation of the true market "Before" values.
30
31 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
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33 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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35 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
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37 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
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39 other road, pedestrian and landscaping improvements WSDOT had already committed to
40
41 make.

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43 35. However, because Mr. Macauley testified that he did include some WSDOT-
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45 related value-lift in the "Before" values, it follows that part of the special assessment
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47 improperly is based on value attributable to the WSDOT Improvements. As shown by

1 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
2 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
3 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
4 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
5 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
6 to properly exclude the value of Before Improvements from the assessments. For these
7 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
8 Sections II.19, II.29, and IV.B.11(a)(ii)
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16 36. Special benefits were assigned rather than measured. Mr. Macaulay
17 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
18 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
19 Shorett) Hrg. Tr. at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13.
20 Based on formulas in spreadsheets that Mr. Macaulay used to analyze the commercial
21 properties, Taxpayer's experts concluded that Mr. Macaulay based adjustments on
22 hypothesized very small increases to property revenue and very small reductions to cap rates
23 to "calculate" an "After" value due to the coming 2024 LID Improvements. Attachment B
24 (ABS Spreadsheet). These series of micro adjustments were based on "professional
25 judgment" that are neither shown nor replicable.
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36 37. For these reasons, Taxpayer appeals the following portions of the Examiner's
37 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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41 38. Special benefit falls within margin of error. The Final Special Benefit Study
42 applies an estimated value enhancement of less than 4%, which is generally within the
43 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
44 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
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1 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
2 of one another, this difference is considered reasonable as it falls within the standard margin
3 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
4 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
5 percentages fall far below that 5% margin, "there is no way of authenticating" such
6 incremental changes because "[m]arket forces completely obliterate any tiny little noise
7 factor like that." See 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
8 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25.
9 Additionally, the fact that "Before" values are also based on a hypothetical that adds some
10 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
11 appraiser to discern the micro-value differences between hypothetical conditions that are so
12 similar (the WSDOT improvements compared to the LID improvements) "verges on being
13 ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.

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39. Even if it were possible to accurately tease out such a miniscule hypothetical
value change due to improvements coming five years later, experts testified that there is no
data to justify the mathematical adjustments—they are just the appraiser's guesses as to
what he felt the changes (hypothetically) would be. See 3/12/2020 (P. Shorett) Hrg. Tr. at
49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at 88:21-88:24 ("you cannot measure one percent
difference in a high-rise building for this kind of a medium ... it's simply assigned to a
before value"). For these reasons, Taxpayer appeals the following portions of the
Examiner's Recommendation: II.27 and IV.B.4.

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40. No analysis of value increase attributable to individual components of the
LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
percentage difference between hypothetical Before and After conditions. Throughout his

1 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
2 descriptions in the Addenda even though he testified that he relied on these to calculate
3 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
4 someone might be able to determine how he attributed value to After conditions described in
5 the Addenda, he answered that that was “not the scope of the assignment” because he was
6 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
7 that the six components were not actually a continuous project, that he was viewing them
8 together because the City asked him to, and that if he were to view them independently,
9 there was a low probability that properties in the north would specially benefit from
10 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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20 41. Not only did he fail to analyze benefits from each of these non-contiguous
21 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
22 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
23 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
24 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
25 objectives that guided regulators’ assessment of architectural plans for buildings along a
26 “signature street” were so vague that they amounted to ad hoc review based on the
27 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
28 even though he used the renderings as “visual aid[s] in appraising the property in the before
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. See RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 and after” to “visually see what the differences would be,” he could not explain what
2 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
3 when shown a rendering of a two-lane road going down to one-lane in the After condition
4 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
5 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
6 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
7 could explain the depiction of the same trees in the After condition nearly twice as tall as in
8 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
9 of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 42. Special assessment is not supported by comparable studies, data or reports.
12 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
13 that the LID Improvements will lead to meaningfully increased real estate values for
14 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
15 comparable sales or information from the “over twenty-five studies and reports” to arrive at
16 very precise special benefit increases for the commercial properties, including Taxpayer’s
17 property. For example, although Mr. Macaulay stated that no single report or study was
18 directly on point due to the unique nature of the LID Improvements (*see, e.g.,* 6/25/2020
19 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
20 parcel-by-parcel analysis other than to say that the studies generally provided “some
21 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
22 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
23 similarities and differences between these improvements and the comparable parks he
24 looked at).

1 43. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
2 assignment of incremental increase of 0.5% to 4% to property values within the LID.
3
4 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
5 research misinterprets his work in critical ways, including because the LID Improvements
6 manifest the characteristics of a parkway (not a park), and his research indicates that most of
7 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
8 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
9 related value increases are in fact smaller; that estimated increases are "best guesses" rather
10 than predictions of property value increases in a particular city; and that percentages do not
11 account for diminishing returns after taking into account water views, which would be the
12 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
13 topography grants most properties in downtown a water view.
14

15 44. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
16 that this was just one source of information that was not entirely relevant because, among
17 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
18 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
19 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
20 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
21 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
22 Crompton concluded that 500 feet via road from "park" improvements is just one or two
23 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
24 significantly beyond that which the park study indicated (even if it was legitimate to use the
25 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
26 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
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1 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
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3 Taxpayer’s property is not within 2,000 road network feet from the “park” improvements.
4
5 *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.

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7 45. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
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9 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
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11 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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13 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
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15 materials, it was clearly an important—if not *the* most important—source of information for
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17 estimating special benefits (especially with respect to the condos).⁷ No City witness
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19 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
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21 parcel-by-parcel analysis.

22
23 46. The destination parks discussed in the Final Special Benefit Study do not
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25 provide reliable, comparable, and valid support for the calculation of special assessments
26
27 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
28
29 critique of every case study cited concludes the changes to those “dwarf the difference
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31 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
32
33 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
34
35 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
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37 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
38
39 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 funded by a LID. And in virtually all of those cases, the park improvements dramatically
2 restored unimproved or blighted areas, and properties evaluated were within two or three
3 blocks of the park.
4

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6 47. ABS's claimed reliance on three economic studies to support property value
7 increase is also flawed. The HR&A study does not inform what value increases are
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
10 dissimilar parks in other cities,⁸ making the methodological application to the LID
11 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
12 conclusion that there would be *no new net visitors* from downtown residents as a result of
13 the LID Improvements and could not explain how this impacted his condo analysis.
14

15 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
16 Property Values" primarily focused on whether the benefits accrue to the larger community
17 rather than properties adjacent to the park. And the 2014 New York City Department of
18 Transportation study is not based on real estate transactions and market sales and fails to
19 substantiate any link between increased retail sales and property values. Moreover, this
20 study only looked at impact either directly abutting the streetscape improvement, or a couple
21 hundred feet for plaza-like improvements.
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23 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
24 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
2 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
3 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
4 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
5 asked whether he considered that HR&A’s estimated LID impact is six times greater than
6 TPL’s assessment of Seattle’s entire park system, his surmised that it was because the
7 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
8 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
9 assumptions to account for this difference, which may be partly explained by the fact that
10 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
11 approximately 3.44% of King County tourists visit Seattle primarily because of the city
12 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
13 waterfront improvements.

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27 49. Although proximity to the improvements is a key factor in all of these
28 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
29 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
30 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
31 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
32 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
33 Improvements is approximate 20 acres and it is not a community park.⁹

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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 50. There is no explanation in the Final Study or the supporting materials of how
2 the studies or comparable sales were used to derive values for Taxpayer's property. For
3 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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5 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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8 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
9 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
10 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12 Study does not meet mass appraisal standards nor allow for independent assessment of the
13 accuracy of Mr. Macauley's conclusions.
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16 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
17 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
18 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
19 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
20 testimony suggests that he incorrectly believed that the only difference between direct
21 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
22 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
23 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
24 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
25 Gordon uses in doing his limited restricted report").
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28 53. But the difference is not only in reporting—mass appraisal techniques must
29 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
30 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
31 parcel approach:
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1 The mass appraisal technique is an appraisal method used to evaluate
2 a group of properties that are subject to similar market forces as of a
3 certain date through the use of market data, statistical analysis and
4 testing. As a result, the mass appraisal technique does not require or
5 involve analysis of each individual property's specific data.
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8 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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10 54. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
11 universe of properties as a given date using standard methodology, employing common data,
12 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
13 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
14 model" is "a mathematical expression of how supply and demand factors interact in a
15 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
16 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
17 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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26 55. Regardless of client direction, Mr. Macaulay is required to comply with
27 USPAP. So if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
28 economically feasible because it would have taken "an incredible amount of time and cost"
29 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
30 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
31 individual appraisal of each [condo] parcel would have been cost and time prohibitive").
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38 56. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
39 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
40 value, fails to calibrate the model structure to determine the contribution of the individual
41 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
2 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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5 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6 proximity to the elements, the increase in market rent, market vacancy changes,
7 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
8 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
9 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
10 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
11 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
12 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
13 values were hypothetical, it was not possible to identify matched pair sales and no City
14 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
15 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
16 requires him to explain his model structure.
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28 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
29 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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3 and appeals the Examiner's denial of that motion.
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5 59. Finally, Taxpayer's property is not appurtenant—or even in close
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7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
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9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
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11 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer's
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13 property is more than a 3/4 of a mile walk—approximately 3,000 feet as the crow flies—
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15 from Pier 58 and the proposed waterfront improvements. *See* Hrg. Exhibit 114 (Decl. of Z.
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17 Ahmed) at ¶ 81. And, as described above, the special assessment is overstated because the
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19 Final Study makes no attempt to determine general benefits, existing amenities for
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21 Taxpayer's specific property, or special detriments. In addition, it is speculative due to the
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23 fact that, as of October 2019, improvements were not in in place—and, in fact, much of the
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25 waterfront is a construction zone following removal of the viaduct and now Pier 58
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27 demolition. Under these circumstances, rather than relying on entirely imaginary income
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29 and shaky hypotheticals, Mr. Macaulay at the very least should have discounted the special
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31 benefit estimates or waited to perform the Study until the improvements were at least close
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33 to complete.
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35 **Erroneous Pre-Improvement Valuation**

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37 60. The proposed final assessment erroneously overstates the pre-improvement
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39 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
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41 benefit to the Taxpayer's property.
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43 61. The City's Final Study was used to compute the proposed final assessment of
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45 Taxpayer's property. The City's Study purportedly uses data from the King County
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1 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
2 Study does not accurately reflect this data. *See, e.g.*, Shorett Appraisal Review (attached to
3 Appeal Petition) at Attachment pp. 23-24 (some properties were overvalued by 100%). For
4 example, Mr. Macaulay valued this property at \$46,935,000 prior to the LID improvements.
5 Taxpayer testified that the Assessor's valuation of \$32,184,000 is a more reasonable
6 estimate of fair market value. Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 79. And the Final
7 Special Benefit Study does not explain this difference between its pre-improvement
8 valuation and its supposed source for market data. For this reason, Taxpayer appeals
9 Section IV.C.11 of the Examiner's Recommendation.

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Erroneous Computation of Special Benefit

62. "Special benefit" is "the increase in fair market value attributable to the local improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?" *Id.* 165–66.

63. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

¹¹ *See, e.g.*, Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet (providing a "County Link" to the King County Department of Assessment's online "eReal Property" search tool).

1 64. Spreadsheet show arbitrary changes to land value. For the Lot B property,
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3 Mr. Macaulay assumed land value would increase by \$7 per square foot due to the LID
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5 Improvements. But Mr. Gordon explained that there is no basis for the special benefit
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7 increase of \$7 per square foot in Mr. Macaulay's spreadsheet and that this appears to be an
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9 increase of 0.4%, which is basically a rounding error. 4/13/2020 (J. Gordon) Hrg. Tr. at
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11 131:24-133:9. Notably, this property is further than 2,000 feet from the core waterfront
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13 improvement, making any basis for finding a special benefit extremely tenuous given Dr.
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15 Crompton's testimony and reports.

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17 65. Mr. Macaulay testified that he used comparable sales as a reasonableness
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19 check for commercial properties. But as explained above, no City witness has explained
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21 how anyone, or all, of the sales are comparable to any particular commercial property within
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23 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
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25 in order to make sales "comparable," he would have had to make adjustments to account for
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27 Before and After conditions, but there is no way to understand how adjustments were made
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29 because he "didn't do a separate sales comparison approach where we showed adjustments
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31 and whatnot." 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
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33 his adjustments were reliable, he said it would have simply been a "test of reasonableness."
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35 *Id.* at 127:10-128:24.

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37 66. It also bears noting that any "internal review" of the special benefit estimates
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39 would have been largely arbitrary given Mr. Macaulay's testimony that there is no margin of
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41 error. Indeed, given all the same information, he seemed to suggest that it would be
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43 perfectly reasonable for another experienced appraiser to come up with special benefit
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45 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
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47 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact

1 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
2 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
3 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
4 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
5 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
6 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
7 special because it is arbitrarily assigned; and it is too small to realistically be supported by
8 appraisal techniques.

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17 67. No evidence of special benefit. Meanwhile, there is "no actual evidence from
18 any seller or purchaser that the price was higher because of the LID improvements."
19 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
20 identified any seller or buyer, or any particular property where the existence of the LID
21 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
22 explained that the property has not increased parking rates or lease rates due to the
23 forthcoming LID Improvements, because, among other reasons (and apart from COVID),
24 the improvements ABS believes will generate value do not exist and will not for a number
25 of years to come. There are no comparable sales because the LID Improvements are not in
26 place, nor will they be until the end of 2024 if completed on schedule.

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37 68. The fair market value of Taxpayer's property has not changed due to
38 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
39 benefited from installation of new water main and fire hydrant where it was already
40 adequately supplied with water and afforded adequate fire protection). And in any event,
41 any value attributable to removal of the viaduct was to be excluded from the assessment
42 calculation.

1 69. There is no special benefit because LID improvements in fact diminish the
2 value of Taxpayer's property by drawing visitors away towards improvements that do not
3 abut the property. *See Kuskys*, 85 Wn. App. 493 (testimony of owners' expert that LID
4 actually diminished value of property was sufficient to rebut presumption that assessment
5 was proper).
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10 70. Moreover, the assessment formula is an attempt to distribute costs that do not
11 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
12 "merely a mathematical model that distributes costs").
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16 71. The Special Benefit Study fails to address whether the \$346,000,000
17 estimated LID project cost takes into account the investment that would have occurred in the
18 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
19 invested. This is a critical component of estimating which properties receive a direct benefit
20 from the improvements, versus more incidental benefits further from the park.
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26 72. Not proportionate. As another example of how arbitrary Mr. Macaulay's
27 methods are, he assigned the same special benefit increase overall (3% for all of the Four
28 Seasons parcels and 1.5% for the Grand Hyatt parcels) when parking was part of the same
29 parcel as a hotel. When asked whether this was a matter of coincidence, his answer was that
30 is "just our estimate of how the market would react." 6/23/2020 Hrg. Tr. at 151:24-152:9.
31 But for this parking lot, which was originally intended to be part of the Hyatt Regency, he
32 assigned a 0.40% special benefit while the Hyatt Regency received a 0.49% benefit. By
33 comparison, a parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65%
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1 special benefit, while the Grand Hyatt was assigned a 1.50% special benefit, even though
2 that parking lot is one block closer to the waterfront.¹²
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4 73. The proposed final assessment substantially exceeds the special benefit to the
5 property and is grossly disproportionate to similarly situated properties within the LID. The
6 City has not addressed any of these specific issues and offers only general responses which
7 have already been rebutted by Objectors in their case-in-chief and cross-examination. *See*
8 Paul Bird Decl., ¶ 29-30 (dated 4/30/2020). For these reasons, Taxpayer appeals the
9 following portions of the Examiner's Recommendation: Sections II.22, II.23, II.27, IV.B.4,
10 and IV.B.11(a)(iii).
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18 **State Environmental Policy Act and Other Environmental Permitting**

19 74. While this appeal is not challenging the City's environmental review and
20 permitting processes, those processes are relevant in determining the legality of the
21 assessments, and to assessing the delivery risk, the present value of the City's plans, and
22 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
25 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
26 is just beginning. Further, the City has segmented environmental review, and still has a
27 gauntlet of federal, state and tribal review processes to complete before it will be clear what
28 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
29 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
30 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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45 ¹² He also assigned different special benefit and capitalization rate increases to the parking
46 and retail parcels associated with the Grand Hyatt and the Four Season even though these sources of
47 revenue receive identical increases when they are part of the same legal parcel as the hotel.

1 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
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3 committing to reconstruction of Pier 58 and major street improvements without
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5 environmental review, or the City's Final Special Study has improperly included and is
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7 proposing to assess the Taxpayer the costs and special benefits of improvements that may
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9 not get built. Either way, it is faulty process.

10 **Due Process Rights**

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12 75. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
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14 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
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16 Because LID assessments involve a deprivation of property, affected owners have the right
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18 to a hearing as to whether the improvement resulted (or will result) in special benefits to
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20 their properties and whether their assessments are proportionate, which necessarily includes
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22 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
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24 555, 569–70, 229 P.3d 761 (2010).
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27 76. The LID statute specifies that cities must mail notices giving the time and
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29 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
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31 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
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33 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
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35 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
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37 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
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39 secure their own appraisal), evaluate proportionality of the proposed assessments, and
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41 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
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43 for anybody to get an appraisal”).
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45 77. The City's Notice of Assessment was sent on December 30, 2019. And the
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47 Final Special Benefit Study has only been available for public review since January 7, 2020.

1 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
2 order that would preserve and protect Taxpayer's right to analyze and respond to the Final
3 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
4 preliminary motions (e.g., with respect to the interplay between SEPA and the City's
5 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
6 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
7 the Examiner's Recommendation: I.B.
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15 **VII. Relief Requested**

16 Taxpayer respectfully requests that the City Council:

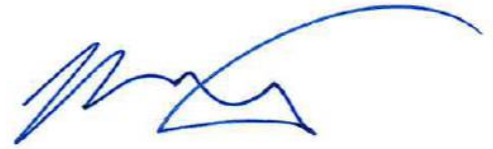
- 17 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection;
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19 and
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23 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
24 assessment dated December 30, 2019; or
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26 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
27 proposed final assessment to \$0 (zero), or such amount as Taxpayer
28 establishes at the hearing in this matter; or
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30 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
31 and reduce Taxpayer's assessment using recognized appraisal techniques
32 consistent with USPAP and:
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34 i. Excluding any property value increase attributable to viaduct removal
35 and other planned WSDOT Improvements;
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37 ii. Taking into account the effects of the COVID-19 pandemic on the
38 value of Taxpayer's property and other relevant developments since
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40 October 2019;
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- iii. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to Taxpayer's property, and (2) any special detriments from construction and other anticipated LID-related disamenities;
 - iv. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - v. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vi. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and
3. Grant such further relief as the City Council deems just and proper.

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2 DATED: September 22, 2020
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FILED

3:54 pm, Tue, February 16, 2021

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Subject: Waterfront LID Amended Appeal for Case No. CWF-0414
Date: Tuesday, February 16, 2021 3:37:48 PM
Attachments: [Lot B LLC Amended LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0414

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON LOT B LLC’S
OBJECTION TO WATERFRONT LID NO.
6751 PROPOSED FINAL ASSESSMENT
FOR PARCEL NO. 0660000740

31
32 LOT B LLC (“Taxpayer”) files this amended appeal pursuant to RCW 35.44.070,
33
34 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle
35
36 Resolution 31979, the notice of the Seattle Office of the City Clerk dated December 30,
37
38 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing
39
40 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
41
42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
45
46
47

1 **I. LOT B LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 LOT B LLC
6 217 Pine St., Suite 200
7 Seattle, WA 98101
8 Zahoor Ahmed
9 206-624-8909
10 ahmed@rchco.com
11

12 **II. LOT B LLC's Representatives**

13 LOT B LLC'S representatives in this matter are:

14
15
16
17 R. Gerard Lutz, WSBA No. 17692
18 JLutz@perkinscoie.com
19 Perkins Coie LLP
20 10885 N.E. Fourth Street, Ste 700
21 Bellevue, Washington 98004
22 Telephone: 425.635.1400
23 Facsimile: 425.635.2400

Robert L. Mahon, WSBA No.
26523
RMahon@perkinscoie.com
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

24
25
26 **III. Statement of LOT B LLC's Interest and Incorporation of Prior Arguments**

27 LOT B LLC is the taxpayer for the property that is subject to the proposed final
28 assessment described in Section IV.
29

30
31 LOT B LLC is amending its appeal as authorized in City of Seattle Resolution 31979
32 to include additional arguments relevant to the revised Final Recommendations of the
33 Hearing Examiner issued on February 1, 2021. On February 4, 2020, LOT B LLC timely
34 filed an objection to the assessment, which was based on the Final Study. LOT B LLC
35 further timely filed an appeal of the Hearing Examiner's 2020 recommendations to the City
36 Council. LOT B LLC maintains and incorporates all objections and arguments raised in its
37 appeal filed with the City Clerk on September 22, 2020. This amendment is a supplement is
38 to be read together with LOT B LLC's appeal filed on September 22, 2020. LOT B LLC
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1 incorporates by reference all filings, evidence, and pleadings filed by any party before the
2
3 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
4
5 records pertaining to the November 2020 through February 2021 remand hearing ordered by
6
7 Council.
8

9 **IV. Amended Arguments on Appeal**

10 LOT B LLC supplements its appeal of the Hearing Examiner's recommendation to
11
12 deny LOT B LLC's objection to the City of Seattle's Waterfront Local Improvement District
13
14 No. 6751 proposed final assessment dated December 30, 2019 against the following
15
16 property:
17

18
19 King County Parcel No. 066000-0740
20 Site Address: 815 Howell St., Seattle, Washington
21 Proposed Final LID Assessment for Parcel: \$73,666
22

23 To avoid repetition, LOT B LLC incorporates the evidence and arguments raised
24
25 before the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
26
27 amended appeal.
28

29 **A. The Anticipated Special Benefits to LOT B LLC's Property should be**
30 **Discounted to Present Value and Assessments Adjusted as Appropriate**
31

32 On remand, the City's appraiser acknowledged that special benefits to parcels can be
33
34 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
35
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
37
38 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
39
40 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
41
42 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
43
44 accepted that recommendation. The City's appraiser further acknowledged that benefit
45
46 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
47

1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4
5 calculations to present value because the general benefits are not anticipated from the LID
6
7 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
8
9 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
10
11 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
12
13 benefit calculation, and related assessments, to account for the delay between the assessment
14
15 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
16
17 standard appraisal practice, and renders the other proposed Waterfront LID special
18
19 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
20
21 “fundamentally wrong methods.”
22

23
24 All special benefit taxes assessed by a municipality must be based on “actual,
25
26 physical and material [special benefits that are] not merely speculative or conjectural.”
27
28 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
29
30 Additionally, the assessments may not materially exceed the actual special benefit conferred
31
32 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
33
34 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
35
36 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
37
38 discount benefits the City estimated would accrue to the properties from improvements to be
39
40 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
41
42 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
43
44 property while treating all or most others (including Taxpayer’s) differently, and
45
46 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
47

1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefit are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
9

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17 **B. In Light of Covid's Continuing Impact on LOT B LLC and other**
18 **Downtown Property Owners and other Material Changes Since October**
19 **2019, the LID Should be Cancelled, or at Least Assessments**
20 **Recalculated, to take Into Account Property Value Reductions**
21

22 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
23 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
24 other relevant developments since October 2019." When Washington's first COVID
25 restrictions were imposed in March and April 2020, there was an assumption that they
26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
27 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
28 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
29 gotten much worse. The City has already imposed higher minimum wages and taxes on
30 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
31 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
32 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
33 years from completion, as a best case. In current circumstances, a downtown tax to fund
34 new, non-essential park improvements against financially strapped taxpayers, and likely
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1 passed through to financially strapped tenants and customers would be unfair to taxpayers
2 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
3 rethinks its budget priorities for the next few years, and its potentially funding sources,
4 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
5 property owners) have a chance to recover, and that any assessment take into account the
6 changed circumstances since this appeal process started on February 4, 2020 to avoid
7 unnecessarily and perhaps permanently killing downtown properties and businesses in the
8 name of bettering them.
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17 **V. Relief Requested**

18 Particularly in light of the Committee's decision not to take further comment, LOT B
19 LLC respectfully request that each Committee member carefully review the record
20 transmitted to Council before voting on our appeal.
21

22 LOT B LLC respectfully reiterates its request from the September 22, 2020 appeal
23 that the City Council:
24

25 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
26 assessment dated December 30, 2019; or
27

28 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
29 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
30 hearing in this matter; or
31

32 3. Grant the Examiner's recommended remand but with instructions to
33 recalculate and reduce Taxpayer's assessment using recognized appraisal techniques
34 consistent with USPAP and
35

36 a. Excluding any property value increase attributable to viaduct removal
37 and other planned WSDOT Improvements;
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- 1 b. Taking into account the effects of the COVID-19 pandemic on the
2 value of Taxpayer's property and other relevant developments since October
3 2019;
4
5
6 c. Accounting for and excluding (1) any special benefits from existing
7 or planned improvements that already provide similar benefits to Taxpayer's
8 property, and (2) any special detriments from construction and other
9 anticipated LID-related disamenities;
10
11 d. Accounting for and including only those actual benefits anticipated to
12 accrue to Taxpayer's property based on its location relative to Pier 58,
13 Overlook Walk, and the Promenade, and specific elements of the LID
14 Improvements;
15
16 e. Discounting anticipated special benefits to present value, based on
17 reliable estimates regarding when special benefits will start accruing
18 following completion of the LID Improvements; and
19
20 f. Accounting for such other issues specific to Taxpayer's property
21 relevant to calculation of such assessment; and
22
23 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

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22 Attorneys for LOT B LLC
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4:22 pm, Tue, February 16, 2021

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0415
Date: Tuesday, February 16, 2021 3:57:52 PM
Attachments: [Seattle Tower Amended LID Appeal before City Council CWF 0415.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
Seattle Tower Amended LID Appeal before City Council CWF 0415.pdf

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Sound Hotel (Tapestry Collection by Hilton) and Arrive Apartments**

Map No.:	C-080
069600-0015	069600-0015
Property Keys:	
Address	2116 4th Avenue
Zoning:	DMC 240/290-440
Proximity to park	1,500± feet to Pine Street improvements, 2,500± feet to overlook
Ten-year sales history:	\$11,500,000 10/17/2013 \$887.35
Ownership	SEATTLE TOWER I LLC
Description:	12,960 SF site on the east side of 4th Avenue between Lenora and Blanchard 440, improved with (1) 142-room hotel on 10 floors containing 108,210 SF of with 15,687 SF of parking (35 stalls), and (2) 344-unit apartment complex on GBA and 247,380 SF of NRA, and 1,800 SF of retail, and 64,987 SF of parking were built in 2018.

INCOME ANALYSIS Before	Year Built	2018			
	Rooms	142			
	Apartments	344			
	Parking	35	hotel	145	apartments

Hotel Section

Occupancy rate: 80.0%					
Occupied rooms: 41,464					
Revenues					
Room revenue	41,464	occupied rooms @	\$300.00	per occupie	
Food & beverage revenue	41,464	occupied rooms @	\$35.00	per occupie	
Parking & other income	12,775	available stalls @	\$46.00	per day per	
Total revenues					
Less: Departmental expenses					
Rooms	41,464	occupied rooms @	28.0%	of room rev	
Food & beverage	41,464	occupied rooms @	77.0%	of food & b	
Parking & other	41,464	occupied rooms @	50.0%	of parking &	
Total departmental expenses					
Total departmental net income					
	<u>GBA</u>	<u>NRA</u>			
Retail rental income	0	0	SF NRA @	\$0.00	
Other rental income	0	0	stalls @	\$0.00	
Other rental income	0	0	SF NRA @	\$0.00	
Total Bldg Area & Gross Income	523,378	322,246	SF NRA @	\$29.74	
Less: Undistributed expenses					
Admin, marketing, utilities, maintenance, insurance @		\$15,000	per available room		
Franchise fees @	7.5%	of room revenue			
Management fee @	3.0%	of total revenue			
Real estate taxes					
Replacement reserve @	4.0%	of total revenue			

Total undistributed expenses		
Total operating expenses	65.1%	of total revenue
Net operating income		

Hotel Indicated Value

Apartment Section

	#	Average Unit Size	Monthly Rent	Rent Per SF	Total NRA
Studio	90	497	\$1,687	\$3.39	44,730
1-bedroom	119	748	\$2,665	\$3.56	89,012
2-bedroom	105	1,272	\$3,300	\$2.59	133,560
3-bedroom	30	1,838	\$10,785	\$5.87	55,140
Total apartment revenues	344	937	\$3,311	\$3.53	322,442
Retail	1,800	SF @	\$35.00	per SF	1,800
Restaurant space	0	SF @	\$0.00	per SF	
Gross building rental income					324,242
Parking income	145	stalls @	\$300.00	per month	
Other		1.0%		of apartment PGI	
Total potential gross income	123,897	SF GBA @	\$116.14	per SF	

Less: Vacancy/credit allowance @	5.00%	of apartment revenue
	0.00%	of parking revenue
	5.00%	of retail space

Total vacancy/credit allowance

Effective gross income

Less: Operating expenses

Management fee @	5.0%	of total EGI
Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of apartment GBA

Total operating expenses	\$34.08	\$12,273
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Net operating income

Apartment Indicated Value

Combined market value**Land Value**

Allocation to 069600-0015	12,960	SF @	\$1,700.00
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Residual Improvements

Allocation to 069600-0015	322,246	SF NRA @	\$865.71
	523,378	SF GBA @	\$533.02

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,700.00	\$22,032,000	\$278,970,000	N/A
With LID				
Scenario A1	\$1,708.50	\$22,142,000	\$279,650,000	0.24%
Scenario A2	\$1,708.50	\$22,142,000	\$281,179,000	0.79%
Scenario B1	\$1,708.50	\$22,142,000	\$281,146,000	0.78%
Scenario B2	\$1,708.50	\$22,142,000	\$279,618,000	0.23%
Percent change in land value	0.50%		average \$280,398,250	0.51%

Overall Summary

Without LID	\$1,700.00	\$22,032,000	\$278,970,000	N/A
With LID	\$1,708.50	\$22,142,000	\$280,425,000	0.52%

Sound Hotel (Tapestry Collection by Hilton) and Arrive Apart
Scenario A - Rate and Vacancy Changes

ds streets, zoned DMC 240/290-
of GBA and 73,066 SF of NRA,
1 40 floors with 332,698 SF of
g (145 stalls). All improvements

		INCOME ANALYSIS After	Year Built	2018
		Hotel Section		
		Revenues		
Room	\$12,439,200	Room revenue		
Food & beverage	\$1,451,240	Food & beverage revenue		
Parking & other income	\$587,650	Parking & other income		
	\$14,478,090	Total revenues		
		Less: Departmental expenses		
Room revenue	(\$3,482,976)	Rooms	28.0%	of room revenue
Food & beverage revenue	(\$1,117,455)	Food & beverage	77.0%	of food & beverage
Parking & other income	(\$293,825)	Parking & other	50.0%	of parking & other income
	(\$4,894,256)	Total departmental expenses		
	\$9,583,834	Total departmental net income		
			GBA	NRA
per SF =	\$0	Retail rental income	0	0
per month	\$0	Other rental income	0	0
per SF =	\$0	Other rental income	0	0
/SF =	\$9,583,834	Total Bldg Area & Gross Income	523,378	322,246
		Less: Undistributed expenses		
	(\$2,130,000)	Admin, marketing, utilities, maintenance, insurance @		
	(\$932,940)	Franchise fees @	7.5%	of room revenue
	(\$434,343)	Management fee @	3.0%	of total revenue
	(\$450,513)	Real estate taxes		
	(\$579,124)	Replacement reserve @	4.0%	of total revenue

	(\$4,526,919) (\$9,421,175) \$5,056,915	
Capitalized @ Indicated value (R) Per SF NRA Per room	7.25% \$69,750,557 \$69,751,000 \$216.45 \$491,204	23%
	\$1,821,960 \$3,805,620 \$4,158,000 \$3,882,600 \$13,668,180 \$63,000 \$0 \$13,731,180 \$522,000 \$136,682 \$14,389,862	
	(\$683,409) \$0 (\$3,150) (\$686,559) \$13,703,303 (\$685,165) \$0 (\$3,505,888) (\$30,974) (\$4,222,028) \$9,481,275	
30.8%		
Capitalized @ Indicated value (R) Per SF NRA	4.10% \$231,250,616 \$231,251,000 \$713.20	

Total undistributed expenses		
Total operating expenses		
Net operating income		
Hotel Indicated Values		
Apartment Section		
	#	Average Unit Size
Studio	90	497
1-bedroom	119	748
2-bedroom	105	1,272
3-bedroom	30	1,838
Total apartment revenues	344	937
Retail	1,800	SF @
Restaurant space	0	SF @
Parking income	145	stalls @
Other		1.0% of apart
Total potential gross income	123,897	SF GBA @ \$116.43
Vacancy/credit allowance		A
		R
Total vacancy/credit allowance		
Effective gross income		
Less: Operating expenses		
Management fee @	5.0%	of total EGI
Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of apartment
Total operating expenses		
Net operating income		
Apartment Indicated Values		

Per DU	\$672,241
	\$301,002,000
per SF =	\$22,032,000
per SF =	\$278,970,000

Total

Estimated Value	Special Benefit	% Change	Per Unit
\$301,002,000	N/A	N/A	
\$301,792,000	\$790,000	0.26%	\$1,626
\$303,321,000	\$2,319,000	0.77%	\$4,772
\$303,288,000	\$2,286,000	0.76%	\$4,704
\$301,760,000	\$758,000	0.25%	\$1,560
\$301,002,000	N/A		
\$302,567,000	\$1,565,000	0.52%	\$3,220

Combined market values	
Land Value	
Allocation to 069600-0015	12,960
Residual Improvements	322,246
Allocation to 069600-0015	523,378

ments

			Low	High
Occupancy rate:			80.00%	80.00%
Occupied rooms:			41,464	41,464
			0.20%	0.55%
Per Room			Per Room	
\$300.60			\$301.65	
\$35.07			\$35.19	
\$46.09			\$46.25	
			\$12,464,078	\$12,507,616
			\$1,454,142	\$1,459,222
			\$588,825	\$590,882
			\$14,507,046	\$14,557,719
			(\$3,489,942)	(\$3,502,132)
revenue			(\$1,119,690)	(\$1,123,601)
income			(\$294,413)	(\$295,441)
			(\$4,904,044)	(\$4,921,174)
			\$9,603,002	\$9,636,545
Per SF			Per SF	
SF NRA @	\$0.00	\$0.00	\$0	\$0
stalls @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$29.80	\$29.90	\$9,603,002	\$9,636,545
\$15,000 per available room			(\$2,130,000)	(\$2,130,000)
			(\$934,806)	(\$938,071)
			(\$435,211)	(\$436,732)
			(\$450,513)	(\$450,513)
			(\$580,282)	(\$582,309)

			(\$4,530,812)	(\$4,537,624)
			(\$9,434,856)	(\$9,458,798)
			\$5,072,190	\$5,098,921
Capitalized @			7.25%	7.25%
			\$69,961,244	\$70,329,948
(R)			\$69,961,000	\$70,330,000
Per SF NRA			\$217.10	\$218.25
Per room			\$492,683	\$495,282
% change			0.30%	0.83%
			Low	High
	<u>Per DU</u>	<u>Per DU</u>	0.25%	0.75%
	\$1,691	\$1,700	\$1,826,515	\$1,835,625
	\$2,672	\$2,685	\$3,815,134	\$3,834,162
	\$3,308	\$3,325	\$4,168,395	\$4,189,185
	\$10,812	\$10,866	\$3,892,307	\$3,911,720
			\$13,702,350	\$13,770,691
	<u>Per SF</u>	<u>Per SF</u>	0.25%	0.75%
	\$35.09	\$35.26	\$63,158	\$63,473
	\$0.00	\$0.00	\$0	\$0
	<u>Per Stall</u>	<u>Per Stall</u>	0.25%	0.75%
	\$300.75	\$302.25	\$523,305	\$525,915
ment PGI			\$137,024	\$137,707
\$117.01 per SF			\$14,425,836	\$14,497,786
apartments	5.00%	5.00%	(\$685,118)	(\$688,535)
Parking	0.00%	0.00%	\$0	\$0
etail/Other	5.00%	5.00%	(\$3,158)	(\$3,174)
			(\$688,275)	(\$691,708)
			\$13,737,561	\$13,806,078
			(\$686,878)	(\$690,304)
			\$0	\$0
			(\$3,514,653)	(\$3,532,182)
GBA			(\$30,974)	(\$30,974)
			(\$4,232,505)	(\$4,253,460)
			\$9,505,056	\$9,552,617
Capitalized @			4.10%	4.10%
Indicated values			\$231,830,631	\$232,990,661
(R)			\$231,831,000	\$232,991,000
Per SF NRA			\$714.99	\$718.57

Per DU	\$673,927 0.25%	\$677,299 0.75%
	\$301,792,000	\$303,321,000
SF @ \$1,708.50 per SF =	\$22,142,000	\$22,142,000
SF NRA @ \$867.82 \$872.56	\$279,650,000	\$281,179,000
SF GBA @ \$534.32 \$537.24	0.24%	0.79%

Per Property Type Summary

Property	% of Total	Estimated Value Without LID	Estimated Value With LID	Special Benefit
Hotel section	23.2%	\$69,751,000	\$70,114,000	\$363,000
Apartment section	76.8%	\$231,251,000	\$232,453,000	\$1,202,000
Totals		\$301,002,000	\$302,567,000	\$1,565,000

Sound Hotel (Tapestry Collection by Hilton) and Arrive Apartments

Scenario B - OAR Changes

INCOME ANALYSIS After		Year Built	2018
Potential Gross Income			
Revenues			
Room revenue	41,464	occupied rooms @	\$300.00 per occupied room
Food & beverage revenue	41,464	occupied rooms @	\$35.00 per occupied room
Parking & other income	12,775	available stalls @	\$46.00 per day per stall
Total revenues			
Less: Departmental expenses			
Rooms	28.0%	of room revenue	
Food & beverage	77.0%	of food & beverage revenue	
Parking & other	50.0%	of parking & other income	
Total departmental expenses			
Total departmental net income			
	<u>GBA</u>	<u>NRA</u>	
Retail rental income	0	0	SF NRA @ \$0.00 per SF =
Other rental income	0	0	0 stalls @ \$0.00 per month
Other rental income	0	0	SF NRA @ \$0.00 per SF =
Total Bldg Area & Gross Income	523,378	322,246	SF NRA @ \$29.74 /SF
Less: Undistributed expenses			
Admin, marketing, utilities, maintenance, insurance @			\$15,000 per available room
Franchise fees @	7.5%	of room revenue	
Management fee @	3.0%	of total revenue	
Real estate taxes			
Replacement reserve @	\$0.04	of total revenue	

Total undistributed expenses
Total operating expenses
Net operating income

Hotel Indicated Values

Capitalized @
Indicated Value
(R)
Per SF NRA
Per room
% change

Apartment Section

	#	Average Unit Size	Monthly Rent	Rent Per SF	Total NRA
Studio	90	497	\$1,687	\$3.39	44,730
1-bedroom	119	748	\$2,665	\$3.56	89,012
2-bedroom	105	1,272	\$3,300	\$2.59	133,560
3-bedroom	30	1,838	\$10,785	\$5.87	55,140
Total apartment revenues	344	937	\$3,311	\$3.53	322,442

Retail	1,800	SF @	\$35.00	per SF	1,800
Restaurant space	0	SF @	\$0.00	per SF	0
Gross building rental income					324,242
Parking income	145	stalls @	\$300.00	per month	
Other	1.0%	of apartment PGI			
Total potential gross income					

Less: Vacancy/credit allowance @ 5.00% of apartment revenue
0.00% of parking revenue
5.00% of retail space

Total vacancy/credit allowance

Effective gross income

Less: Operating expenses

Management fee @ 5.00% of total EGI
Parking operating expenses @ 0.00% of parking EGI
Apartment operating expenses 27.00% of apartment EGI
Structural maintenance/reserve \$0.25 per SF of apartment GBA

Total operating expenses

Net operating income

Apartment Indicated Values

Capitalized @
Indicated values
(R)
Per SF NRA

Per DU

Combined market values

Land Value

Allocation to 069600-0015 12,960 SF @ \$1,708.50 per SF =

Residual Improvements

322,246 SF NRA @ \$872.46 \$867.72

Allocation to 069600-0015 523,378 SF GBA @ \$537.18 \$534.26

% Change

0.52%

0.52%

0.52%

	\$12,439,200
	\$1,451,240
	\$587,650
	\$14,478,090
	(\$3,482,976)
	(\$1,117,455)
	(\$293,825)
	(\$4,894,256)
	\$9,583,834
	\$0
	\$0
	\$0
	\$9,583,834
	(\$2,130,000)
	(\$932,940)
	(\$434,343)
	(\$450,513)
	(\$579,124)

	(\$4,526,919)
	(\$9,421,175)
	\$5,056,915
Low	High
7.19%	7.23%
\$70,332,620	\$69,943,504
\$70,333,000	\$69,944,000
\$218.26	\$217.05
\$495,303	\$492,563
0.83%	0.28%
	\$1,821,960
	\$3,805,620
	\$4,158,000
	\$3,882,600
	\$13,668,180
	\$63,000
	\$0
	\$13,731,180
	\$522,000
	\$136,682
	\$14,389,862
	(\$683,409)
	\$0
	(\$3,150)
	(\$686,559)
	\$13,703,303
	(\$685,165)
	\$0
	(\$3,505,888)
	(\$30,974)
	(\$4,222,028)
	\$9,481,275
4.07%	4.09%
\$232,955,166	\$231,816,021
\$232,955,000	\$231,816,000
\$718.46	\$714.95

\$677,195 0.74%	\$673,884 0.24%
\$303,288,000	\$301,760,000
\$22,142,000	\$22,142,000
\$281,146,000 0.78%	\$279,618,000 0.23%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0415	Sound Hotel and Arrive Apartments	2116 4th Avenue	0696000015

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$1,565,000	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	\$210,382
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			

Model Input					
Appeal #	Property	Address	Assessor's #		
CWF-0415	Sound Hotel and Arrive Apartments	2116 4th Avenue	0696000015		
	BEFORE	Appraiser	Value		
A	Final City Before Value	City	\$301,002,000	\$48.4M Snd Htl 1 + \$195M Arve A	
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$243,400,000		
C	COVID 19 Discount and value		-12.5%		
D					
(B*(1+C) unless no value for B, then A*(1+C)	Corrected FMV for Assessment		\$212,975,000		
	SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%
	CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$1,565,000		
H/A	As Percentage of Final City Before Value		0.520%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$1,107,321.13		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$379,736	\$104,338
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$148,856	\$40,901
	DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0415

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON SEATTLE
TOWER I, LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0696000015

32
33 SEATTLE TOWER I, LLC files this appeal pursuant to RCW 35.44.070, Seattle
34 Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office
35 of the City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
36 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
37
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39
40

41
42 **I. Seattle Tower I, LLC / Appellant**

43 The taxpayer filing this appeal is:

44
45 SEATTLE TOWER I, LLC
46
47

1 C/O TAX ADVISORS PLLC 203 SE PARK PLAZA DR #230 VANCOUVER WA
2 98684
3 (206) 369-5458 AND (702) 735-0155
4 RMEYER@THEHOTELGROUP.COM and RICHW@MOLASKYCO.COM
5

6 **II. Seattle Tower I, LLC's Representatives**
7

8 SEATTLE TOWER I, LLC'S representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
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13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20 Robert L. Mahon, WSBA No. 26523
21 RMahon@perkinscoie.com
22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
26
27

28 **III. Statement of Seattle Tower I, LLC's Interest**
29

30 SEATTLE TOWER I, LLC owns the property that is subject to the proposed final
31 assessment described in Section IV. The Seattle Tower I, LLC property is a mixed-use
32 tower consisting of 344 residential apartments comprising the Arrive Luxury Apartments
33 above a 142-room hotel and restaurant comprising the Sound Hotel, operated under a
34 franchise agreement with Hilton Hotels. The basis of the proposed assessment is a Final
35 Special Benefit/Proportionate Assessment Study for Waterfront Seattle Local Improvement
36 District ("Final Study"), dated October 1, 2019 and prepared by Robert Macaulay with ABS
37 Valuation (the City's appraiser). The Final Study proposes assessments that are purportedly
38 limited to paying for the LID-funded components—namely, the Promenade, Overlook Walk,
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1 Pioneer Square Street Improvements, Union Street Pedestrian Connection, Pike/Pine
2 Streetscape Improvements, and Pier 58 (together, the “LID Improvements”). The Final
3 Study purports to exclude charges for other improvement projects in the Central Waterfront,
4 and specifically those WSDOT had already agreed to pay for and construct: viaduct
5 demolition, the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State
6 Route 99 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces
7 WSDOT planned fronting piers between Pike and Madison (together, the “WSDOT
8 Improvements”). But because construction was not complete on the LID Improvements or
9 the WSDOT Improvements at the time the Final Study was prepared, Mr. Macaulay’s
10 October 1, 2019 “Before” and “After” valuations are both based on hypothetical conditions
11 rather than actual facts. On February 4, 2020, Seattle Tower I, LLC timely filed an
12 objection to the assessment, which was based on the Final Study.
13
14

15 **IV. Matter Under Appeal**

16 SEATTLE TOWER I, LLC appeals the Hearing Examiner’s recommendation to
17 remand the Sound Hotel Seattle Tower I, LLC’s objection to the City of Seattle’s Waterfront
18 Local Improvement District No. 6751 proposed final assessment dated December 30, 2019
19 against the following property:
20
21

22 King County Parcel No. 0696000015
23 Site Address: 2116 4th Ave. Seattle, Washington
24 Proposed Final LID Assessment for Parcel: \$613,201
25

26 See Examiner’s Recommendation at 61-62, 104. To avoid repetition, Seattle Tower I, LLC
27 incorporates the evidence and arguments raised before the Hearing Examiner into this
28 appeal. In particular, Seattle Tower I, LLC points the City Council to Seattle Tower I,
29 LLC’s initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its case-
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1 in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close of the
2
3 City's case-in-chief (dated 7/7/2020).¹
4

5 As discussed more fully below, Seattle Tower I, LLC specifically appeals the
6
7 following Findings and Recommendations in the Hearing Examiner's September 8, 2020
8
9 Recommendation: Pages 61-62, 104, Sections II.6, II.7, II.12, II.14, II.16, II.17, II.18, II.19,
10
11 II.20, II.21, II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A,
12
13 IV.B.1, IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a),
14
15 IV.B.11(a)(i), IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3,
16
17 IV.C.4, IV.C.5, IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14, IV.C.18.
18

19 Seattle Tower I, LLC also appeals the Hearing Examiner's failure to make findings
20
21 of fact or recommendations on material issues raised during Seattle Tower I, LLC's appeal
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23 that were supported by law, expert testimony, and fact. The Final Study fails in numerous
24
25 ways to satisfy the basic requirements of a LID assessment study, and the Examiner's
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27 Recommendation ignores the many deficiencies in the Final Study. In fact, the only
28
29 instances in which the Examiner recommended anything other than denial of objectors'
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31 appeals were where the City's appraiser confessed error. The appraiser's proposed
32
33 assessments, and the Examiner's Recommendations, would have the City impose arbitrary
34
35 and capricious Waterfront LID special assessments based on "fundamentally wrong
36
37 methods."
38

39
40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$1,565,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
9

10
11 **Legal Requirement:** Must comply with appraisal standards
12

13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
18
19

20 **Legal Requirement:** Actual and measurable special benefit
21

22 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
23 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
24 on a host of "micro-judgments" that are not supported by any documentation, nor capable
25 of replication or quality assurance/quality control. The assessments are undocumented,
26 unreliable, and not supported by empirical studies, data, or reports.
27
28

29 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
30 supported by empirical evidence
31

32 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
33 value of parks and other public amenities and on whom ABS purported to rely, testified
34 that ABS had completely misapplied his work and dramatically overstated both the
35 distance to which economic benefits might extend from the LID Improvements and the
36 extent of any anticipated benefit within the potentially benefited area.
37
38
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40 **Legal Requirement:** Actual special benefit—Must take into account potential
41 disamenities
42

43 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
44 construction, as well as other potential disamenities associated with public places.
45
46
47

1 **Legal Requirement:** Cannot prematurely commit to build

2
3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
8
9

10
11 In addition to these general objections, there are property-specific issues raised by
12
13 Seattle Tower I, LLC as to which the Examiner also erred, discussed in the course of the
14
15 appeal statement below.
16

17 **V. Standard of Review**

18
19 “When considering the assessment roll, the city council sits ‘as a board of
20
21 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
22
23 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
24
25 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
26
27 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
28

29 The proposed assessments are presumed correct, “unless overcome by clear, cogent
30
31 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
32
33 than the heightened presumption of correctness on judicial appeal because “applying these
34
35 elevated standards at the municipal hearing would afford unwarranted deference to a report
36
37 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
38
39 presumption is not evidence and its efficacy is lost when the other party adduces credible
40
41 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
42
43 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
44
45 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
46
47 presented credible evidence showing that the City’s proposed assessment is arbitrary,

1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
4

5 **VI. Grounds for Appeal**

6 SEATTLE TOWER I, LLC appeals the Hearing Examiner's Findings and
7
8 Recommendations on the following grounds.
9

10 **Seattle Tower I, LLC Not Required to Provide A Special Benefit Study**

11
12 1. Contrary to the Examiner's findings and recommendations, there is no
13 requirement that experts or property owners provide an alternative special benefit
14 calculation under these circumstances—to do so would also require the same improper
15 speculation the City's expert engaged in, given the timing and information provided. *See*,
16 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
17 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
18 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
19 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
20 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
21 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
22 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
23 provided expert opinion showing that improvements actually diminished value of the
24 property). In fact, no independent evidence is required at all if, for example, objectors show
25 that the assessment was grounded on a fundamentally wrong basis due to an error in the
26 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
27 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
28 a property owner could simply point out that the square footage assumed in the City's
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1 appraisal was incorrect. For these reasons, Seattle Tower I, LLC appeals the following
2 portions of the Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a),
3 IV.C.2, IV.C.8, and IV.C.11.
4

5
6
7 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
8

9 2. RCW 35.43.040 provides cities and towns authority for ordering local
10 improvements and for levying and collecting special assessments "on property specially
11 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
12 upon all the property in accordance with the special benefits conferred thereon." RCW
13 35.44.010.
14
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18 3. No analysis of general benefits. Special assessments have been "held valid
19 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
20 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
21 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
22 they are for the construction of local improvements that are appurtenant to specific land and
23 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
24
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30 4. Seattle Tower I, LLC's property is not specially benefited by the LID
31 Improvements. The primary purpose and effect of the LID Improvements are to benefit
32 "members of the whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain
33 that a public library is for the benefit of the members of the whole community individually
34 and collectively who may be served by it"). Mr. Macaulay's own chapter of the LID
35 Manual states clearly that appraisers should "[c]onsider general benefits as well as special
36 benefits" (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that "general benefits
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46 ² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
47 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil

1 probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Seattle Tower
2
3 I, LLC’s expert confirmed that if an appraiser “identifies both general and special benefits,
4
5 these benefits should be clearly distinguished and explained, and only special benefits
6
7 should be included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated
8
9 7/7/2020); *see also* 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg.
10
11 Tr. at 182:14-183:4. It is undisputed that Mr. Macaulay did not analyze or measure general
12
13 benefits, including those arising from construction necessary to meet basic design standards.
14
15 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
16
17 construction costs related to meeting design standards which may be general benefits as
18
19 distinct from construction costs emanating from requirements of the LID project”). To the
20
21 extent Seattle Tower I, LLC’s property may benefit from the LID improvements, the benefit
22
23 is general and incidental, and failure to consider general benefits was a fatal flaw in the
24
25 City’s methodology. For these reasons, Seattle Tower I, LLC appeals the following portions
26
27 of the Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and
28
29 IV.C.4.

30
31 5. LID Improvements not necessary. Unlike typical LID projects, the
32
33 Waterfront LID improvements are largely unnecessary to the functionality of any particular
34
35 property, including Seattle Tower I, LLC’s property. *See In re Schmitz*, 44 Wn.2d 429, 433,
36
37 268 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16
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39 to 18 feet held invalid where owners would have benefitted equally from increase of only 9
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41 feet); *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
42
43

44 _____
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Seattle Tower I, LLC has attached a master list of the hearing exhibits as Attachment A to this appeal
notice.

1 intersection for new water main for hydrant held invalid because land was already afforded
2 functional hydrant at nearby street). Here, Randy Meyer, CFO and Vice President of the
3 Hotel Group, which operates the Sound Hotel component of the Seattle Tower building,
4 testified via declaration that the LID improvements are not necessary to the functionality or
5 continued use of the property as a hotel. *See* Hrg. Exhibit 109, Meyer Decl. ¶ 17 (dated
6 4/15/2020). For the Arrive Apartments component of the property, the assumption that an
7 increase in tourism will cause lifts in property value is both anecdotally and empirically
8 unsupported. The fact that there is no case law differentiating between binary improvements
9 and parks does not change the law prohibiting assessments on properties already adequately
10 served by existing amenities. *See* Examiner's Recommendation at IV.C.3 (reasoning that
11 "no case law is provided to support the differentiation between a hardscape benefit and the
12 more ephemeral benefits of park"). Nor does the Examiner's reasoning excuse the City's
13 failure to account for existing amenities as part of the special benefit calculation. As Dr.
14 Crompton testified, existing view amenities may in fact diminish the incremental effect of
15 new park improvements on the value of properties, much like turning on a weak light in an
16 already brightly illuminated room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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33 6. To the extent benefits can be considered "special" as opposed to general, they
34 are nominal or nonexistent for many properties even in the Central Waterfront, which
35 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
36 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
37 change due to expansion of sewer service *near* owners' parcel which were already
38 connected). Here, the primary reasons users choose a particular hotel or apartment is not
39 proximity to the waterfront. Instead, like most of the downtown hotels, Sound Hotel caters
40 primarily to business travelers attending conventions and meetings. *See, e.g., Id.* at ¶ 18. For
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1 this reason, Mr. Meyer explained that Sound Hotel does not expect the LID Improvements
2 to increase impact on demand for rooms or room rates. *Id.* Even if the City could assess for a
3 view change (and it has promised not to assess for viaduct removal), the fair market value of
4 SEATTLE TOWER I, LLC'S property has not changed because the LID Improvements
5 have not improved the property's waterfront view or access to the waterfront, nor will they
6 when the City anticipates completion in 2024. For these reasons, Seattle Tower I, LLC
7 appeals the following portions of the Examiner's Recommendation: Sections IV.C.3,
8 IV.B.9, and IV.C.3.

16 7. No analysis of special detriments. The Final Study fails to properly account
17 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
18 owners for removal and cleanup of underground storage tanks discovered during the
19 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
20 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
21 of how lost parking might be a detriment, and no property-specific parking analysis in any
22 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.

30 8. Likewise, there was no analysis of the risks associated with disamenities such
31 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
32 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
33 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
34 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
35 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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1 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
2 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
3 the maintenance agreement. *Id.* at 13:4-14:2.
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6 9. There was also no consideration of negative impacts from another four-plus
7 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
8 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
9 law allowing him to dismiss these actual, non-speculative impacts. Because future special
10 benefits calculations are inherently speculative, Washington's eminent domain statute
11 specifically allows condemnees to postpone special benefits assessments until improvements
12 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
13 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
14 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
15 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
16 Greenway, the Greenway district "significantly" lagged in value). For these reasons, Seattle
17 Tower I, LLC appeals the following portions of the Examiner's Recommendation: Sections
18 II.25, IV.B.8, and IV.B.9.
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32 10. Special benefit estimate is speculative. When calculating a special benefit,
33 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
34 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
35 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335-36, 324
36 P.2d 1078 (1958)).
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 11. Assuming without conceding that one day, the City’s planned LID
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3 Improvements might increase the value of neighboring properties to some extent, that
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5 potential benefit is many years away and speculative. While appraisers tolerate some degree
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7 of estimation and judgment, Seattle Tower I, LLC’s expert testified that Mr. Macaulay’s
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9 Final Study is far too speculative to satisfy industry practices and standards. *See. e.g.,*
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11 3/12/2020 (P. Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit
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13 analysis with the level of precision implied in the Final Study due to the size of the LID and
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15 use of hypotheticals).

16 12. Although LIDs are sometimes finalized prior to completion of improvements,
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18 this is typically just six month or a year prior, and the assessments are otherwise supported
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20 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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22 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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24 will not be realized for four or five years. In the meantime, there is permitting risk,
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26 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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28 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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30 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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32 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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34 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
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36 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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38 market value would be as of the date the project would be finally constructed” because
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40 “[t]here could be a lot of elements in the market that did occur between now and then that
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42 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
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44 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
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46 fluctuate over time” and “I can’t predict the future”).
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1 13. The record is clear that while no one can know what “special benefit” might
2 accrue to these properties in four years (if any), we do know that there are no actual benefits
3 now. The LID improvements provide no immediate special benefit to property owners
4 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
5 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
6 sewer system for future users). For example, notwithstanding the questionable hypothesis
7 that hotels will benefit from an expected increase in tourism (higher room rates or
8 occupancy) when the improvements are complete, it is undisputed that tourists are not
9 coming in larger numbers and paying higher room rates now because of something
10 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23.

11 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
12 for the LID Improvements, and it is unlawful to move to final assessments without such
13 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
14 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
15 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
16 dollars on projects still early in the design process. *See* Washington Attorney General
17 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
18 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
19 of programs and included “only so much of the overall costs” that took place within and
20 benefitted the assessed properties).

21 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
22 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
23 anticipated to be delivered five years later. Even before COVID, it was speculative to
24 assume that market highs experienced in October 2019¹ would be sustained through 2024,

1 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
2 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
3 my analysis in October 2019, who would have thought that this COVID issue would
4 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
5 process was that the market was going to continue to go up”—in fact, it did not for Seattle
6 Tower I, LLC’s property. *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that
7 downtown hotel values had already dropped an estimated 10-15% from their October 2019
8 levels, and occupancy rates were at zero or in single digits. *See* Gordon Decl. (dated
9 4/21/2020) at ¶ 9. Hotels without guests will derive no benefit, special or otherwise, from
10 the planned LID Improvements. And even assuming hotels recover prior to 2024, there is
11 no basis for assuming that values hypothesized in October 2019 will remain relevant; they
12 are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020).
13 Although COVID does not change actual values as of October 2019 (*see* Examiner’s
14 Recommendation at 109), the pandemic has impacted *current* values and rendered the
15 hypothetical October 2019 Final Study valuations outdated.

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31 16. As another example of how future events could affect the accuracy and
32 reliability of the City’s 2019 proposed assessment, Seattle Tower I, LLC recently requested
33 the Hearing Examiner re-open the record to allow the City to explain whether the
34 assessments against property owners within the LID are, in fact, being used by the City to
35 fund the emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the

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42 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
43 5, Aug. 15, 2020), available at [https://www.king5.com/article/news/local/seattle/seattle-mayor-](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3)
44 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3)
45 [0b60d4097aa3](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3); *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
46 58 (Waterfront Park) Emergency Demolition Project, *available at*
47 <https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que>

1 City plans to use LID funding to pay for the expedited, emergency repairs and replacement.⁵
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3 If true, the City would be improperly imposing costs on property owners within the LID for
4 improvements that are required to maintain the safety of Pier 58 and to remove a threat to
5 critical salmon habitat and City infrastructure—this does not provide any special benefit to
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7 LID property owners.
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10 17. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Seattle Tower I, LLC’s experts Reid
16 Shockey and Richard Shiroyama testified via declaration as to the City’s permitting gauntlet,
17 and potential delays and project changes inherent in those processes, that call into question
18 the assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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32 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
33 he could not point to a single one where the assessment roll was finalized five years in
34 advance of the anticipated project completion. See 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
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40 [ry=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonline.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.aspx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); see also Aug. 13, 2020 Ltr. from H.
41 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
42 available at
43 [https://www.govonline.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.aspx?que](https://www.govonline.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.aspx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
44 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonline.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.aspx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 he has never recommended final special assessments based on designs less than 30 percent
2 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
4 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
5 at 66:17-25. He performed no independent due diligence to determine the reliability of the
6 City’s estimates for completion of the LID Improvements, or to ensure that proposed
7 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
8 agreed that if any of his assumptions are incorrect, his opinion of market value would need
9 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
10 68:11-18.

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12 19. The City has cited no authority—and Seattle Tower I, LLC is aware of
13 none—that affirms the use of hypothetical, anticipatory Before and After values in order to
14 estimate and assess taxes for “actual” special benefits that will not accrue for another five
15 years (if all goes off without a hitch). To the contrary, the hypothetical assumption that all
16 of the Before and After Improvements are constructed as of October 1, 2019 allows Mr.
17 Macaulay to base his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
18 411. For these reasons, Seattle Tower I, LLC appeals the following portions of the
19 Examiner’s Recommendation: Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5,
20 IV.B.6, IV.B.11(c), IV.C.12, IV.C.14, and IV.C.18.

21 20. Failure to discount special benefit estimates to account for risks and present
22 value. Due to the inherent uncertainty, Seattle Tower I, LLC’s expert opine that the Final
23 Study should have accounted for risks associated with delivery of the improvements
24 (including permitting risk, construction risk, general economic risk) and any special
25 damages associated with interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-

1 120:9, 59:20-60:20. In addition, as is typical appraisal practice, Mr. Macaulay should have
2 discounted the anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-
3 55:1; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers
4 routinely consider the impact of future conditions [through] discounted cash flow
5 analysis.”).
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10 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.
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34 22. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
35 present value, an appraiser would consider discount rates for land development to account
36 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
37 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
38 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
39 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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1 23. Applying the Q19 Korpacz rates and assuming arguendo that Macauley's
2 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
3 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
4 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
5 ignoring momentarily all of the other methodological and other flaws discussed here and in
6 Seattle Tower I, LLC's case-in-chief, and assuming that the LID Improvements provide
7 special benefits as soon as they are complete in 2024, Mr. Macaulay's hypothetical
8 assessment materially exceeds special benefits when reduced to present value. Further, to
9 the extent the City is arguing that because they are permitted to assess 100% of the special
10 benefit, the special benefit estimate can be off by 60.8% because they only assess 39.2% of
11 that benefit, the City is again wrong. After applying proper discounting, the City's proposed
12 special benefit assessment is far more than 39.2% of the total estimated special benefit, and
13 in fact exceeds 100% of the total estimated special benefit.
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15 24. But even the assumption that the LID improvements would deliver benefits
16 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
17 on. Rather, those studies demonstrate that a discount period of five years is conservative.
18 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
19 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
20 indicates that during the construction period, the Greenway district "significantly" lagged in
21 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
22 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
23 30-31 (discussing New York City High Line and San Francisco Embarcadero
24 improvements). Given the lengthy delay, any prediction of future special benefits is
25 speculative, especially during the construction phase where values are likely to decline.
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1 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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3 Improvements take a similarly long period of time after they are complete to start producing
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5 tangible property value benefits, each additional year of delay results in further discount to
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7 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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9 A.

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11 25. Applying the same discounting methods described above and in Mr. Gibbons
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13 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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15 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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17 before applying the 39.2% percentage assessment. *Id.* For Seattle Tower I, LLC, this means
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19 at most the 100% assessment should be no more than \$147,423. Anything more would
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21 permit the City to assess Seattle Tower I, LLC based on a hypothetical assumption that these
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23 improvements are in place and providing benefit, and ignore the risks, construction
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25 disamenity, and time value of money that normal appraisal principles would take into
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27 account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be only 39.2%
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29 of that assessment cap, or \$57,789.82.

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31 26. Attachment C includes two Excel spreadsheets applying these discounting
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33 methods to Seattle Tower I LLC's assessment. It is undisputed that special benefits will not
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35 actually accrue until the LID Improvements are complete in 2024. Accordingly, the first
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37 spreadsheet demonstrates that discounting the City's hypothetical October 2019 special
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39 benefits to present value would reduce Seattle Tower I LLC's assessment to \$210,382,
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41 exclusive of any other flaws in the City's proposed assessment. The second spreadsheet
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43 shows even more drastic reductions after taking into account: (1) Seattle Tower I LLC's
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45 experts' estimated "Before" value based on actual data from Seattle Tower I LLC; (2) a
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47 rough discount for property value loss due to COVID-19 and (3) discounting to present

1 value for 5 years (*i.e.*, from 2024 when the City anticipates completing the LID
2 Improvements) and 10 years (*i.e.*, from 2029 to account for the time it takes for the
3 improvements to capture property value). After such reductions, Seattle Tower I LLC's
4 assessment would be just \$148,856 (for the 5-year discount) or \$40,901 (for the 10-year
5 discount). Further, the spreadsheet concludes a "zero" benefit for this property because,
6 based on Dr. Crompton's testimony, Seattle Tower I LLC's property is more than 2,000 feet
7 from the core "park" improvements and therefore too distant to receive any special benefit.
8 Neither of these spreadsheets address other issues raised by Seattle Tower I LLC's appeal,
9 but are intended to help demonstrate how unfair and inflated the City's proposed
10 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
11 Seattle Tower I LLC's discounting argument without legal or factual analysis; that failure is
12 error.
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24 **Appraisal and Assessment Calculation Methods Are Flawed**

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26 27. The "general rule is that each lot, piece, or parcel of land should be assessed
27 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
28 Wn.2d at 97.
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32 28. It is proper to sustain a challenge to an assessment, even without the appraisal
33 testimony from the owner, where the objector's expert establishes that the assessment was
34 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
35 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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40 29. The City's appraiser purports to utilize the income method of valuation but
41 relied on inaccurate revenue and market data, as discussed further below.
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44 30. The City's appraiser purports to utilize the comparable sales method of
45 valuation, but no City witness attempted "to characterize any one, or all of them, as
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1 comparable to [Seattle Tower I, LLC's property]." *See Bellevue Plaza*, 121 Wn.2d at 406
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3 (finding "several serious flaws" in ABS's LID analysis in that case, including that the
4 appraiser "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt
5 to characterize any one, or all of them, as comparable to any particular property within the
6 LID"). And no City witness could explain how specific adjustments were made to these sales
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8 to account for value increases due to the hypothesized Before and After Improvements. For
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10 this reason, Seattle Tower I, LLC appeals Section II.23 of the Examiner's Recommendation.
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14 31. Special assessment improperly includes value lift from the Before
15 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
16 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
17 Improvements, which WSDOT had independently committed to fund. However, Mr.
18 Macaulay did not calculate the actual market value of LID properties in October 2019, and
19 did not separately analyze the hypothetical increase to property values attributable to
20 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
21 current value and then separately calculate a hypothetical "With WSDOT" Before value);
22 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
23 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
24 3-4. Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
25 documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
26 occupancy and rates would have been for the commercial properties assuming all of the
27 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
28 outright omission precludes any independent evaluation of the true market "Before" values.
29 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
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31 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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1 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
2 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
3 other road, pedestrian and landscaping improvements WSDOT had already committed to
4 make.
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9 32. However, because Mr. Macaulay testified that he did include some WSDOT-
10 related value-lift in the “Before” values, it follows that part of the special assessment
11 improperly is based on value attributable to the WSDOT Improvements. As shown by
12 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
13 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
14 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
15 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
16 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
17 to properly exclude the value of Before Improvements from the assessments. For these
18 reasons, Seattle Tower I, LLC appeals the following portions of the Examiner’s
19 Recommendation: Sections II.16, II.19, II.29, and IV.B.11(a)(ii)
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23 33. Special benefits were assigned rather than measured. Mr. Macaulay
24 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
25 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
26 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 3/3/2020 (A. Gibbons) Hrg Tr. at
27 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay used to
28 analyze the commercial properties, Seattle Tower I, LLC’s experts concluded that Mr.
29 Macaulay based adjustments on hypothesized very small increases to property revenue and
30 very small reductions to cap rates to “calculate” an “After” value due to the coming 2024
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1 LID Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments
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3 were based on “professional judgment” that are neither shown nor replicable.
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5 34. For these reasons, Seattle Tower I, LLC appeals the following portions of the
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7 Examiner’s Recommendation: Sections II.19 and IV.B.11(a)(iii).
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9 35. Special benefit falls within margin of error. The Final Special Benefit Study
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11 applies an estimated value enhancement of less than 4%, which is generally within the
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13 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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15 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
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17 Seattle Tower I, LLC’s experts explained that if two appraisers independently arrive at
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19 values within 5% of one another, this difference is considered reasonable as it falls within
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21 the standard margin of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at
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23 164:2-9; 3/11/2020 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay’s micro-
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25 special benefit percentages fall far below that 5% margin, “there is no way of
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27 authenticating” such incremental changes because “[m]arket forces completely obliterate
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29 any tiny little noise factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5.
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31 Mr. Macaulay agreed during his deposition that 0.25% is too small to measure. Macaulay
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33 Depo. at 25:17-25. Additionally, the fact that “Before” values are also based on a
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35 hypothetical that adds some unstated incremental value to actual 2019 values exacerbates
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37 this issue—the ability for an appraiser to discern the micro-value differences between
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39 hypothetical conditions that are so similar (the WSDOT improvements compared to the LID
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41 improvements) “verges on being ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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43 36. Even if it were possible to accurately tease out such a miniscule hypothetical
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45 value change due to improvements coming five years later, experts testified that there is no
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47 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to

1 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
2 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A Gibbons) Hrg. Tr. at
3 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
4 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Seattle
5 Tower I, LLC appeals the following portions of the Examiner’s Recommendation: II.27 and
6 IV.B.4.
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12 37. No analysis of value increase attributable to individual components of the
13 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
14 percentage difference between hypothetical Before and After conditions. Throughout his
15 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
16 descriptions in the Addenda even though he testified that he relied on these to calculate
17 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
18 someone might be able to determine how he attributed value to After conditions described in
19 the Addenda, he answered that that was “not the scope of the assignment” because he was
20 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
21 that the six components were not actually a continuous project, that he was viewing them
22 together because the City asked him to, and that if he were to view them independently,
23 there was a low probability that properties in the north would specially benefit from
24 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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38 38. Not only did he fail to analyze benefits from each of these non-contiguous
39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
40 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
41 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
42 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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1 objectives that guided regulators' assessment of architectural plans for buildings along a
2 "signature street" were so vague that they amounted to ad hoc review based on the
3 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
4 even though he used the renderings as "visual aid[s] in appraising the property in the before
5 and after" to "visually see what the differences would be," he could not explain what
6 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
7 when shown a rendering of a two-lane road going down to one-lane in the After condition
8 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
9 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
10 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
11 could explain the depiction of the same trees in the After condition nearly twice as tall as in
12 the Before. *Id.* at 173:17-175:4. For these reasons, Seattle Tower I, LLC appeals the
13 following portions of the Examiner's Recommendation: II.27 and IV.B.4.

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15 39. Special assessment is not supported by comparable studies, data or reports.
16 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
17 that the LID Improvements will lead to meaningfully increased real estate values for Seattle
18 Tower I, LLC. Indeed, no City witness was able to explain how ABS Valuation used
19 comparable sales or information from the "over twenty-five studies and reports" to arrive at
20 very precise special benefit increases for the commercial properties, including Seattle Tower
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⁶ As an aside, this admission suggests that there should have been an explicit City Council finding that properties within the LID would benefit from the improvements as a whole. *See* RCW 35.43.050. Without this finding, the cost and expense of each component must "be ascertained separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each property from each component separately, consistent with the law and in recognition of his testimony that not all properties benefit from all components.

1 I, LLC's property. For example, although Mr. Macaulay stated that no single report or study
2 was directly on point due to the unique nature of the LID Improvements (*see, e.g.,* 6/25/2020
3 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
4 parcel-by-parcel analysis other than to say that the studies generally provided "some
5 background to base decisions on." *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
6 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
7 similarities and differences between these improvements and the comparable parks he
8 looked at).

16 40. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
17 assignment of incremental increase of 0.5% to 4% to property values within the LID.
18 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
19 research misinterprets his work in critical ways, including because the LID Improvements
20 manifest the characteristics of a parkway (not a park), and his research indicates that most of
21 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
22 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
23 related value increases are in fact smaller; that estimated increases are "best guesses" rather
24 than predictions of property value increases in a particular city; and that percentages do not
25 account for diminishing returns after taking into account water views, which would be the
26 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
27 topography grants most properties in downtown a water view.

39 41. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
40 that this was just one source of information that was not entirely relevant because, among
41 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
42 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"

1 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
2 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
3 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
4 Crompton concluded that 500 feet via road from “park” improvements is just one or two
5 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
6 significantly beyond that which the park study indicated (even if it was legitimate to use the
7 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
8 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
9 impact applicable to “community parks”—which the LID Improvements are not. *Id.* Seattle
10 Tower I, LLC’s property is not within 2,000 road network feet from the “park”
11 improvements. *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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23 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
24 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
25 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
26 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
27 materials, it was clearly an important—if not *the* most important—source of information for
28 estimating special benefits (especially with respect to the condos).⁷ No City witness
29 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
30 parcel-by-parcel analysis.
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 43. The destination parks discussed in the Final Special Benefit Study do not
2 provide reliable, comparable, and valid support for the calculation of special assessments
3 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
4 critique of every case study cited concludes the changes to those “dwarf the difference
5 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
6 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
7 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
8 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
9 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
10 funded by a LID. And in virtually all of those cases, the park improvements dramatically
11 restored unimproved or blighted areas, and properties evaluated were within two or three
12 blocks of the park.
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14 44. ABS’s claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁸ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
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22 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
23 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
24 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
25 expected tourists visiting the LID park was calculated using data from only from New York City, a
26 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
27 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
28 how hotel visitors actually select hotels to stay in.
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1 the LID Improvements and could not explain how this impacted his condo analysis.
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3 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
4 Property Values” primarily focused on whether the benefits accrue to the larger community
5 rather than properties adjacent to the park. And the 2014 New York City Department of
6 Transportation study is not based on real estate transactions and market sales and fails to
7 substantiate any link between increased retail sales and property values. Moreover, this
8 study only looked at impact either directly abutting the streetscape improvement, or a couple
9 hundred feet for plaza-like improvements.
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16 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
17 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
18 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
19 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
20 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
21 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
22 asked whether he considered that HR&A’s estimated LID impact is six times greater than
23 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
24 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
25 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
26 assumptions to account for this difference, which may be partly explained by the fact that
27 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
28 approximately 3.44% of King County tourists visit Seattle primarily because of the city
29 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
30 waterfront improvements.
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1 46. Although proximity to the improvements is a key factor in all of these
2 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
3 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
4 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
5 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
7 Improvements is approximate 20 acres and it is not a community park.⁹

8 47. There is no explanation in the Final Study or the supporting materials of how
9 the studies or comparable sales were used to derive values for Seattle Tower I, LLC's
10 property. For these reasons, Seattle Tower I, LLC appeals the following portions of the
11 Examiner's Recommendation: Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30,
12 II.32, and IV.C.5.

13 48. Failure to comply with USPAP. Seattle Tower I, LLC's assessment also rests
14 on a fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid
15 mass-appraisal method. Randall Scott, a former mass appraiser responsible (and
16 professionally recognized) for developing the MAI standards for mass appraisals, testified
17 that the Final Study does not meet mass appraisal standards nor allow for independent
18 assessment of the accuracy of Mr. Macauley's conclusions.

19 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
20 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
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23 ⁹ *See*
24 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
25 connecting Seattle's central waterfront to downtown.").

1 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
2 testimony suggests that he incorrectly believed that the only difference between direct
3 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
4 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
5 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
6 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
7 Gordon uses in doing his limited restricted report").

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15 50. But the difference is not only in reporting—mass appraisal techniques must
16 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
17 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
18 parcel approach:
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22 The mass appraisal technique is an appraisal method used to evaluate
23 a group of properties that are subject to similar market forces as of a
24 certain date through the use of market data, statistical analysis and
25 testing. As a result, the mass appraisal technique does not require or
26 involve analysis of each individual property's specific data.
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29 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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32 51. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
33 universe of properties as a given date using standard methodology, employing common data,
34 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
35 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
36 model" is "a mathematical expression of how supply and demand factors interact in a
37 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
38 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
39 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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1 52. Regardless of client direction, Mr. Macaulay is required to comply with
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3 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
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5 economically feasible because it would have taken “an incredible amount of time and cost”
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7 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).

12 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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14 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
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16 value, fails to calibrate the model structure to determine the contribution of the individual
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18 characteristics affecting value, and does not review the mass appraisal results against actual
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20 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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22 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

23 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
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25 proximity to the elements, the increase in market rent, market vacancy changes,
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27 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
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29 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
2 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
3 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
4 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
5 were hypothetical, it was not possible to identify matched pair sales and no City witness
6 explained how ABS Valuation made adjustments to “comparable” sales in order to check
7 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
8 him to explain his model structure.
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11 55. For these reasons, Seattle Tower I, LLC appeals the following portions of the
12 Examiner’s Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Seattle Tower I,
13 LLC renews Objectors’ Motion To Exclude The Expert Testimony of Robert J. Macaulay,
14 filed on April 8, 2020, and appeals the Examiner’s denial of that motion.
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17 56. Finally, Seattle Tower I, LLC’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, Seattle
21 Tower I, LLC’s property is not even within 2,000 road network feet from the core park
22 improvements. And, as described above, the special assessment is overstated because the
23 Final Study makes no attempt to determine general benefits, existing amenities for Seattle
24 Tower I, LLC’s specific property, or special detriments. In addition, it is speculative due to
25 the fact that, as of October 2019, improvements were not in in place—and, in fact, much of
26 the waterfront is a construction zone following removal of the viaduct and now Pier 58
27 demolition. Under these circumstances, rather than relying on entirely imaginary income
28 and shaky hypotheticals, Mr. Macaulay at the very least should have discounted the special
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1 benefit estimates or waited to perform the Study until the improvements were at least close
2 to complete.
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4 **Erroneous Pre-Improvement Valuation**

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6 57. The proposed final assessment erroneously overstates the pre-improvement
7 value of Seattle Tower I, LLC's property as of October 1, 2019 and, as a result, overstates
8 the special benefit to the Seattle Tower I, LLC's property.
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12 58. The City's Final Study was used to compute the proposed final assessment of
13 SEATTLE TOWER I, LLC'S property. The City's Study purportedly uses data from the
14 King County Department of Assessments,¹¹ but the pre-improvement valuation information
15 in the Final Study does not accurately reflect this data. For example, the City's Study values
16 SEATTLE TOWER I, LLC'S property at \$301,002,000 as of October 1, 2019. However,
17 the King County assessor determined the true and fair value of the property to be
18 \$263,866,700, valued in 2019 for tax year 2020. In other words, the Final Special Benefit
19 Study's valuation is 114% of King County's assessed value. The Final Special Benefit Study
20 does not explain this difference—or any differences—between its pre-improvement
21 valuation and its supposed source for market data. For this reason, Seattle Tower I, LLC
22 appeals Section IV.C.11 of the Examiner's Recommendation.
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25 59. Further, the City's analysis was based on unreliable market data. For the
26 hotels, Mr. Macaulay's decision to rely on inaccurate market data notably deviates from
27 standard appraisal practices because more reliable data in the form of STR reports are
28 readily available. Examiner Recommendation at Section IV.C.10; 3/12/2020 (J. Gordon)
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45 ¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 Hrg. Tr. at 196:5-197:12; 215:9-18. Without the STR reports or actual input from the hotels,
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3 Mr. Macaulay’s “Before” valuations are drastically overstated in large part because he relies
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5 on publicly available “room rack rates” to estimate hotel income. *See id.* (J. Gordon) at
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7 162:3-18; 170:16-171:13; 179:25-180:14; 192:15-22. As the Examiner found, “Mr. Gordon
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9 is a specialist expert in appraising hotels and his expert opinion, in addition to the specific
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11 information he relied on for that opinion, is superior to the opinion and supporting data of
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13 the City in its valuation.” Examiner’s Recommendation at II.16. The Examiner concluded
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15 that Mr. Gordon’s valuations were more reliable “due to the specialist nature of Mr.
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17 Gordon’s background and the specificity of the valuation data upon which he relied”—
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19 namely STR reports or actual revenue data from the hotel. *Id.* at IV.C.10. Therefore, “the
20
21 valuation of [this] property should be remanded for recalculation by the City appraiser based
22
23 on the information provided by [this] Objector.” *Id.*

24
25 60. Seattle Tower I, LLC expects an opportunity to respond to the revised
26
27 assessment once that is provided (*see* Examiner’s Recommendation at V) and appeals the
28
29 remainder of Section IV.C.10 of the Examiner’s Recommendation rejecting Seattle Tower I,
30
31 LLC’s other bases for reducing the assessment. For example, Seattle Tower I, LLC
32
33 disagrees with the Examiner’s conclusion that one of the reasons Mr. Gordon’s appraisals
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35 concludes a lower value for this property is because he was not valuing the properties in the
36
37 “Before” condition. Examiner’s Recommendation at Section II.16. This does not explain
38
39 the 94.7% difference between ABS Valuation’s estimate and actual average room rates for
40
41 the Sound Hotel. Further, Mr. Lukens—who reviewed ABS’s valuation estimates for
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43 reasonableness—was not even aware that the Before values were supposed to include the
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45 WSDOT Improvements. 6/26/2020 Hrg. Tr. at 165:2-166:22.
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1 61. In addition, John Gordon provided an appraisal review and restricted
2 appraisals specific to the Sound Hotel and Arrive Apartments, respectively, finding that the
3 City overvalued the before-value of the Seattle Tower I LLC building by \$57,602,000 (Mr.
4 Gordon appraised the Sound Hotel at \$48,400,000 and the Arrive Apartments at
5 \$195,000,000). *See* J. Gordon 3/2/2020 Restricted Appraisal Report, Arrive Luxury
6 Apartments (attached to Appeal Petition) at 2 and J. Gordon 3/2/2020 Restricted Appraisal
7 Report, Sound Hotel (attached to Appeal Petition) at 2. Mr. Gordon, having access to more
8 better data for the Seattle Tower I LLC building, produced more accurate before value
9 appraisals for the Sound Hotel and Arrive Apartments and the Hearing Examiner was wrong
10 to discount this testimony and evidence.
11

12 62. Thus, aside from multiple other reasons why computation of the special
13 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
14 improvement values that do not accurately reflect market data. For these reason, Seattle
15 Tower I, LLC appeals the following portions of the Examiner’s Recommendation: Sections
16 II.16 and IV.C.10.
17

18 **Erroneous Computation of Special Benefit**

19 63. “Special benefit” is “the increase in fair market value attributable to the local
20 improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property
21 may receive by reason of the improvement is not measured alone by the physical character
22 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
23 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
24 the particular tract or property benefited by the entire improvement, and is it assessed
25 proportionately with the other property included within the assessment district?” *Id.* 165–
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1 64. The proposed final assessment erroneously overstates the special benefit of
2 LID improvements in a number of ways.
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4 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
5 the Sound Hotel, Mr. Macaulay assumed room rates would increase by 0.20% (low) and
6 0.55% (high) due to the 2024 LID Improvements. For the Arrive Apartments, Mr. Macaulay
7 assumed rental rates would increase by 0.25% (low) and 0.75% (high) due to the 2024 LID
8 Improvements. But as Mr. Gordon testified, it is not possible to accurately conclude that the
9 reason for this level of percentage increase would be due to the LID Improvements, and
10 there appears to be no support for assignment of these percentages. Based on formulas in
11 the spreadsheets, Mr. Macaulay then uses these same percentages (0.20% and 0.55%) to
12 increase food and beverage revenue and parking and other income for the Sound Hotel and
13 the low and high percentages for the Arrive Apartments (0.25% and 0.75%) to increase the
14 retail and parking income. He then uses this hypothesized increased revenue to calculate a
15 new net operating income for the commercial properties and capitalizes that to come up with
16 an “After” valuation.
17

18 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
19 operating income remains the same as in the hypothetical “Before” condition, but changes
20 the cap rate. For the Sound Hotel, the cap rate goes from 7.25% to 7.19% (low scenario,
21 creating a bigger value increase) and 7.23% (high scenario, creating a lower value increase).
22 Mr. Gordon likewise explained that cap rate changes of 0.06% or 0.02% are not typically
23 measurable, and there appears to be no support for these changes in the Final Study or any
24 of its supporting materials. For the Arrive Apartments, the cap rate goes from 4.10% to
25 4.07% (low scenario, creating a bigger value increase) and 4.09% (high scenario, creating a
26 lower value increase), changes of 0.03% and 0.01%, respectively.
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1 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
2 benefit conclusion. For the Seattle Tower building as a whole, this is an increase in property
3 value of 0.52% due to the LID Improvements.
4

5
6 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
7 and capitalization rates. When asked precisely what the basis is for his special benefit
8 percentage increases to revenue for each commercial property, he could not point to
9 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
10 is nothing in the report to allow a reader to understand how he came up with these
11 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
12 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
13 the basis for his belief that certain factors—liked increased connectivity—will increase
14 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
15 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
16 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
17 sources equally even though there was no separate analysis done for food and beverage or
18 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Seattle Tower I, LLC’s
19 expert’s conclusion that the adjustments are arbitrary and fall below generally accepted
20 margins of error, and that there is no actual, measurable, non-speculative special benefit to
21 Seattle Tower I, LLC’s properties.
22

23 69. When asked the basis for making such adjustments, Mr. Macaulay pointed to
24 “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7 (“Mr. Lukens helped
25 significantly in that regard in helping, you know, look at probable adjustments”). However,
26 Mr. Lukens testified that he did not review the percentage increases. *See* 6/25/2020 Hrg. Tr.
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1 at 170:24-172:20.¹² And he did not review any work or data to determine whether the
2 revenue percentage adjustments in the spreadsheets were reasonable, nor did he ever find
3 them to be unreasonable or suggest any changes. *Id.* at 172:3-20. Instead, he appeared to be
4 considering them for the first time on cross examination, testifying that the adjustments
5 “appear to be a kind of sensitivity analysis” and “appear to be a very minor change.” *Id.* at
6 170:18-172:13. Likewise, he had no understanding of what factors went into determining
7 the change in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1. And he did not
8 know how ABS Valuation reconciled the four scenarios to come to final estimated special
9 benefit. *Id.* at 174:22-175:4.

10
11 70. Mr. Macaulay testified that he used comparable sales as a reasonableness
12 check for commercial properties. But as explained above, no City witness has explained
13 how anyone, or all, of the sales are comparable to any particular commercial property within
14 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
15 in order to make sales “comparable,” he would have had to make adjustments to account for
16 Before and After conditions, but there is no way to understand how adjustments were made
17 because he “didn’t do a separate sales comparison approach where we showed adjustments
18 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
19 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
20 *Id.* at 127:10-128:24.

21
22 71. It also bears noting that any “internal review” of the special benefit estimates
23 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
24 error. Indeed, given all the same information, he seemed to suggest that it would be
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1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
4 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
5 margin of error conflicts with the testimony of Seattle Tower I, LLC's experts and reaffirms
6 that there are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if
7 the typical margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there
8 are still reasonable and unreasonable variations within the appraisal field. *See Examiner's*
9 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
10 special because it is arbitrarily assigned; and it is too small to realistically be supported by
11 appraisal techniques.
12

13 72. No evidence of special benefit. Meanwhile, there is "no actual evidence from
14 any seller or purchaser that the price was higher because of the LID improvements."
15 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
16 identified any seller or buyer, or any particular property where the existence of the LID
17 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Seattle Tower
18 I, LLC has explained that the property has not increased rental rates or revenue due to the
19 forthcoming LID Improvements, because, among other reasons (and apart from COVID),
20 the improvements ABS believes will generate value do not exist, and will not for a number
21 of years to come. There are no comparable sales because the LID Improvements are not in
22 place, nor will they be until the end of 2024 if completed on schedule.
23

24 73. The fair market value of SEATTLE TOWER I, LLC'S property has not
25 changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property
26 was not specially benefited from installation of new water main and fire hydrant where it
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1 was already adequately supplied with water and afforded adequate fire protection). And in
2 any event, any value attributable to removal of the viaduct was to be excluded from the
3 assessment calculation.
4

5
6 74. There is no special benefit because LID improvements in fact diminish the
7 value of Seattle Tower I, LLC's property by drawing visitors away towards improvements
8 that do not abut the property, increasing competition. *See Kusky*, 85 Wn. App. 493
9 (testimony of owners' expert that LID actually diminished value of property was sufficient
10 to rebut presumption that assessment was proper).
11

12 75. Moreover, the assessment formula is an attempt to distribute costs that do not
13 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
14 "merely a mathematical model that distributes costs").
15

16 76. The Special Benefit Study fails to address whether the \$346,000,000
17 estimated LID project cost takes into account the investment that would have occurred in the
18 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
19 invested. This is a critical component of estimating which properties receive a direct benefit
20 from the improvements, versus more incidental benefits further from the park.
21

22 77. Assessments are disproportionate. Seattle Tower I, LLC also presented
23 evidence showing that the assessments are disproportionate with respect to the Sound Hotel.
24 For example, the City disproportionately assessed hotels a greater percentage of the cost of
25 the Improvements even though there no evidence that hotel properties will in fact benefit.
26 And even within the hotels, the assessments are disproportionate. Mr. Gordon testified that
27 the differences between the special benefit increases for the Hyatt at Olive 8, the Grand
28 Hyatt, and Hyatt Regency—which are all very close together—made little sense and raised
29 doubts as to proportionality. The Marriott is assessed a 3.2% special assessment, whereas
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1 comparable hotels along the waterfront received an estimated 0.97% increase in value. Hrg.
2 Exhibit 108 (Rash Decl.), ¶ 11.
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4 78. Mr. Macaulay also included personal property in his valuation of hotels even
5 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
6 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
7 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
8 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
9 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
10 receiving a disproportionately high LID assessment in comparison to other property types,
11 since hotels were the only property type subject to personal property LID assessments.
12 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
13 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
14 notice procedures because hotel property owners only received notice that their real estate
15 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
16

17 79. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
18 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
19 a television at the waterfront Marriott is assigned a greater special benefit than the same
20 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
21 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
22 unreasonable to assign a value lift to personal property that is replaceable at the same cost
23 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
24 Shorett ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
25 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
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1 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
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3 for this error.

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5 80. The proposed final assessment substantially exceeds the special benefit to the
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7 property and is grossly disproportionate to similarly situated properties within the LID. For
8
9 these reasons, Seattle Tower I, LLC appeals the following portions of the Examiner's
10
11 Recommendation: Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.10.

12
13 **State Environmental Policy Act and Other Environmental Permitting**

14
15 81. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
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19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
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21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
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23 pursue projects that have not yet undergone environmental review (thus limiting the choice
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25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
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27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
34
35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
38
39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
40
41 committing to reconstruction of Pier 58 and major street improvements without
42
43 environmental review, or the City's Final Special Study has improperly included and is
44
45 proposing to assess the Seattle Tower I, LLC the costs and special benefits of improvements
46
47 that may not get built. Either way, it is faulty process.

Due Process Rights

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3 82. The City's failed to notify SEATTLE TOWER I, LLC sufficiently in advance
4 of the hearing to allow SEATTLE TOWER I, LLC to obtain evidence and prepare to
5 properly challenge the assessments. Because LID assessments involve a deprivation of
6 property, affected owners have the right to a hearing as to whether the improvement resulted
7 (or will result) in special benefits to their properties and whether their assessments are
8 proportionate, which necessarily includes the right to adequate notice of the
9 hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761
10 (2010).
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18 83. The LID statute specifies that cities must mail notices giving the time and
19 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
20 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
21 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
22 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
23 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
24 secure their own appraisal), evaluate proportionality of the proposed assessments, and
25 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
26 for anybody to get an appraisal”).
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36 84. The City’s Notice of Assessment was sent on December 30, 2019. And the
37 Final Special Benefit Study has only been available for public review since January 7, 2020.
38 Due to this short time frame, SEATTLE TOWER I, LLC requested a prehearing conference
39 and scheduling order that would preserve and protect Seattle Tower I, LLC’s right to
40 analyze and respond to the Final Study, obtain expert appraisal testimony, conduct
41 depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay
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1 between SEPA and the City's assessment of taxes for Pier 58 and Pike/Pine improvements).
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3 The Hearing Examiner erroneously denied that request. For this reason, Seattle Tower I,
4
5 LLC appeals the following portions of the Examiner's Recommendation: I.B.
6

7 **VII. Relief Requested**

8 SEATTLE TOWER I, LLC respectfully requests that the City Council:
9

- 10
11 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
12 assessment dated December 30, 2019; or
13
14 2. Revise Seattle Tower I LLC's Waterfront Local Improvement District No. 6751
15 proposed final assessment to \$0 (zero), or such amount as Seattle Tower I LLC
16 establishes at the hearing in this matter; or
17
18 3. Grant the Examiner's recommended remand but with instructions recalculate and
19 reduce Seattle Tower I LLC's assessment using recognized appraisal techniques
20 consistent with USPAP and:
21
22 i. Excluding any property value increase attributable to viaduct removal
23 and other planned WSDOT Improvements;
24
25 ii. Excluding any value attributable to personal property;
26
27 iii. Taking into account the effects of the COVID-19 pandemic on the
28 value of Seattle Tower I LLC's property and other relevant
29 developments since October 2019;
30
31 iv. Accounting for and excluding (1) any special benefits from existing
32 or planned improvements that already provide similar benefits to
33 Seattle Tower I LLC's property, and (2) any special detriments from
34 construction and other anticipated LID-related disamenities;
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- 1 v. Accounting for and including only those actual benefits anticipated to
2 accrue to Seattle Tower I LLC's property based on its location
3 relative to Pier 58, Overlook Walk, and the Promenade, and specific
4 elements of the LID Improvements;
5
6 vi. Discounting anticipated special benefits to present value, based on
7 reliable estimates regarding when special benefits will start accruing
8 following completion of the LID Improvements; and
9
10 vii. Accounting for such other issues specific to Seattle Tower I LLC's
11 property relevant to calculation of such assessment; and
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18 4. Grant such further relief as the City Council deems just and proper.
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21 DATED: September 22, 2020

PERKINS COIE LLP

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23
24 By: 

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Attorneys for SEATTLE TOWER I, LLC

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0415

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON SEATTLE
TOWER I, LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0696000015

32
33 SEATTLE TOWER I, LLC files this amended appeal pursuant to RCW 35.44.070,
34 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle
35
36 Resolution 31979, the notice of the Seattle Office of the City Clerk dated December 30,
37
38 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing
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40 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
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42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
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1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 SEATTLE TOWER I, LLC
6 C/O TAX ADVISORS PLLC
7 203 SE PARK PLAZA DR #230
8 VANCOUVER WA 98684
9

10 **II. Taxpayer's Representatives**

11 SEATTLE TOWER I, LLC'S representatives in this matter are:

12
13
14
15 R. Gerard Lutz, WSBA No. 17692
16 JLutz@perkinscoie.com
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19 Bellevue, Washington 98004
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23 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

24 SEATTLE TOWER I, LLC owns the property that is subject to the proposed final
25 assessment described in Section IV. As mentioned in the September 22, 2020 appeal to the
26 City Council, which this filing supplements, the Seattle Tower I, LLC property is a mixed-
27 use tower consisting of 344 residential apartments comprising the Arrive Luxury
28 Apartments above a 142-room hotel and restaurant comprising the Sound Hotel.
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35 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
36 include additional arguments relevant to the revised Final Recommendations of the Hearing
37 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
38 objection to the assessment, which was based on the Final Study. Taxpayer further timely
39 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
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45 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
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1 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
2 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
3 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
4 as authorized by the Hearing Examiner, including without limitation all records pertaining to
5 the November 2020 through February 2021 remand hearing ordered by Council.
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11 **IV. Amended Arguments on Appeal**

12 SEATTLE TOWER I, LLC supplements its appeal of the Hearing Examiner's
13 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
14 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
15 the following property:
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21 King County Parcel No. 0696000015
22 Site Address: 2116 4th Ave. Seattle, Washington
23 Proposed Final LID Assessment for Parcel: \$596,745
24

25 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
26 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
27 amended appeal.
28
29

30
31 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
32 **Discounted to Present Value and Assessments Adjusted as Appropriate**
33

34 On remand, the City's appraiser acknowledged that special benefits to parcels can be
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
37 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
38 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
39 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
40 accepted that recommendation. The City's appraiser further acknowledged that benefit
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1 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
2 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
3 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
4 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
5 calculations to present value because the general benefits are not anticipated from the LID
6 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
9 benefit calculation, and related assessments, to account for the delay between the assessment
10 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
11 standard appraisal practice, and renders the other proposed Waterfront LID special
12 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
13 “fundamentally wrong methods.”
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26

1 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
2 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
3 for some properties because the benefit are too distant, while assessing other properties as
4 though distant benefits have already been secured. As Taxpayer identified in its September
5 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
6 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8 reject the improper calculation of the benefit or remand and require the appraiser to discount
9 the benefits to net present value.
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19 **B. The City's Appraiser's Disregard of Hotel STR Report Performance**
20 **Data is Another Example of How His Analysis is Unreliable, Not**
21 **Admissible under Frye or ER 702, and His Proposed Special**
22 **Assessments are not based on Actual, Measurable and Special Value**
23 **Increases from the anticipated LID Improvements.**
24

25 The City's appraiser was provided actual performance data for the remanded hotels,
26 like Taxpayer's Sound Hotel, including their average daily room rates, from which he had
27 been instructed to "recalculate" hotel "before" values on remand. *See* Hearing Examiner
28 Initial Recommendation at p. 117 (Sept. 8, 2020). The appraiser refused, explaining that,
29 had he done so, his before values would be "too low." Instead, he divined an alternative
30 value from "comparable sales", and then worked backwards to calculate small adjustments
31 to his average daily room rate assumptions, substituting them in his "income spreadsheets,"
32 and thereby correlating his income analysis to his preconceived value estimate. His remand
33 analysis demonstrates that his whole "income approach to valuation", used for both hotels
34 and other commercial properties, is contrived speculation on speculation. The City's
35 appraiser disregarded these hotels' actual net income in a supposed "income analysis." *See*
36 *e.g.*, Deposition of Robert J. Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit
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1 A to Objector's Statement on Remand for Case Nos. CWF-0318, 0413, 0415, 0417, 0418,
2 0423, 0429, 0436). Taxpayer's appraiser submitted an appraisal with room rates much
3 closer to the actual performance of the hotel and should be incorporated. *See* Declaration of
4 John D. Gordon in City Council's LID Remand, Exh. I (Jan. 8, 2021).
5
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7
8 For example, compare the room rate and valuation for the appraisals in the table
9 below, where the actual average daily room rate was \$209. The Taxpayer testified that the
10 City Appraiser's assumed room rate was too high - it not only had not been achieved, but
11 even pre-Covid, was not reasonably achievable.
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Sound Hotel - CWF-0415	City's Revised Appraisal	Taxpayer's Appraisal
Hotel Value	\$66,462,000	\$48,400,000
Less Personal Property	\$2,600,000	\$2,600,000
Real Estate Value	\$63,862,000	\$45,800,000
Benefit Ratio	0.66%	0.66%
Special Benefit	\$420,590	\$302,000
Levy Ratio	39.18%	39.18%
LID Levy	\$164,796	\$118,330
Average Room Rate	\$290	\$218
Daily RevPAR	\$232	\$185

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35 To correct the "before value" alone, the City Council should instead adopt
36 Taxpayer's valuation, which was developed using actual data, and otherwise applying the
37 City appraiser's assessment formula:
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Sound Hotel - CWF-0415	Appraisal Amount
Hotel Value	\$48,400,000
Less Personal Property	\$2,600,000
Real Estate Value	\$45,800,000

Benefit Ratio	0.66%
Special Benefit	\$302,000
Levy Ratio	39.18%
Hotel LID Levy	\$118,330
Total for Parcel (Hotel + Apartments)	\$549,278

The City's appraiser only slightly reduced his original values in ways that are still entirely inconsistent with historical performance data. The City's appraisal and analysis is speculative and should be rejected. The City Council should at least adopt Taxpayer's "before values" and resultant LID assessments.

C. In Light of Covid's Continuing Impact on Taxpayer and other Downtown Property Owners and other Material Changes Since October 2019, the LID Should be Cancelled, or at Least Assessments Recalculated, to take Into Account Property Value Reductions

In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e] into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019." When Washington's first COVID restrictions were imposed in March and April 2020, there was an assumption that they would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover for another 5 years. Retail stores are boarded up. Homelessness and related challenges have gotten much worse. The City has already imposed higher minimum wages and taxes on businesses to try to fund recovery. The West Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several years from completion, as a best case. In current circumstances, a downtown tax to fund new, non-essential park improvements against financially strapped taxpayers, and likely

1 passed through to financially strapped tenants and customers would be unfair to taxpayers
2 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
3 rethinks its budget priorities for the next few years, and its potentially funding sources,
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5 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
6
7 property owners) have a chance to recover, and that any assessment take into account the
8
9 changed circumstances since this appeal process started on February 4, 2020 to avoid
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11 unnecessarily and perhaps permanently killing downtown properties and businesses in the
12
13 name of bettering them.
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17 **V. Relief Requested**

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19 Particularly in light of the Committee's decision not to take further comment from
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21 appellants, Taxpayer respectfully request that each Committee member carefully review the
22
23 full record transmitted to Council before voting on Taxpayer's appeal.
24

25 SEATTLE TOWER I, LLC respectfully reiterates its request from the September 22,
26
27 2020 appeal that the City Council:

- 28 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
29 assessment dated December 30, 2019; or
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31
- 32 2. Revise Seattle Tower I LLC's Waterfront Local Improvement District No. 6751
33 proposed final assessment to \$0 (zero), or such amount as Seattle Tower I LLC
34 establishes at the hearing in this matter; or
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- 37 3. Grant the Examiner's initial recommendation on remand but further remand with
38 instructions recalculate and reduce Seattle Tower I LLC's assessment using
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40 recognized appraisal techniques consistent with USPAP and:
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45 i. Excluding any property value increase attributable to viaduct removal
46
47 and other planned WSDOT Improvements;

- 1 ii. Taking into account the effects of the COVID-19 pandemic on the
2 value of Seattle Tower I LLC's property and other relevant
3 developments since October 2019;
4
5
6 iii. Accounting for and excluding (1) any special benefits from existing
7 or planned improvements that already provide similar benefits to
8 Seattle Tower I LLC's property, and (2) any special detriments from
9 construction and other anticipated LID-related disamenities;
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11 iv. Accounting for and including only those actual benefits anticipated to
12 accrue to Seattle Tower I LLC's property based on its location
13 relative to Pier 58, Overlook Walk, and the Promenade, and specific
14 elements of the LID Improvements;
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16 v. Discounting anticipated special benefits to present value, based on
17 reliable estimates regarding when special benefits will start accruing
18 following completion of the LID Improvements; and
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20 vi. Accounting for such other issues specific to Seattle Tower I LLC's
21 property relevant to calculation of such assessment; and
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23 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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PERKINS COIE LLP

5 By:

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2:52 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0416
Date: Tuesday, September 22, 2020 2:28:55 PM
Attachments: [CWF 0416.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0416.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0416

A – Master List of Evidence

B – D-059 Martin

C – Discounting for CWF-0416

CWF-0416 Appeal Notice for Martin

Kimball Mullins | Perkins Coie LLP**SENIOR PARALEGAL**

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**The Martin Apartments**

Map Nos.:	D-059
Tax Parcel Nos.:	069600-0055
Property key:	6997
Address	2105 5th Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions
Previous sale:	\$113,471,816 10/8/2014 \$603,573 per DU
Proximity to project:	1,400± feet to Pine Street
Ownership:	Fifth & Blanchard Associates, LLC
Description:	12,720 SF site on the northwest corner of 5th Avenue and Blanchard Street improved with a 188-unit apartment building constructed in 2012, with 14,310 SF of street-level retail.

INCOME ANALYSIS Before	Year Built	2012
	Parking	123

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	32	541	17,312	\$2,400	\$4.44
1-bedroom	127	880	111,760	\$3,100	\$3.52
2-bedroom	20	1,356	27,120	\$4,100	\$3.02
2-bedroom	6	1,910	11,460	\$4,558	\$2.39
3-bedroom	3	2,200	6,600	\$7,101	\$3.23
Total apartments	188	927	174,252	\$3,198	\$3.45
	GBA	NRA			
Retail	4,310	4,310		SF NRA @	\$28.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	4,310	4,310			
Parking Area/Stalls	50,236		123	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	295,754	189,708		SF NRA @	\$41.38
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					

Management fee @	5.0%	of total EGI		
Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	25.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$11.51	28.9%
Net operating income				
Indicated Value				
Land Value				
		12,720	SF @	\$1,750.00
Residual Improvements				
		189,708	SF NRA @	\$548.93
		295,754	SF GRA @	\$352.10

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,750.00	\$22,260,000	\$104,136,000	N/A
With LID				
Scenario A1	\$1,757.00	\$22,349,000	\$104,304,000	0.16%
Scenario A2	\$1,757.00	\$22,349,000	\$104,816,000	0.65%
Scenario B1	\$1,757.00	\$22,349,000	\$104,946,000	0.78%
Scenario B2	\$1,757.00	\$22,349,000	\$104,346,000	0.20%
Percent change in land value	0.40%		\$104,603,000	0.45%
From Summary page				
Without LID	\$1,750.00	\$22,260,000	\$104,136,000	N/A
With LID	\$1,757.00	\$22,349,000	\$104,550,000	0.40%

The Martin Apartments

Scenario A: Rental and Vacancy Rate Changes

et, zoned DMC 240/290-440,
.23 on-site parking stalls and

		INCOME ANALYSIS After	Year Built	2012
		Potential Gross Income		
			Units	SF NRA
	\$921,600	Studio	32	541
	\$4,724,400	1-bedroom	127	880
	\$984,000	2-bedroom	20	1,356
	\$328,176		6	1,910
	\$255,636	3-bedroom	3	2,200
	\$7,213,812	Total apartments	188	927
			GBA	NRA
per SF =	\$120,680	Retail	4,310	4,310
per SF =	\$0	Restaurant	0	0
per SF =	\$0	Other	0	0
per SF =	\$0	Other	0	0
	\$120,680	Subtotals	4,686	12,124
/month	\$442,800	Parking Area/Stalls	50,236	0
per SF =	\$0	Basement	0	0
per SF =	\$0	Other	0	0
	\$72,138	Other		1.0%
/SF =	\$7,849,430	Total Bldg Area & Gross Income	295,754	189,708
	(\$288,552)	Less: Vacancy/credit allowance		of apartment revenue
	(\$6,034)			of commercial revenue
	\$0			of parking revenue
	(\$294,586)	Total vacancy/credit allowance		
	\$7,554,844	Effective gross income		
		Less: Operating expenses		

	<div>(\$377,742)</div> <div>\$0</div> <div>(\$1,731,315)</div> <div>(\$73,939)</div> <div>(\$2,182,996)</div> <div>\$5,371,848</div>
\$11,612	
Capitalized @	4.25%
Indicated value	\$126,396,425
(R)	\$126,396,000
Per DU	\$672,319
per SF =	\$22,260,000
per SF =	\$104,136,000

Management fee @	5.0%	of total EGI
Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	25.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		

Indicated Value

Land Value

12,720 SF @

Residual Improvements

Special Benefit Summary

Total Estimated Value	Special Benefit	% Change	
\$126,396,000	N/A	N/A	
			Per DU
\$126,653,000	\$257,000	0.20%	\$1,367
\$127,165,000	\$769,000	0.61%	\$4,090
\$127,295,000	\$899,000	0.71%	\$4,782
\$126,695,000	\$299,000	0.24%	\$1,590
\$126,396,000	N/A		
\$126,899,000	\$503,000	0.40%	

The Martin Apartments

Scenario B: Overall Capitalization Rates Ch

		Low	High
Per DU	Per DU	0.20%	0.60%
\$2,405	\$2,414	\$923,443	\$927,130
\$3,106	\$3,119	\$4,733,849	\$4,752,746
\$4,108	\$4,125	\$985,968	\$989,904
\$4,567	\$4,585	\$328,832	\$330,145
\$7,115	\$7,144	\$256,147	\$257,170
\$3,204	\$3,217	\$7,228,240	\$7,257,095
		0.20%	0.60%
\$28.06	\$28.17	\$120,921	\$121,404
\$0.00	\$0.00	\$0	\$0
\$0.00	\$0.00	\$0	\$0
\$0.00	\$0.00	\$0	\$0
		\$120,921	\$121,404
Per Month	Per Month	0.20%	0.60%
\$300.60	\$301.80	\$443,686	\$445,457
Per SF	Per SF	0.00%	0.00%
\$0.00	\$0.00	\$0	\$0
\$0.00	\$0.00	\$0	\$0
of PGI		\$72,282	\$72,571
\$41.46	\$41.62	\$7,865,129	\$7,896,527
4.00%	4.00%	(\$289,130)	(\$290,284)
5.00%	5.00%	(\$6,046)	(\$6,070)
0.00%	0.00%	\$0	\$0
		(\$295,176)	(\$296,354)
		\$7,569,953	\$7,600,173

INCOME ANALYSIS After	Year Built
Potential Gross Income	
	Units
Studio	32
1-bedroom	127
2-bedroom	20
	6
3-bedroom	3
Total apartments	188
Retail	4,310
Restaurant	0
Other	0
Other	0
Subtotals	4,686
Parking Area/Stalls	50,236
Basement	0
Other	0
Other	
Total Bldg Area & Gross Income	295,754
Less: Vacancy/credit allowance @	4.0%
	5.0%
	0.0%
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	

	(\$378,498)	(\$380,009)
	\$0	\$0
	(\$1,734,778)	(\$1,741,703)
	(\$73,939)	(\$73,939)
	(\$2,187,214)	(\$2,195,650)
	\$5,382,740	\$5,404,523
Capitalized @	4.25%	4.25%
	\$126,652,698	\$127,165,242
(R)	\$126,653,000	\$127,165,000
Per DU	\$673,686	\$676,410
% change	0.20%	0.61%
\$1,757.00 per SF =	\$22,349,000	\$22,349,000
	\$104,304,000	\$104,816,000
Per SF NRA	\$549.81	\$552.51
	\$257,000	\$769,000

anges

2012					
SF NRA	Total NRA	Rent	Rent/SF		
541	17,312	\$2,400	\$4.44		\$921,600
880	111,760	\$3,100	\$3.52		\$4,724,400
1,356	27,120	\$4,100	\$3.02		\$984,000
1,910	11,460	\$4,558	\$2.39		\$328,176
2,200	6,600	\$7,101	\$3.23		\$255,636
927	174,252	\$3,198	\$3.45		\$7,213,812
4,310		SF NRA @	\$28.00	per SF =	\$120,680
0		SF NRA @	\$0.00	per SF =	\$0
0		SF NRA @	\$0.00	per SF =	\$0
0		SF NRA @	\$0.00	per SF =	\$0
12,124					\$120,680
0	123	stalls @	\$300.00	/month	\$442,800
0		SF NRA @	\$0.00	per SF =	\$0
0		SF NRA @	\$0.00	per SF =	\$0
		1.0%	of PGI		\$72,138
189,708		SF NRA @	\$41.38	/SF	\$7,849,430
of apartment revenue					(\$288,552)
of commercial revenue					(\$6,034)
of parking revenue					\$0
					(\$294,586)
					\$7,554,844

of total EGI	(\$377,742)
of parking EGI	\$0
of apartment EGI	(\$1,731,315)
per SF of GBA	(\$73,939)
	(\$2,182,996)
	\$5,371,848

	Low	High
Capitalized @	4.22%	4.24%
Indicated Value	\$127,294,978	\$126,694,530
(R)	\$127,295,000	\$126,695,000
Per DU	\$677,101	\$673,910
% change	0.71%	0.24%
12,720 SF @ \$1,757.00 per SF =	\$22,349,000	\$22,349,000
	\$104,946,000	\$104,346,000
per SF NRA	\$553.20	\$550.03
	\$899,000	\$299,000

0.40%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0416	The Martin	2105 5th Avenue	0696000055

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$503,000	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$67,618

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0416	The Martin	2105 5th Avenue	0696000055

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$126,396,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C))			\$110,596,500

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$503,000		
H/A	As Percentage of Final City Before Value		0.398%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$440,125		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$150,933	\$41,471
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$59,166	\$16,257

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0416

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON MARTIN
APARTMENTS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0696000055

33 TAXPAYER, (“MARTIN APARTMENTS LLC”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
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37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”).
39
40
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42

43 **I. Martin Apartments LLC / Appellant**
44

45 The taxpayer filing this appeal is:
46
47

1 MARTIN APARTMENTS LLC
2 ATTN: Tax Manager
3 PO Box 847 Carlsbad, CA 92018
4 (425) 635-1400
5 JLutz@perkinscoie.com
6

7 **II. Martin Apartments LLC's Representatives**

8 MARTIN APARTMENTS LLC'S representatives in this matter are:
9

10
11 Clark R. Nichols, WSBA No. 8662
12 CNichols@perkinscoie.com
13 R. Gerard Lutz, WSBA No. 17692
14 JLutz@perkinscoie.com
15 Megan Lin, WSBA No. 53716
16 Perkins Coie LLP
17 10885 N.E. Fourth Street, Suite 700
18 Bellevue, Washington 98004
19 Telephone: 425.635.1400
20 Facsimile: 425.635.2400
21
22

23
24 Robert L. Mahon, WSBA No. 26523
25 RMahon@perkinscoie.com
26 1201 Third Avenue, Suite 4900
27 Seattle, Washington 98101
28 Telephone: 206.359.8000
29 Facsimile: 206.359.9000
30
31

32 **III. Statement of Martin Apartments LLC's Interest**

33
34 MARTIN APARTMENTS LLC owns the property that is subject to the proposed
35 final assessment described in Section IV. The Martin Apartments LLC property is a 188 unit
36 apartment building with ground floor retail. The basis of the proposed assessment is a Final
37
38 Special Benefit/Proportionate Assessment Study for Waterfront Seattle Local Improvement
39 District ("Final Study"), dated October 1, 2019 and prepared by Robert Macaulay with ABS
40 Valuation (the City's appraiser). The Final Study proposes assessments that are purportedly
41 limited to paying for the LID-funded components—namely, the Promenade, Overlook Walk,
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1 Pioneer Square Street Improvements, Union Street Pedestrian Connection, Pike/Pine
2 Streetscape Improvements, and Pier 58 (together, the “LID Improvements”). The Final
3 Study purports to exclude charges for other improvement projects in the Central Waterfront,
4 and specifically those WSDOT had already agreed to pay for and construct: viaduct
5 demolition, the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State
6 Route 99 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces
7 WSDOT planned fronting piers between Pike and Madison (together, the “WSDOT
8 Improvements”). But because construction was not complete on the LID Improvements or
9 the WSDOT Improvements at the time the Final Study was prepared, Mr. Macaulay’s
10 October 1, 2019 “Before” and “After” valuations are both based on hypothetical conditions
11 rather than actual facts. On February 4, 2020, Martin Apartments LLC timely filed an
12 objection to the assessment, which was based on the Final Study.
13
14

15 **IV. Matter Under Appeal**

16 MARTIN APARTMENTS LLC appeals the Hearing Examiner’s recommendation to
17 deny Martin Apartments LLC’s objection to the City of Seattle’s Waterfront Local
18 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
19 the following property:
20
21

22 King County Parcel No. 0696000055
23 Site Address: 2105 5th Ave., Seattle, Washington
24 Proposed Final LID Assessment for Parcel: \$197,086
25

26 See Examiner’s Recommendation at 61-62, 104. To avoid repetition, Martin Apartments
27 LLC incorporates the evidence and arguments raised before the Hearing Examiner into this
28 appeal. In particular, Martin Apartments LLC points the City Council to Martin Apartments
29 LLC’s initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its case-
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1 in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close of the
2
3 City's case-in-chief (dated 7/7/2020).¹
4

5 As discussed more fully below, Martin Apartments LLC specifically appeals the
6
7 following Findings and Recommendations in the Hearing Examiner's September 8, 2020
8
9 Recommendation: Pages 61-62, 104, Sections II.6, II.7, II.14, II.15, II.18, II.19, II.20, II.21,
10
11 II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1,
12
13 IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
14
15 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8,
16
17 IV.C.9, IV.C.11, IV.C.12, IV.C.14, and IV.C.18
18

19 Martin Apartments LLC also appeals the Hearing Examiner's failure to make
20
21 findings of fact or recommendations on material issues raised during Martin Apartments
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23 LLC's appeal that were supported by law, expert testimony, and fact. The Final Study fails
24
25 in numerous ways to satisfy the basic requirements of a LID assessment study, and the
26
27 Examiner's Recommendation ignores the many deficiencies in the Final Study. In fact, the
28
29 only instances in which the Examiner recommended anything other than denial of objectors'
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31 appeals were where the City's appraiser confessed error. The appraiser's proposed
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33 assessments, and the Examiner's Recommendations, would have the City impose arbitrary
34
35 and capricious Waterfront LID special assessments based on "fundamentally wrong
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37 methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$503,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
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26

27 **Legal Requirement:** Benefits must be special, not general
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29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

7
8 **Legal Requirement:** Actual and measurable special benefit
9

10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Martin Apartments LLC as to which the Examiner also erred, discussed in the course of the
3 appeal statement below.
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6
7 **V. Standard of Review**
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9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
15

16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 MARTIN APARTMENTS LLC appeals the Hearing Examiner's Findings and
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4 Recommendations on the following grounds.
5

6 **Martin Apartments LLC Not Required to Provide A Special Benefit Study**

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8 1. Contrary to the Examiner's findings and recommendations, there is no
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10 requirement that experts or property owners provide an alternative special benefit
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12 calculation under these circumstances—to do so would also require the same improper
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14 speculation the City's expert engaged in, given the timing and information provided. *See,*
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16 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
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18 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained:
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20 “[W]e have explicitly rejected an argument that, because certain protestors ‘failed to offer
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22 expert testimony at the city council hearing[,] the presumptions [in favor of the assessment]
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24 were still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian*
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26 *Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App.
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28 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided
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30 expert opinion showing that improvements actually diminished value of the property). Here,
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32 Ben Scott testified that he is an expert in reviewing mass appraisal reports and analyzing
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34 their impact on individual properties - precisely the matter at issue in this appeal. *See*
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36 3/5/2020 Hrg. Tr. at 13:1-4 (laying foundation as expert witness while testifying on behalf
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38 of a different appellate represented by Perkins Coie). The Hearing Examiner erroneously
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40 dismissed the weight of Mr. Scott's testimony, given his professional expertise and
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42 experience. In fact, no independent evidence is required at all if, for example, objectors
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44 show that the assessment was grounded on a fundamentally wrong basis due to an error in
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46 the City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
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1 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
2 a property owner could simply point out that the square footage assumed in the City's
3 appraisal was incorrect. For these reasons, Martin Apartments LLC appeals the following
4 portions of the Examiner's Recommendation: Sections II.14, II.15, IV.A, IV.B.11(a),
5 IV.C.8, IV.C.9, and IV.C.11.
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11 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

12 2. RCW 35.43.040 provides cities and towns authority for ordering local
13 improvements and for levying and collecting special assessments "on property specially
14 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
15 upon all the property in accordance with the special benefits conferred thereon." RCW
16 35.44.010.
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22 3. No analysis of general benefits. Special assessments have been "held valid
23 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
24 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
25 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
26 they are for the construction of local improvements that are appurtenant to specific land and
27 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
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34 4. Martin Apartments LLC's property is not specially benefited by the LID
35 Improvements. The primary purpose and effect of the LID Improvements are to benefit
36 "members of the whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain
37 that a public library is for the benefit of the members of the whole community individually
38 and collectively who may be served by it"). Mr. Macaulay's own chapter of the LID
39 Manual states clearly that appraisers should "[c]onsider general benefits as well as special
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benefits” (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Martin Apartments LLC’s expert confirmed that if an appraiser “identifies both general and special benefits, these benefits should be clearly distinguished and explained, and only special benefits should be included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also* 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits, including those arising from construction necessary to meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those construction costs related to meeting design standards which may be general benefits as distinct from construction costs emanating from requirements of the LID project”). To the extent Martin Apartments LLC’s property may benefit from the LID improvements, the benefit is general and incidental, and failure to consider general benefits was a fatal flaw in the City’s methodology. For these reasons, Martin Apartments LLC appeals the following portions of the Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

5. LID Improvements not necessary. Unlike typical LID projects, the Waterfront LID improvements are largely unnecessary to the functionality of any particular property, including Martin Apartments LLC’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet held invalid where owners would have benefitted equally from increase of

² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference, Martin Apartments LLC has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 only 9 feet); *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land
2 at intersection for new water main for hydrant held invalid because land was already
3 afforded functional hydrant at nearby street). Here, Martin Apartments LLC provided
4 testimony through Elton Lee, taxpayer representative, who testified that the Martin
5 Apartments LLC building caters to Denny Triangle and South Lake Union, rather than the
6 waterfront area. *See* 3/11/2020 (E. Lee) Hrg. Tr. at 117:13-118:16. The building has brief
7 tenancies averaging approximately six months to a year with demand driven primarily by
8 Amazon employees desiring to live near Amazon's South Lake Union employment centers.
9 *Id.* There is simply no special benefit to the Martin Apartments LLC building for additional
10 access to the Seattle waterfront. The fact that there is no case law differentiating between
11 binary improvements and parks does not change the law prohibiting assessments on
12 properties already adequately served by existing amenities. *See* Examiner's
13 Recommendation at IV.C.3 (reasoning that "no case law is provided to support the
14 differentiation between a hardscape benefit and the more ephemeral benefits of park"). Nor
15 does the Examiner's reasoning excuse the City's failure to account for existing amenities as
16 part of the special benefit calculation. As Dr. Crompton testified, existing view amenities
17 may in fact diminish the incremental effect of new park improvements on the value of
18 properties, much like turning on a weak light in an already brightly illuminated room. *See*
19 Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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39 6. To the extent benefits can be considered "special" as opposed to general, they
40 are nominal or nonexistent for many properties even in the Central Waterfront, which
41 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
42 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
43 change due to expansion of sewer service *near* owners' parcel which were already
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1 connected). Here, again, Martin Apartments LLC provided testimony that the primary
2 reason tenants choose its building is not proximity to the water, but instead proximity to
3 major employment centers like Amazon in the South Lake Union area. Even if the City
4 could assess for a view change (and it has promised not to assess for viaduct removal), the
5 fair market value of MARTIN APARTMENTS LLC'S property has not changed because
6 the LID Improvements have not improved the property's waterfront view or access to the
7 waterfront, nor will they when the City anticipates completion in 2024. For these reasons,
8 Martin Apartments LLC appeals the following portions of the Examiner's Recommendation:
9 Sections IV.C.3, IV.B.9, and IV.C.3.

10
11 7. No analysis of special detriments. The Final Study fails to properly account
12 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
13 owners for removal and cleanup of underground storage tanks discovered during the
14 improvement project). Mr. Lee testified that because tenancies are relatively brief, the
15 market would not support increasing rental rates today to absorb the LID assessment when
16 the special benefits, to the extent any exist, will not be effective until at least 2024, well past
17 when many tenants will have moved. 3/11/2020 Hrg. Tr. at 124:21-125:13. Therefore, the
18 LID assessment in an immediate expense that comes with no immediate increase in revenue,
19 thereby decreasing the property value. This was not accounted for by the Mr. Macaulay.
20 Although Mr. Macaulay claims he analyzed impacts on the City's planned elimination of
21 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how lost parking
22 might be a detriment, and no property-specific parking analysis in any of his materials.
23 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.

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25 8. Likewise, there was no analysis of the risks associated with disamenities such
26 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
27

1 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
2 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
3 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
4 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
5 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
6 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
7 the maintenance agreement. *Id.* at 13:4-14:2.
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15 9. There was also no consideration of negative impacts from another four-plus
16 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
17 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
18 law allowing him to dismiss these actual, non-speculative impacts. Because future special
19 benefits calculations are inherently speculative, Washington's eminent domain statute
20 specifically allows condemnees to postpone special benefits assessments until improvements
21 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
22 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
23 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
24 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
25 Greenway, the Greenway district "significantly" lagged in value). For these reasons, Martin
26 Apartments LLC appeals the following portions of the Examiner's Recommendation:
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³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue. However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore the assessment amounts.

1 10. Special benefit estimate is speculative. When calculating a special benefit,
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3 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
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5 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
6
7 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
8
9 P.2d 1078 (1958)).

10 11. Assuming without conceding that one day, the City’s planned LID
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12 Improvements might increase the value of neighboring properties to some extent, that
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14 potential benefit is many years away and speculative. While appraisers tolerate some degree
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16 of estimation and judgment, Martin Apartments LLC’s expert testified that Mr. Macaulay’s
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18 Final Study is far too speculative to satisfy industry practices and standards.

19 12. Although LIDs are sometimes finalized prior to completion of improvements,
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21 this is typically just six month or a year prior, and the assessments are otherwise supported
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23 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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25 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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27 will not be realized for four or five years. In the meantime, there is permitting risk,
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29 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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31 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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33 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
34
35 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
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37 projects because “we can’t read the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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39 testified: “I just don’t know what the market value would be as of the date the project would
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41 be finally constructed” because “[t]here could be a lot of elements in the market that did
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43 occur between now and then that impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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1 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
2 in 2024 because “markets tend to fluctuate over time” and “I can’t predict the future”).
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5 13. The record is clear that while no one can know what “special benefit” might
6 accrue to these properties in four years (if any), we do know that there are no actual benefits
7 now. The LID improvements provide no immediate special benefit to property owners
8 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
10 sewer system for future users).
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12
13 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
14 for the LID Improvements, and it is unlawful to move to final assessments without such
15 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
16 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
17 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
18 dollars on projects still early in the design process. *See* Washington Attorney General
19 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
20 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
21 of programs and included “only so much of the overall costs” that took place within and
22 benefitted the assessed properties).
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25 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
26 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
27 anticipated to be delivered five years later. Even before COVID, it was speculative to
28 assume that market highs experienced in October 2019¹ would be sustained through 2024,
29 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
30 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
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1 my analysis in October 2019, who would have thought that this COVID issue would
2 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
3 process was that the market was going to continue to go up.” See Gibbons Decl. ISO
4 Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as
5 of October 2019 (see Examiner’s Recommendation at 109), the pandemic has impacted
6 current values and rendered the hypothetical October 2019 Final Study valuations outdated.
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12 16. As another example of how future events could affect the accuracy and
13 reliability of the City’s 2019 proposed assessment, Martin Apartments LLC recently
14 requested the Hearing Examiner re-open the record to allow the City to explain whether the
15 assessments against property owners within the LID are, in fact, being used by the City to
16 fund the emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the
17 City plans to use LID funding to pay for the expedited, emergency repairs and replacement.⁵
18 If true, the City would be improperly imposing costs on property owners within the LID for
19 improvements that are required to maintain the safety of Pier 58 and to remove a threat to
20 critical salmon habitat and City infrastructure—this does not provide any special benefit to
21 LID property owners.
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 17. There is also no certainty the improvements will be delivered on time. Mr.
2
3 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
4
5 delay in construction schedule would not constitute a “material change” under the City
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7 Council’s ordinance authorizing the improvements. In other words, the City cannot
8
9 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
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11 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Martin Apartments LLC’s experts Reid
12
13 Shockey and Richard Shiroyama testified via declaration as to the City’s permitting gauntlet,
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15 and potential delays and project changes inherent in those processes, that call into question
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17 the assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
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21 Decl., dated 4/15/2020).

22 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
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24 he could not point to a single one where the assessment roll was finalized five years in
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26 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
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28 he has never recommended final special assessments based on designs less than 30 percent
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30 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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32 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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34 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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36 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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38 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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40 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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42 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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44 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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46 68:11-18.
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1 19. The City has cited no authority—and Martin Apartments LLC is aware of
2 none—that affirms the use of hypothetical, anticipatory Before and After values in order to
3 estimate and assess taxes for “actual” special benefits that will not accrue for another five
4 years (if all goes off without a hitch). To the contrary, the hypothetical assumption that all
5 of the Before and After Improvements are constructed as of October 1, 2019 allows Mr.
6 Macaulay to base his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
7 411. For these reasons, Martin Apartments LLC appeals the following portions of the
8 Examiner’s Recommendation: Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5,
9 IV.B.6, IV.B.11(c), IV.C.12, IV.C.14, and IV.C.18.

10 20. Failure to discount special benefit estimates to account for risks and present
11 value. Due to the inherent uncertainty, Martin Apartments LLC’s expert opine that the Final
12 Study should have accounted for risks associated with delivery of the improvements
13 (including permitting risk, construction risk, general economic risk) and any special
14 damages associated with interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-
15 120:9, 59:20-60:20. In addition, as is typical appraisal practice, Mr. Macaulay should have
16 discounted the anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-
17 55:1; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers
18 routinely consider the impact of future conditions [through] discounted cash flow
19 analysis.”).

20 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
21 future condition not in place at the date of valuation and can discount for the time value of
22 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
23 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
24 Discounting would also have been consistent with his approach for analyzing special

1 benefits to vacant land. He testified that the difference between similarly situated vacant
2 sites slated for development and already developed sites was that the labor, capital and risks
3 associated with development had not yet been borne for those vacant sites. Therefore, the
4 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
5 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
6 fully permitted, has not completed environmental review, and has not reached full design is
7 presently worth significantly less.
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15 22. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
16 present value, an appraiser would consider discount rates for land development to account
17 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
18 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
19 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
20 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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27 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
28 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
29 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
30 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
31 ignoring momentarily all of the other methodological and other flaws discussed here and in
32 Martin Apartments LLC's case-in-chief, and assuming that the LID Improvements provide
33 special benefits as soon as they are complete in 2024, Mr. Macaulay's hypothetical
34 assessment materially exceeds special benefits when reduced to present value. Further, to
35 the extent the City is arguing that because they are permitted to assess 100% of the special
36 benefit, the special benefit estimate can be off by 60.8% because they only assess 39.2% of
37 that benefit, the City is again wrong. After applying proper discounting, the City's proposed
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1 special benefit assessment is far more than 39.2% of the total estimated special benefit, and
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3 in fact exceeds 100% of the total estimated special benefit.

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5 24. But even the assumption that the LID improvements would deliver benefits
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7 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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9 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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11 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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13 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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15 indicates that during the construction period, the Greenway district “significantly” lagged in
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17 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
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19 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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21 30-31 (discussing New York City High Line and San Francisco Embarcadero
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23 improvements). Given the lengthy delay, any prediction of future special benefits is
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25 speculative, especially during the construction phase where values are likely to decline. And
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27 assuming the LID Improvements take a similarly long period of time after they are complete
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29 to start producing tangible property value benefits, each additional year of delay results in
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31 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
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33 Closing Stmt., ¶ 19, Ex. A.

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35 25. Applying the same discounting methods described above and in Mr. Gibbons
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37 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
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39 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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41 before applying the 39.2% percentage assessment. *Id.* For Martin Apartments LLC, this
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43 means at most the 100% assessment should be no more than \$47,382.60. Anything more
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45 would permit the City to assess Martin Apartments LLC based on a hypothetical assumption
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47 that these improvements are in place and providing benefit, and ignore the risks,

1 construction disamenity, and time value of money that normal appraisal principles would
2 take into account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be
3 only 39.2% of that assessment cap, or \$18,573.98.
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6 26. Attachment C includes two Excel spreadsheets applying these discounting
7 methods to Martin Apartments LLC's assessment. It is undisputed that special benefits will
8 not actually accrue until the LID Improvements are complete in 2024. Accordingly, the first
9 spreadsheet demonstrates that discounting the City's hypothetical October 2019 special
10 benefits to present value would reduce Martin Apartments LLC's assessment to \$67,618,
11 exclusive of any other flaws in the City's proposed assessment. The second spreadsheet
12 shows even more drastic reductions after taking into account: (1) a rough discount for
13 property value loss due to COVID-19 and (2) discounting to present value for 5 years (*i.e.*,
14 from 2024 when the City anticipates completing the LID Improvements) and 10 years (*i.e.*,
15 from 2029 to account for the time it takes for the improvements to capture property value).
16 After such reductions, Martin Apartments LLC's assessment would be just \$59,166 (for the
17 5-year discount) or \$16,257 (for the 10-year discount). Further, the spreadsheet concludes a
18 "zero" benefit for this property because, based on Dr. Crompton's testimony, Martin
19 Apartments LLC's property is more than 2,000 feet from the core "park" improvements and
20 therefore too distant to receive any special benefit. Neither of these spreadsheets address
21 other issues raised by Martin Apartments LLC's appeal, but are intended to help
22 demonstrate how unfair and inflated the City's proposed hypothetical assessment is. The
23 Hearing Examiner's Recommendation simply dismisses Martin Apartments LLC's
24 discounting argument without legal or factual analysis; that failure is error.
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1 **Appraisal and Assessment Calculation Methods Are Flawed**

2 27. The “general rule is that each lot, piece, or parcel of land should be assessed
3 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
4 Wn.2d at 97.
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6 28. It is proper to sustain a challenge to an assessment, even without the appraisal
7 testimony from the owner, where the objector’s expert establishes that the assessment was
8 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
9 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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11 29. The City’s appraiser purports to utilize the income method of valuation but
12 relied on inaccurate revenue and market data, as discussed further below.
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14 30. The City’s appraiser purports to utilize the comparable sales method of
15 valuation, but no City witness attempted “to characterize any one, or all of them, as
16 comparable to [Martin Apartments LLC’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406
17 (finding “several serious flaws” in ABS’s LID analysis in that case, including that the
18 appraiser “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt
19 to characterize any one, or all of them, as comparable to any particular property within the
20 LID”). And no City witness could explain how specific adjustments were made to these sales
21 to account for value increases due to the hypothesized Before and After Improvements. For
22 this reason, Martin Apartments LLC appeals Section II.23 of the Examiner’s
23 Recommendation.
24

25 31. Special assessment improperly includes value lift from the Before
26 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
27 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
28 Improvements, which WSDOT had independently committed to fund. However, Mr.
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1 Macaulay did not calculate the actual market value of LID properties in October 2019, and
2 did not separately analyze the hypothetical increase to property values attributable to
3 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
4 current value and then separately calculate a hypothetical "With WSDOT" Before value);
5 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
6 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
7 3-4. Without any documented basis or support, Mr. Macaulay simply "ma[de] a judgment a
8 call" on what occupancy and rates would have been for the commercial properties assuming
9 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
10 130:11. This outright omission precludes any independent evaluation of the true market
11 "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
12 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
13 must explain how he analyzed that data and other information to come up with the
14 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
15 removal of the viaduct, but also other road, pedestrian and landscaping improvements
16 WSDOT had already committed to make.

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33 32. However, because Mr. Macaulay testified that he did include some WSDOT-
34 related value-lift in the "Before" values, it follows that part of the special assessment
35 improperly is based on value attributable to the WSDOT Improvements. As shown by
36 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
37 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
38 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
39 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
40 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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1 to properly exclude the value of Before Improvements from the assessments. For these
2 reasons, Martin Apartments LLC appeals the following portions of the Examiner's
3 Recommendation: Sections II.19, II.29, and IV.B.11(a)(ii)
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6 33. Special benefits were assigned rather than measured. Mr. Macaulay
7 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
8 property. See 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
9 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
10 Macaulay used to analyze the commercial properties, Martin Apartments LLC's experts
11 concluded that Mr. Macaulay based adjustments on hypothesized very small increases to
12 property revenue and very small reductions to cap rates to "calculate" an "After" value due
13 to the coming 2024 LID Improvements. Attachment B (ABS Spreadsheet). These series of
14 micro adjustments were based on "professional judgment" that are neither shown nor
15 replicable.
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18 34. For these reasons, Martin Apartments LLC appeals the following portions of
19 the Examiner's Recommendation: Section II.19, IV.B.11(a)(iii).
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22 35. Special benefit falls within margin of error. The Final Special Benefit Study
23 applies an estimated value enhancement of less than 4%, which is generally within the
24 margin of error for appraisals and, therefore, not a reliable difference. See *Bellevue Plaza,*
25 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
26 Martin Apartments LLC's experts explained that if two appraisers independently arrive at
27 values within 5% of one another, this difference is considered reasonable as it falls within
28 the standard margin of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at
29 164:2-9. Because Mr. Macaulay's micro-special benefit percentages fall far below that 5%
30 margin, "there is no way of authenticating" such incremental changes because "[m]arket
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1 forces completely obliterate any tiny little noise factor like that.” See 3/3/2020 (A. Gibbons)
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3 Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too
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5 small to measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to
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7 measure a difference in cap rates for Martin Apartments LLC’s property within that margin.
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9 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
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11 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
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13 appraiser to discern the micro-value differences between hypothetical conditions that are so
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15 similar (the WSDOT improvements compared to the LID improvements) “verges on being
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17 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.

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19 36. Even if it were possible to accurately tease out such a miniscule hypothetical
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21 value change due to improvements coming five years later, experts testified that there is no
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23 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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25 what he felt the changes (hypothetically) would be. 3/3/2020 (A. Gibbons) Hrg. Tr. at 88:21-
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27 88:24 (“you cannot measure one percent difference in a high-rise building for this kind of a
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29 medium ... it’s simply assigned to a before value”). For these reasons, Martin Apartments
30
31 LLC appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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33 37. No analysis of value increase attributable to individual components of the
34
35 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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37 percentage difference between hypothetical Before and After conditions. Throughout his
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39 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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41 descriptions in the Addenda even though he testified that he relied on these to calculate
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43 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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45 someone might be able to determine how he attributed value to After conditions described in
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47 the Addenda, he answered that that was “not the scope of the assignment” because he was

1 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
2 that the six components were not actually a continuous project, that he was viewing them
3 together because the City asked him to, and that if he were to view them independently,
4 there was a low probability that properties in the north would specially benefit from
5 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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10 38. Not only did he fail to analyze benefits from each of these non-contiguous
11 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
12 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
13 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
14 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
15 objectives that guided regulators' assessment of architectural plans for buildings along a
16 "signature street" were so vague that they amounted to ad hoc review based on the
17 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
18 even though he used the renderings as "visual aid[s] in appraising the property in the before
19 and after" to "visually see what the differences would be," he could not explain what
20 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
21 when shown a rendering of a two-lane road going down to one-lane in the After condition
22 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
23 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. See RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
2 could explain the depiction of the same trees in the After condition nearly twice as tall as in
3 the Before. *Id.* at 173:17-175:4. For these reasons, Martin Apartments LLC appeals the
4 following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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8 39. Special assessment is not supported by comparable studies, data or reports.
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10 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
11 that the LID Improvements will lead to meaningfully increased real estate values for Martin
12 Apartments LLC. Indeed, no City witness was able to explain how ABS Valuation used
13 comparable sales or information from the “over twenty-five studies and reports” to arrive at
14 very precise special benefit increases for the commercial properties, including Martin
15 Apartments LLC’s property. For example, although Mr. Macaulay stated that no single
16 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
17 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
18 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
19 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
20 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
21 for similarities and differences between these improvements and the comparable parks he
22 looked at).
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26 40. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
27 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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29 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
30 research misinterprets his work in critical ways, including because the LID Improvements
31 manifest the characteristics of a parkway (not a park), and his research indicates that most of
32 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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1 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
2 related value increases are in fact smaller; that estimated increases are “best guesses” rather
3 than predictions of property value increases in a particular city; and that percentages do not
4 account for diminishing returns after taking into account water views, which would be the
5 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
6 topography grants most properties in downtown a water view.
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12 41. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
13 that this was just one source of information that was not entirely relevant because, among
14 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
15 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
16 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
17 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
18 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
19 Crompton concluded that 500 feet via road from “park” improvements is just one or two
20 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
21 significantly beyond that which the park study indicated (even if it was legitimate to use the
22 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
23 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
24 impact applicable to “community parks”—which the LID Improvements are not. *Id.* Martin
25 Apartments LLC’s property is not within 2,000 road network feet from the “park”
26 improvements. *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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42 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
43 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
44 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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1 based on the attention given to Dr. Crompton's work in the Final Study and supporting
2 materials, it was clearly an important—if not *the* most important—source of information for
3 estimating special benefits (especially with respect to the condos).⁷ No City witness
4 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
5 parcel-by-parcel analysis.
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11 43. The destination parks discussed in the Final Special Benefit Study do not
12 provide reliable, comparable, and valid support for the calculation of special assessments
13 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
14 Study were funded by a LID. And in virtually all of those cases, the park improvements
15 dramatically restored unimproved or blighted areas, and properties evaluated were within
16 two or three blocks of the park.
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23 44. ABS's claimed reliance on three economic studies to support property value
24 increase is also flawed. The HR&A study does not inform what value increases are
25 expected from the LID Improvements because it projects increases to tourism from *all* of the
26 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
27 dissimilar parks in other cities,⁸ making the methodological application to the LID
28 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
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37 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
38 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
39 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
40 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
41 park (or streetscape) improvement—other studies estimated premiums for real estate only much
42 closer or cited to Dr. Crompton.
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44 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
45 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
46 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
47 expected tourists visiting the LID park was calculated using data from only from New York City, a
notorious tourist destination.

1 conclusion that there would be *no new net visitors* from downtown residents as a result of
2 the LID Improvements and could not explain how this impacted his condo analysis.
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4 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
5 Property Values” primarily focused on whether the benefits accrue to the larger community
6 rather than properties adjacent to the park. And the 2014 New York City Department of
7 Transportation study is not based on real estate transactions and market sales and fails to
8 substantiate any link between increased retail sales and property values. Moreover, this
9 study only looked at impact either directly abutting the streetscape improvement, or a couple
10 hundred feet for plaza-like improvements.
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18 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
19 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
20 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
21 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
22 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
23 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
24 asked whether he considered that HR&A’s estimated LID impact is six times greater than
25 TPL’s assessment of Seattle’s entire park system, he surmised that it was because the
26 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
27 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
28 assumptions to account for this difference, which may be partly explained by the fact that
29 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
30 approximately 3.44% of King County tourists visit Seattle primarily because of the city
31 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
32 waterfront improvements.
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1 46. Although proximity to the improvements is a key factor in all of these
2 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
3 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
4 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
5 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
7 Improvements is approximate 20 acres and it is not a community park.⁹

8 47. There is no explanation in the Final Study or the supporting materials of how
9 the studies or comparable sales were used to derive values for Martin Apartments LLC's
10 property. For these reasons, Martin Apartments LLC appeals the following portions of the
11 Examiner's Recommendation: Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30,
12 II.32, and IV.C.5.

13 48. Failure to comply with USPAP. Martin Apartments LLC's assessment also
14 rests on a fundamentally wrong basis due to the City's appraiser's decision to utilize a
15 hybrid mass-appraisal method. Randall Scott, a former mass appraiser responsible (and
16 professionally recognized) for developing the MAI standards for mass appraisals, testified
17 that the Final Study does not meet mass appraisal standards nor allow for independent
18 assessment of the accuracy of Mr. Macauley's conclusions.

19 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
20 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22

23 ⁹ *See*
24 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
25 connecting Seattle's central waterfront to downtown.").

1 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
2 testimony suggests that he incorrectly believed that the only difference between direct
3 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
4 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
5 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
6 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
7 Gordon uses in doing his limited restricted report").
8

9
10 50. But the difference is not only in reporting—mass appraisal techniques must
11 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
12 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
13 parcel approach:
14

15 The mass appraisal technique is an appraisal method used to evaluate
16 a group of properties that are subject to similar market forces as of a
17 certain date through the use of market data, statistical analysis and
18 testing. As a result, the mass appraisal technique does not require or
19 involve analysis of each individual property's specific data.
20

21 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
22

23 51. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
24 universe of properties as a given date using standard methodology, employing common data,
25 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
26 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
27 model" is "a mathematical expression of how supply and demand factors interact in a
28 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
29 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
30 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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1 52. Regardless of client direction, Mr. Macaulay is required to comply with
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3 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
4
5 economically feasible because it would have taken “an incredible amount of time and cost”
6
7 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
8
9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
10
11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).

12 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
13
14 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
15
16 value, fails to calibrate the model structure to determine the contribution of the individual
17
18 characteristics affecting value, and does not review the mass appraisal results against actual
19
20 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
21
22 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

23 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
24
25 proximity to the elements, the increase in market rent, market vacancy changes,
26
27 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
28
29 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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33
34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
47

1 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
2 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
3 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
4 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
5 were hypothetical, it was not possible to identify matched pair sales and no City witness
6 explained how ABS Valuation made adjustments to “comparable” sales in order to check
7 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
8 him to explain his model structure.
9

10
11 55. For these reasons, Martin Apartments LLC appeals the following portions of
12 the Examiner’s Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Martin
13 Apartments LLC renews Objectors’ Motion To Exclude The Expert Testimony of Robert J.
14 Macaulay, filed on April 8, 2020, and appeals the Examiner’s denial of that motion.
15

16
17 56. Finally, Martin Apartments LLC’s property is not appurtenant—or even in
18 close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the
19 burden of proving special benefit” shifted to the City because the protestors’ parcels merely
20 stood “in close proximity to the property on which expert testimony was given”). Indeed,
21 Martin Apartments LLC’s property is not even within 2,000 road network feet from the core
22 park improvements. And, as described above, the special assessment is overstated because
23 the Final Study makes no attempt to determine general benefits, existing amenities for
24 Martin Apartments LLC’s specific property, or special detriments. In addition, it is
25 speculative due to the fact that, as of October 2019, improvements were not in in place—
26 and, in fact, much of the waterfront is a construction zone following removal of the viaduct
27 and now Pier 58 demolition. Under these circumstances, rather than relying on entirely
28 imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have
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1 discounted the special benefit estimates or waited to perform the Study until the
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3 improvements were at least close to complete.
4

5 **Erroneous Pre-Improvement Valuation**

6 57. The proposed final assessment erroneously overstates the pre-improvement
7
8 value of Martin Apartments LLC's property as of October 1, 2019 and, as a result,
9
10 overstates the special benefit to the Martin Apartments LLC's property. This variation in
11
12 pre-improvement valuation calls into question the City's assessments because the City's
13
14 Final Benefit Study uses the pre-improvement valuation to then calculate the assessment
15
16 amount.
17

18 58. Thus, aside from multiple other reasons why computation of the special
19
20 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
21
22 improvement values that do not accurately reflect market data. For these reason, Martin
23
24 Apartments LLC appeals the following portions of the Examiner's Recommendation:
25
26 Section III.
27

28 **Erroneous Computation of Special Benefit**

29 59. "Special benefit" is "the increase in fair market value attributable to the local
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31 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
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33 may receive by reason of the improvement is not measured alone by the physical character
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35 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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37 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is
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39 the particular tract or property benefited by the entire improvement, and is it assessed
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41 proportionately with the other property included within the assessment district?" *Id.* 165–
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43 66.
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1 60. The proposed final assessment erroneously overstates the special benefit of
2 LID improvements in a number of ways.
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4 61. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
5 the Martin, Mr. Macaulay assumed rental rates would increase by 0.20% (low) and 0.60%
6 (high) due to the 2024 LID Improvements. Based on formulas in the spreadsheets, Mr.
7 Macaulay then uses these same percentages (0.20% and 0.60%) to increase retail and
8 parking income. He then uses this hypothesized increased revenue to calculate a new net
9 operating income for the commercial properties and capitalizes that to come up with an
10 “After” valuation.
11

12 62. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
13 operating income remains the same as in the hypothetical “Before” condition, but changes
14 the cap rate. For the Martin, the cap rate goes from 4.25% to 4.22% (low scenario, creating
15 a bigger value increase) and 4.24% (high scenario, creating a lower value increase).
16

17 63. Mr. Macaulay then averages his four “After” values to arrive at a final special
18 benefit conclusion. For the Martin, this is an increase in property value of 0.40% due to the
19 LID Improvements.
20

21 64. Mr. Macaulay offered little justification for his micro adjustments to revenue
22 and capitalization rates. When asked precisely what the basis is for his special benefit
23 percentage increases to revenue for each commercial property, he could not point to
24 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
25 is nothing in the report to allow a reader to understand how he came up with these
26 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
27 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
28 the basis for his belief that certain factors—liked increased connectivity—will increase
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1 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
2 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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4 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
5
6 sources equally even though there was no separate analysis done for food and beverage or
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8 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Martin Apartments LLC’s
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10 expert’s conclusion that the adjustments are arbitrary and fall below generally accepted
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12 margins of error, and that there is no actual, measurable, non-speculative special benefit to
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14 Martin Apartments LLC’s properties.
15

16 65. Mr. Macaulay testified that he used comparable sales as a reasonableness
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18 check for commercial properties. But as explained above, no City witness has explained
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20 how anyone, or all, of the sales are comparable to any particular commercial property within
21
22 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
23
24 in order to make sales “comparable,” he would have had to make adjustments to account for
25
26 Before and After conditions, but there is no way to understand how adjustments were made
27
28 because he “didn’t do a separate sales comparison approach where we showed adjustments
29
30 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
31
32 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
33
34 *Id.* at 127:10-128:24.
35

36 66. It also bears noting that any “internal review” of the special benefit estimates
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38 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
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40 error. Indeed, given all the same information, he seemed to suggest that it would be
41
42 perfectly reasonable for another experienced appraiser to come up with special benefit
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44 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
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46 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
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1 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
2 margin of error conflicts with the testimony of Martin Apartments LLC's experts and
3 reaffirms that there are absolutely no standards governing his process. *See id.* at 91:6-94:5.
4
5 Even if the typical margin of error (5%) is a "rule of thumb" and not a "hard legal standard,"
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7 there are still reasonable and unreasonable variations within the appraisal field. *See*
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9 Examiner's Recommendation at IV.B.4. Thus, the special assessment is not actual,
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11 measurable or special because it is arbitrarily assigned; and it is too small to realistically be
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13 supported by appraisal techniques.
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16 67. No evidence of special benefit. Meanwhile, there is "no actual evidence from
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18 any seller or purchaser that the price was higher because of the LID improvements."
19
20 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
21
22 identified any seller or buyer, or any particular property where the existence of the LID
23
24 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Martin
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26 Apartments LLC has explained that the property has not increased rental rates or revenue
27
28 due to the forthcoming LID Improvements, because, among other reasons (and apart from
29
30 COVID), the improvements ABS believes will generate value do not exist, and will not for a
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32 number of years to come. There are no comparable sales because the LID Improvements are
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34 not in place, nor will they be until the end of 2024 if completed on schedule.
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37 68. The fair market value of MARTIN APARTMENTS LLC'S property has not
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39 changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property
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41 was not specially benefited from installation of new water main and fire hydrant where it
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43 was already adequately supplied with water and afforded adequate fire protection). And in
44
45 any event, any value attributable to removal of the viaduct was to be excluded from the
46
47 assessment calculation.

1 69. There is no special benefit because LID improvements in fact diminish the
2 value of Martin Apartments LLC's property by drawing visitors away towards
3 improvements that do not abut the property, increasing competition for the retail component.
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7 *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert that LID actually diminished
8 value of property was sufficient to rebut presumption that assessment was proper).
9

10 70. Moreover, the assessment formula is an attempt to distribute costs that do not
11 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
12 "merely a mathematical model that distributes costs").
13
14

15 71. The Special Benefit Study fails to address whether the \$346,000,000
16 estimated LID project cost takes into account the investment that would have occurred in the
17 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
18 invested. This is a critical component of estimating which properties receive a direct benefit
19 from the improvements, versus more incidental benefits further from the park.
20
21

22 72. Mr. Macaulay also included personal property in his valuation of hotels even
23 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
24 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
25 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
26 "[a]ppraisal applies to the land and building improvements only" (C-17 at 197). *See also*
27 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
28 receiving a disproportionately high LID assessment in comparison to other property types,
29 since hotels were the only property type subject to personal property LID assessments.
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1 notice procedures because hotel property owners only received notice that their real estate
2 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).

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4 73. The proposed final assessment substantially exceeds the special benefit to the
5 property and is grossly disproportionate to similarly situated properties within the LID. For
6 these reasons, Martin Apartments LLC appeals the following portions of the Examiner's
7 Recommendation: Sections II.22, II.23, II.27, IV.B.4 and IV.B.11(a)(iii).
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12 **State Environmental Policy Act and Other Environmental Permitting**

13
14 74. While this appeal is not challenging the City's environmental review and
15 permitting processes, those processes are relevant in determining the legality of the
16 assessments, and to assessing the delivery risk, the present value of the City's plans, and
17 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
18 pursue projects that have not yet undergone environmental review (thus limiting the choice
19 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
20 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
21 is just beginning. Further, the City has segmented environmental review, and still has a
22 gauntlet of federal, state and tribal review processes to complete before it will be clear what
23 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
24 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
25 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
26 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
27 committing to reconstruction of Pier 58 and major street improvements without
28 environmental review, or the City's Final Special Study has improperly included and is
29 proposing to assess the Martin Apartments LLC the costs and special benefits of
30 improvements that may not get built. Either way, it is faulty process.
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Due Process Rights

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3 75. The City's failed to notify MARTIN APARTMENTS LLC sufficiently in
4 advance of the hearing to allow MARTIN APARTMENTS LLC to obtain evidence and
5
6 prepare to properly challenge the assessments. Because LID assessments involve a
7
8 deprivation of property, affected owners have the right to a hearing as to whether the
9
10 improvement resulted (or will result) in special benefits to their properties and whether their
11
12 assessments are proportionate, which necessarily includes the right to adequate notice of the
13
14 hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761
15
16 (2010).

17
18 76. The LID statute specifies that cities must mail notices giving the time and
19
20 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
21
22 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
23
24 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
25
26 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
27
28 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
29
30 secure their own appraisal), evaluate proportionality of the proposed assessments, and
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32 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
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34 for anybody to get an appraisal”).

35
36 77. The City’s Notice of Assessment was sent on December 30, 2019. And the
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38 Final Special Benefit Study has only been available for public review since January 7, 2020.
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40 Due to this short time frame, MARTIN APARTMENTS LLC requested a prehearing
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42 conference and scheduling order that would preserve and protect Martin Apartments LLC’s
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44 right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct
45
46 depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay
47

1 between SEPA and the City's assessment of taxes for Pier 58 and Pike/Pine improvements).
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3 The Hearing Examiner erroneously denied that request. For this reason, Martin Apartments
4
5 LLC appeals the following portions of the Examiner's Recommendation: I.B.
6

7 **VII. Relief Requested**

8
9 MARTIN APARTMENTS LLC respectfully requests that the City Council:

- 10
11 1. Reject the Hearing Examiner's recommended denial of Martin Apartments
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13 LLC's objection; and
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15 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
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17 assessment dated December 30, 2019; or
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19 b. Revise Martin Apartments LLC's Waterfront Local Improvement District
20
21 No. 6751 proposed final assessment to \$0 (zero), or such amount as Martin
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23 Apartments LLC establishes at the hearing in this matter; or
24
25 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
26
27 and reduce Martin Apartments LLC's assessment using recognized appraisal
28
29 techniques consistent with USPAP and:
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31 i. Excluding any property value increase attributable to viaduct removal
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33 and other planned WSDOT Improvements;
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35 ii. Taking into account the effects of the COVID-19 pandemic on the
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37 value of Martin Apartments LLC's property and other relevant
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39 developments since October 2019;
40
41 iii. Accounting for and excluding (1) any special benefits from existing
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43 or planned improvements that already provide similar benefits to
44
45 Martin Apartments LLC's property, and (2) any special detriments
46
47 from construction and other anticipated LID-related disamenities;

- 1 iv. Accounting for and including only those actual benefits anticipated to
2 accrue to Martin Apartments LLC's property based on its location
3 relative to Pier 58, Overlook Walk, and the Promenade, and specific
4 elements of the LID Improvements;
5
6 v. Discounting anticipated special benefits to present value, based on
7 reliable estimates regarding when special benefits will start accruing
8 following completion of the LID Improvements; and
9
10 vi. Accounting for such other issues specific to Martin Apartments
11 LLC's property relevant to calculation of such assessment; and
12
13 2. Grant such further relief as the City Council deems just and proper.
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23 DATED: September 22, 2020

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3:46 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

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Subject: Waterfront LID Amended Appeal for Case No. CWF-0416
Date: Tuesday, February 16, 2021 3:28:35 PM
Attachments: [Martin Amended LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Martin Amended LID Appeal before City Council.pdf

Kimball Mullins | Perkins Coie LLP

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0416

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON MARTIN
APARTMENTS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0696000055

33
34 MARTIN APARTMENTS LLC (“Taxpayer”) files this amended appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
36 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
37
38 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
39
40 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
41
42 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
43
44 Recommendation issued February 1, 2021.
45
46
47

1 **I. MARTIN APARTMENTS LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 MARTIN APARTMENTS LLC
6 ATTN: Tax Manager
7 PO Box 847 Carlsbad, CA 92018
8 425-635-1400
9 jlutz@perkinscoie.com

10
11 **II. MARTIN APARTMENTS LLC's Representatives**

12 MARTIN APARTMENTS LLC'S representatives in this matter are:

13
14
15
16 R. Gerard Lutz, WSBA No. 17692
17 JLutz@perkinscoie.com
18 Perkins Coie LLP
19 10885 N.E. Fourth Street, Ste 700
20 Bellevue, Washington 98004
21 Telephone: 425.635.1400
22 Facsimile: 425.635.2400

Robert L. Mahon, WSBA No.
26523
RMahon@perkinscoie.com
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

23
24
25 **III. Statement of MARTIN APARTMENTS LLC's Interest and Incorporation of**
26 **Prior Arguments**

27 MARTIN APARTMENTS LLC owns the property that is subject to the proposed
28
29 final assessment described in Section IV.

30
31 MARTIN APARTMENTS LLC is amending its appeal as authorized in City of
32
33 Seattle Resolution 31979 to include additional arguments relevant to the revised Final
34
35 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
36
37 2020, MARTIN APARTMENTS LLC timely filed an objection to the assessment, which
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39 was based on the Final Study. MARTIN APARTMENTS LLC further timely filed an
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41 appeal of the Hearing Examiner's 2020 recommendations to the City Council. MARTIN
42
43 APARTMENTS LLC maintains and incorporates all objections and arguments raised in its
44
45 appeal filed with the City Clerk on September 22, 2020. This amendment is a supplement is
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1 to be read together with MARTIN APARTMENTS LLC's appeal filed on September 22,
2 2020. MARTIN APARTMENTS LLC incorporates by reference all filings, evidence, and
3 pleadings filed by any party before the Hearing Examiner as authorized by the Hearing
4 Examiner, including without limitation all records pertaining to the November 2020 through
5 February 2021 remand hearing ordered by Council.
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11 **IV. Amended Arguments on Appeal**

12 MARTIN APARTMENTS LLC supplements its appeal of the Hearing Examiner's
13 recommendation to deny MARTIN APARTMENTS LLC's objection to the City of Seattle's
14 Waterfront Local Improvement District No. 6751 proposed final assessment dated
15 December 30, 2019 against the following property:
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21 King County Parcel No. 0696000055
22 Site Address: 2105 5th Ave., Seattle, Washington
23 Proposed Final LID Assessment for Parcel: \$197086
24

25 To avoid repetition, MARTIN APARTMENTS LLC incorporates the evidence and
26 arguments raised before the Hearing Examiner and before the City in its September 22, 2020
27 appeal, into this amended appeal.
28
29

30
31 **A. The Anticipated Special Benefits to MARTIN APARTMENTS LLC's**
32 **Property should be Discounted to Present Value and Assessments**
33 **Adjusted as Appropriate**
34

35 On remand, the City's appraiser acknowledged that special benefits to parcels can be
36 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
37 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
38 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
39 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
40 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
41 accepted that recommendation. The City's appraiser further acknowledged that benefit
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1 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
2 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
3 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
4 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
5 calculations to present value because the general benefits are not anticipated from the LID
6 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
9 benefit calculation, and related assessments, to account for the delay between the assessment
10 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
11 standard appraisal practice, and renders the other proposed Waterfront LID special
12 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
13 “fundamentally wrong methods.”
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17

18 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
19

20 Additionally, the assessments may not materially exceed the actual special benefit conferred
21 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
22 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
23 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
24 discount benefits the City estimated would accrue to the properties from improvements to be
25 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
26 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
27 property while treating all or most others (including Taxpayer’s) differently, and
28

1 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
2 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
3 for some properties because the benefits are too distant, while assessing other properties as
4 though distant benefits have already been secured. As Taxpayer identified in its September
5 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
6 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8 reject the improper calculation of the benefit or remand and require the appraiser to discount
9 the benefits to net present value.
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19 **B. In Light of Covid's Continuing Impact on MARTIN APARTMENTS**
20 **LLC and other Downtown Property Owners and other Material**
21 **Changes Since October 2019, the LID Should be Cancelled, or at Least**
22 **Assessments Recalculated, to take Into Account Property Value**
23 **Reductions**
24

25 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
26 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
27 other relevant developments since October 2019." When Washington's first COVID
28 restrictions were imposed in March and April 2020, there was an assumption that they
29 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
30 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
31 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
32 gotten much worse. The City has already imposed higher minimum wages and taxes on
33 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
34 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
35 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
36 years from completion, as a best case. In current circumstances, a downtown tax to fund
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1 new, non-essential park improvements against financially strapped taxpayers, and likely
2 passed through to financially strapped tenants and customers would be unfair to taxpayers
3 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
4 rethinks its budget priorities for the next few years, and its potentially funding sources,
5 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
6 property owners) have a chance to recover, and that any assessment take into account the
7 changed circumstances since this appeal process started on February 4, 2020 to avoid
8 unnecessarily and perhaps permanently killing downtown properties and businesses in the
9 name of bettering them.
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19 **V. Relief Requested**

20 Particularly in light of the Committee's decision not to take further comment,
21 MARTIN APARTMENTS LLC respectfully request that each Committee member carefully
22 review the record transmitted to Council before voting on our appeal.
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MARTIN APARTMENTS LLC respectfully reiterates its request from the
September 22, 2020 appeal that the City Council:

1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
assessment dated December 30, 2019; or
2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
proposed final assessment to \$0 (zero), or such amount as Taxpayer
establishes at the hearing in this matter; or
3. Grant the Examiner's recommended remand but with instructions to
recalculate and reduce Taxpayer's assessment using recognized appraisal
techniques consistent with USPAP and

- 1 a. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
3
4
5 b. Taking into account the effects of the COVID-19 pandemic on the
6 value of Taxpayer's property and other relevant developments since
7 October 2019;
8
9
10 c. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
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15
16 d. Accounting for and including only those actual benefits anticipated to
17 accrue to Taxpayer's property based on its location relative to Pier 58,
18 Overlook Walk, and the Promenade, and specific elements of the LID
19 Improvements;
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22 e. Discounting anticipated special benefits to present value, based on
23 reliable estimates regarding when special benefits will start accruing
24 following completion of the LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property
28 relevant to calculation of such assessment; and
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37 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

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22 Attorneys for MARTIN APARTMENTS LLC
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2:53 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0417
Date: Tuesday, September 22, 2020 2:32:36 PM
Attachments: [CWF-0417.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0417.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0417
A – Master List of Evidence
B – B-287 United Way
C – Discounting for 0417
CWF-0417 Appeal Notice for United Way

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0417	Foster & Marshall Building	720 2nd Avenue	0939000240

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$209,000	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$28,096

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0417	Foster & Marshall Building	720 2nd Avenue	0939000240

	BEFORE	Appraiser	Value
A	Final City Before Value	City	\$23,664,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$16,170,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C)			\$14,148,750

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$209,000		
H/A	As Percentage of Final City Before Value	0.883%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$124,961		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$42,853	\$11,775
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$16,798	\$4,616

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

FOSTER & MARSHALL BUILDING - UNITED WAY						
Map No.	B-287		Historic:	Yes		
Tax Parcel Nos.	093900-0240		Stories:	3		
Address	720 2nd Ave		Current Rent:	-		
Zoning:	DMC 340/290-440		NOTE:			
Property rights:	Fee Simple					
Proximity to project:	3-blocks to Yesler Way, 4-blocks to Waterfront					
Previous sales:	\$664,608.00	4/15/2019	\$47.74	per net bldg SF, TDR, Statutory Warranty Deed		
Ownership	UNITED WAY OF KING COUNTY					
Land Value Without "Before"						
	13,920	SF @	\$1,700.00	per SF =	\$23,664,000	
Land Value With "After"						
	13,920	SF @	\$1,725.50	per SF =	\$24,019,000	
Special Benefit				\$25.50	per SF =	\$355,000
INCOME ANALYSIS WITHOUT "Before"	Year Built	1921				
	Parking	0				
Potential Gross Income						
	GBA	NRA				
Retail	0	0	SF NRA @	\$0.00	per SF =	\$0
Office	52,298	52,298	SF NRA @	\$18.00	per SF =	\$941,364
Restaurant space	0	0	SF NRA @	\$0.00	per SF =	\$0
Other-apartment	0	0	SF NRA @	\$0.00	per SF =	\$0
Other	0	0	SF NRA @	\$0.00	per SF =	\$0
Other	0	0	SF NRA @	\$0.00	per SF =	\$0
Building Area		52,298				\$941,364
Parking Area/Stalls	0	0	0 stalls @	\$0.00	/month	\$0
Basement-retail	0	0	SF NRA @	\$0.00	per SF =	\$0
			0.0%	of GRI		\$0
Total Bldg Area & Gross Income	52,298	52,298	SF NRA @	\$18.00	/SF =	\$941,364
Less: Vacancy/credit allowance @	0.0%					\$0
	5.0%					(\$47,068.20)
Effective gross income						\$894,296
Less: Operating expenses						
Management fee @	5.0%	of total EGI		(\$44,715)		
Parking operating expenses @	0.0%	of parking EGI		\$0		
Structural maintenance/reserve	\$0.20	per SF of NRA		(\$10,460)		
Total operating expenses				(\$55,174)		
Net operating income						\$839,121
Indicated Value				Capitalized @	6.00%	\$13,985,357
					(R)	\$13,985,000
					Per SF NRA	\$267.41
Land Value						
	13,920	SF @	\$1,700.00	per SF =	\$23,664,000	
Residual Improvements	52,298	SF NRA @	\$0.00	per SF =	\$0	
	52,298	SF GBA @	\$0.00			

Special Benefit Summary	Land		Improved	% Change	Total Estimated Value	Special Benefit
	Per SF	Total				
Without LID	\$1,700.00	\$23,664,000	\$0	N/A	\$23,664,000	N/A
With LID	\$1,725.50	\$24,019,000	\$0	0.00%	\$24,019,000	\$355,000
Summary						
Without LID	\$1,700.00	\$23,664,000	\$0	N/A	\$23,664,000	N/A
With LID	\$1,725.50	\$24,019,000	\$0	0.00%	\$24,019,000	\$355,000
Percent change in land value	1.50%					

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0417

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON UNITED WAY
OF KING COUNTY’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0939000240

32
33 United Way of King County (“Taxpayer”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
37 Recommendation”).
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43 **I. Taxpayer / Appellant**
44

45 The Taxpayer filing this appeal is:
46
47

1 United Way of King County
2 720 2nd Ave., Seattle, WA 98104
3 David Brown
4 206-461-5019
5 dbrown@uwkc.org
6

7 **II. Taxpayer's Representatives**
8

9 Taxpayer's representatives in this matter are:
10

11
12 R. Gerard Lutz, WSBA No. 17692
13 JLutz@perkinscoie.com
14 Megan Lin, WSBA No. 53716
15 MLin@perkinscoie.com
16 Perkins Coie LLP
17 10885 N.E. Fourth Street, Suite 700
18 Bellevue, Washington 98004
19 Telephone: 425.635.1400
20 Facsimile: 425.635.2400
21
22

23 Robert L. Mahon, WSBA No. 26523
24 RMahon@perkinscoie.com
25 1201 Third Avenue, Suite 4900
26 Seattle, Washington 98101
27 Telephone: 206.359.8000
28 Facsimile: 206.359.9000
29
30

31 **III. Statement of Taxpayer's Interest**
32

33 United Way of King County owns the property that is subject to the proposed final
34 assessment described in Section IV. The property is the Foster & Marshall Building at 720
35 2nd Avenue, Seattle, WA. It is an office building of historic significance, and is fully
36 occupied by United Way.
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40 The basis of the proposed assessment is a Final Special Benefit/Proportionate
41 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
42 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
43 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
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1 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
2 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4 to exclude charges for other improvement projects in the Central Waterfront, and
5 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
6 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
7 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
8 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
9 because construction was not complete on the LID Improvements or the WSDOT
10 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
11 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
12 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
13 was based on the Final Study.
14

15 **IV. Matter Under Appeal**

16 Taxpayer appeals the Hearing Examiner’s recommendation to remand Taxpayer’s
17 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
18 final assessment dated December 30, 2019 against the following property:
19

20 King County Parcel No. 0939000240
21 Site Address: 720 2nd Ave., Seattle, Washington 98104
22 Proposed Final LID Assessment for Parcel: \$139,097
23 Revised Final LID Assessment for Parcel: \$81,928
24

25 *See* Examiner’s Recommendation at 61-62, 104.
26

27 On August 13, 2020, the City submitted the revised assessment amount because
28 “[t]he property sold its air rights” and “[t]his was not considered in the [City’s appraiser’s]
29 analysis.” However, as stated in Taxpayer’s objection, this was just one basis for its request
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1 for a reduced assessment. Further, the revision simply stated that the revised special benefit
2 is \$209,000 (down from \$355,000) and that the revised assessment is \$81,928 (down from
3 \$139,097). There is no information or analysis supporting the City's proposed assessment
4 that would enable Taxpayer to evaluate whether it is a fair, actual, measurable,
5 proportionate, non-speculative estimate of special benefits, as revised. For example, it is not
6 clear whether the City's appraiser took into account the historic designation which—like the
7 sale of air rights—affects value, and therefore the ultimate assessment amount. In addition,
8 the United Way is a non-profit and funder of human and health services and does not expect
9 to realize any economic benefit from the improvements. The United Way leases no space in
10 the property and is fully owner-occupied. Further, the City's methods do not adequately
11 support a finding of special benefit to office buildings given the focus on future increased
12 tourism. And the City fails to account for potential harms to office buildings, such as
13 impacts from construction, increased traffic, and decreased parking availability. For these
14 reasons, Taxpayer submitted a response to the revised assessment renewing its objection on
15 grounds that the revised assessments are still too high, and hereby appeal the revised
16 assessment and the remand to the extent it is limited to the issue of air rights.

17
18 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
19 the Hearing Examiner into this appeal. In particular, Taxpayer points the City Council to
20 Taxpayer's initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its
21 case-in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close
22 of the City's case-in-chief (dated 7/7/2020).¹

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¹ Because the City has not provided "metered index numbers," our appeals cannot reference them. *See* SMC 20.04.110. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration

1 As discussed more fully below, Taxpayer specifically appeals the following Findings
2 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
3
4 Pages 61-62, 104, Sections II.6, II.7, II.12, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
5
6 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
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8 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
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10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
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12 IV.C.12, IV.C.14, and IV.C.18.
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14 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
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16 recommendations on material issues raised during Taxpayer's appeal that were supported by
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18 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
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20 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
21
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
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24 recommended anything other than denial of objectors' appeals were where the City's
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26 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
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28 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
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30 special assessments based on "fundamentally wrong methods."
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32 The special benefit for which special taxes are assessed must be "actual, physical and
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34 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
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36 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
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38 with the law, the assessments may not materially exceed the actual special benefit conferred
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40 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
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44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
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46 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
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Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
retained by Perkins Coie are part of this case file.

1 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
2 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
3 assessment. In this case, the proposed assessment fails each of the legal requirements for
4 special assessments and must be annulled as arbitrary or capricious, or founded on
5 fundamentally wrong methods.
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12 **Legal Requirement:** Actual, non-speculative special benefit

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14 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
15 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
16 October 2019 (they were not), and an “After” value purporting to assess the value of
17 properties with the LID improvements in place at least five years before anticipated
18 completion.
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21 **Legal Requirement:** Cannot materially exceed the special benefit

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23 **ABS Study:** ABS calculates a revised special benefit of \$209,000 assuming the LID
24 Improvements were in place and providing benefit in October 2019. However, the LID
25 Improvements will not be completed until the end of 2024 if the City meets its current
26 schedule, and many of WSDOT’s alternative improvements will not be built. The present
27 value of future improvements deliverable in five years is significantly lower than the
28 current value of improvements that already exist. Further, ABS’s own materials show that
29 benefits may not accrue for at least five years after they are completed, in 2029. If the
30 hypothesized special benefits are discounted to present value, the assessments materially
31 exceed the hypothesized special benefits.
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35 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID

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37 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
38 prepared his Final Study in October 2019, and the City issued its preliminary roll in
39 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
40 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
41 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
42 and must be based on actual special benefits. While that does not mean ABS’s appraisal
43 was wrong when completed, values and benefits need to be reanalyzed before assessments
44 are finalized in light of the unprecedented changes to the downtown real property market.
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Legal Requirement: Actual benefit that cannot materially exceed special benefit—
Assessment cannot include value attributable to future WSDOT Improvements.

ABS Study: The City’s appraiser asserts that the City is not collecting assessments “based on the value of WSDOT’s planned improvements.” *See* Final Study at 3. However, the City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition, the City’s appraiser increased 2019 property market values as though WSDOT had completed its work by 2019. The proposed assessment is against this hypothetical WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent) higher than actual 2019 market values. The City is collecting an assessment against both the 2019 current values and the phantom 2019 WSDOT market value lift, in direct contravention of law and the City’s promise not to impose an assessment based on the value of viaduct demolition and the other components of WSDOT’s planned work.

Legal Requirement: Benefits must be special, not general

ABS Study: The City’s appraiser fails to determine or explain what general benefits arise due to the LID Improvements. However, the far-reaching and public nature of the improvements make any benefit arising from them general—not special.

Legal Requirement: Benefits must be “physical and material and not merely speculative or conjectural”

ABS Study: Not only are the improvements not yet “physical or material,” but environmental review and permitting for the City’s proposed LID Improvements is not complete, and the LID improvements are not anticipated to be complete until the end of 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in a manner consistent the City’s then-current proposals, which were in many respects merely conceptual designs.

Legal Requirement: Must comply with appraisal standards

ABS Study: ABS’s valuation methodology cannot be tested. It is a hybrid of “Individual” and “Mass” appraisal techniques, but fails to meet USPAP requirements for either. Until the Examiner admonished ABS, ABS even asserted its analysis was “confidential and proprietary.” ABS’s analysis and conclusions can neither be tested nor replicated. The Final Study fails to meet basic standards for admissibility and must be remanded.

Legal Requirement: Actual and measurable special benefit

1 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
2 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
3 on a host of "micro-judgments" that are not supported by any documentation, nor capable
4 of replication or quality assurance/quality control. The assessments are undocumented,
5 unreliable, and not supported by empirical studies, data, or reports.
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7
8 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
9 supported by empirical evidence
10

11 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
12 value of parks and other public amenities and on whom ABS purported to rely, testified
13 that ABS had completely misapplied his work and dramatically overstated both the
14 distance to which economic benefits might extend from the LID Improvements and the
15 extent of any anticipated benefit within the potentially benefited area.
16

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18 **Legal Requirement:** Actual special benefit—Must take into account potential
19 disamenities
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21 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
22 construction, as well as other potential disamenities associated with public places.
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25 **Legal Requirement:** Cannot prematurely commit to build
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27 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
28 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
29 are being imposed. But finalizing the roll is a commitment by the City to build the
30 improvements, which is a violation of legal process and commits the City to build things it
31 may not secure permission to build.
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35 In addition to these general objections, there are property-specific issues raised by
36 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
37 statement below.
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40 **V. Standard of Review**

41 "When considering the assessment roll, the city council sits 'as a board of
42 equalization.'" *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
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1 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
2 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
3 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
4
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6 The proposed assessments are presumed correct, “unless overcome by clear, cogent
7 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
8 than the heightened presumption of correctness on judicial appeal because “applying these
9 elevated standards at the municipal hearing would afford unwarranted deference to a report
10 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
11 presumption is not evidence and its efficacy is lost when the other party adduces credible
12 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
13 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
14 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
15 presented credible evidence showing that the City’s proposed assessment is arbitrary,
16 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
17 to the City to prove the assessments are actual, measurable, special, non-speculative and
18 proportionate. The City failed that burden.
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32 **VI. Grounds for Appeal**

33 Taxpayer appeals the Hearing Examiner’s Findings and Recommendations on the
34 following grounds.
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38 **Taxpayer Not Required to Provide A Special Benefit Study**

39 1. Contrary to the Examiner’s findings and recommendations, there is no
40 requirement that experts or property owners provide an alternative special benefit
41 calculation under these circumstances—to do so would also require the same improper
42 speculation the City’s expert engaged in, given the timing and information provided. *See*,
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1 e.g., Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
2 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
3 explained: “[W]e have explicitly rejected an argument that, because certain protestors ‘failed
4 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
5 assessment] were still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting
6 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
7 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
8 provided expert opinion showing that improvements actually diminished value of the
9 property). In fact, no independent evidence is required at all if, for example, objectors show
10 that the assessment was grounded on a fundamentally wrong basis due to an error in the
11 City’s appraiser’s methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
12 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
13 a property owner could simply point out that the square footage assumed in the City’s
14 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
15 Examiner’s Recommendation: Sections II.12, II.14, IV.A, IV.B.11(a), IV.C.2, IV.C.8, and
16 IV.C.11.

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33 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

34 2. RCW 35.43.040 provides cities and towns authority for ordering local
35 improvements and for levying and collecting special assessments “on property specially
36 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
37 upon all the property in accordance with the special benefits conferred thereon.” RCW
38 35.44.010.
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44 3. No analysis of general benefits. Special assessments have been “held valid
45 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
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1 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
2 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
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4 they are for the construction of local improvements that are appurtenant to specific land and
5
6 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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9 4. Taxpayer’s property is not specially benefited by the LID Improvements.
10
11 The primary purpose and effect of the LID Improvements are to benefit “members of the
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13 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
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15 library is for the benefit of the members of the whole community individually and
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17 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
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19 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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21 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
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23 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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25 that if an appraiser “identifies both general and special benefits, these benefits should be
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27 clearly distinguished and explained, and only special benefits should be included in the
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29 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
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31 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
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33 183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
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35 including those arising from construction necessary to meet basic design standards. *See*
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37 Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
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39 construction costs related to meeting design standards which may be general benefits as
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42 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
43 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
44 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
45 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
46 Taxpayer has attached a master list of the hearing exhibits, filings, and evidence presented as
47 Attachment A to this appeal notice.

1 distinct from construction costs emanating from requirements of the LID project”). To the
2 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
3 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
4 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
5 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
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10 5. LID Improvements not necessary. Unlike typical LID projects, the
11 Waterfront LID improvements are largely unnecessary to the functionality of any particular
12 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
13 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
14 held invalid where owners would have benefitted equally from increase of only 9 feet);
15 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
16 intersection for new water main for hydrant held invalid because land was already afforded
17 functional hydrant at nearby street). Here, Taxpayer testified that the building is fully
18 occupied by the United Way and already has easy access to the waterfront for its employees.
19 3/12/2020 Hrg. Tr. (D. Brown) at 143:20-144:17.
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30 6. The fact that there is no case law differentiating between binary
31 improvements and parks does not change the law prohibiting assessments on properties
32 already adequately served by existing amenities. *See* Examiner’s Recommendation at
33 IV.C.3 (reasoning that “no case law is provided to support the differentiation between a
34 hardscape benefit and the more ephemeral benefits of park”). Nor does the Examiner’s
35 reasoning excuse the City’s failure to account for existing amenities as part of the special
36 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
37 the incremental effect of new park improvements on the value of properties, much like
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1 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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3 (Crompton’s Report) at 12-13.

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5 7. To the extent benefits can be considered “special” as opposed to general, they
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7 are nominal or nonexistent for many properties even in the Central Waterfront, which
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9 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
10 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties’ fair market value did not
11
12 change due to expansion of sewer service *near* owners’ parcel which were already
13
14 connected). Even if the City could assess for a view change (and it has promised not to
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16 assess for viaduct removal), the fair market value of Taxpayer’s property has not changed
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18 because the LID Improvements have not improved the property’s waterfront view or access
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20 to the waterfront, nor will they when the City anticipates completion in 2024. For these
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22 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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24 Sections IV.C.3, IV.B.9, and IV.C.3.

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26 8. No analysis of special detriments. The Final Study fails to properly account
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28 for special detriments. *See Kuskys*, 85 Wn. App. at 501 (city failed to consider the costs to
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30 owners for removal and cleanup of underground storage tanks discovered during the
31
32 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City’s
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34 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
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36 of how lost parking might be a detriment, and no property-specific parking analysis in any
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38 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
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40 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
41
42 Meanwhile, Mr. Brown testified that vehicle access to the building is critical to support
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44 United Way’s various program and parking is already an issue. There is concern that the
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1 LID Improvements and increase in tourism could impact parking availability further.

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3 3/12/2020 Hrg. Tr. (D. Brown) at 142:20-143:10.

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5 9. Likewise, there was no analysis of the risks associated with disamenities such
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7 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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9 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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11 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
12
13 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
14
15 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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17 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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19 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
20
21 the maintenance agreement. *Id.* at 13:4-14:2.

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23 10. There was also no consideration of negative impacts from another four-plus
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25 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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27 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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29 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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31 benefits calculations are inherently speculative, Washington's eminent domain statute
32
33 specifically allows condemnees to postpone special benefits assessments until improvements
34
35 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
36
37 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
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39 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
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41 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
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44

45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 Greenway, the Greenway district “significantly” lagged in value). For these reasons,
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3 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
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5 II.25, IV.B.8, and IV.B.9.

6
7 11. Special benefit estimate is speculative. When calculating a special benefit,
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9 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
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11 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
12
13 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
14
15 P.2d 1078 (1958)).

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17 12. Assuming without conceding that one day, the City’s planned LID
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19 Improvements might increase the value of neighboring properties to some extent, that
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21 potential benefit is many years away and speculative. While appraisers tolerate some degree
22
23 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
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25 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
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27 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
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29 the level of precision implied in the Final Study due to the size of the LID and use of
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31 hypotheticals).

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33 13. Although LIDs are sometimes finalized prior to completion of improvements,
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35 this is typically just six month or a year prior, and the assessments are otherwise supported
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37 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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39 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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41 will not be realized for four or five years. In the meantime, there is permitting risk,
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43 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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45 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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47 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020

1 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
2 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
3 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
4 market value would be as of the date the project would be finally constructed” because
5 “[t]here could be a lot of elements in the market that did occur between now and then that
6 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
7 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
8 fluctuate over time” and “I can’t predict the future”).
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17 14. The record is clear that while no one can know what “special benefit” might
18 accrue to these properties in four years (if any), we do know that there are no actual benefits
19 now. The LID improvements provide no immediate special benefit to property owners
20 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
21 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
22 sewer system for future users).
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29 15. Further, there are no “plans and specifications” on file with the Clerk’s Office
30 for the LID Improvements, and it is unlawful to move to final assessments without such
31 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
32 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
33 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
34 dollars on projects still early in the design process. *See* Washington Attorney General
35 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
36 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
37 of programs and included “only so much of the overall costs” that took place within and
38 benefitted the assessed properties).
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16. The COVID-19 crisis highlights how fundamentally speculative and unfair it would be to base a special benefit assessment on twin 2019 hypotheticals for improvements anticipated to be delivered five years later. Even before COVID, it was speculative to assume that market highs experienced in October 2019¹ would be sustained through 2024, after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was that the market was going to continue to go up.” *Id.* There is no basis for assuming that values hypothesized in October 2019 will remain relevant; they are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and rendered the hypothetical October 2019 Final Study valuations outdated.

17. As another example of how future events could affect the accuracy and reliability of the City's 2019 proposed assessment, Taxpayer recently requested the Hearing Examiner re-open the record to allow the City to explain whether the assessments against property owners within the LID are, in fact, being used by the City to fund the emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use

⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier 58 (Waterfront Park) Emergency Demolition Project, *available at* <https://www.govonlineas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74->; see also Aug. 13, 2020 Ltr. from H. Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,

1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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10 18. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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32 19. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
33 he could not point to a single one where the assessment roll was finalized five years in
34 advance of the anticipated project completion. See 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
35 he has never recommended final special assessments based on designs less than 30 percent
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42 available at
43 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
44 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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5 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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7 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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11 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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13 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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15 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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17 68:11-18.

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19 20. The City has cited no authority—and Taxpayer is aware of none—that
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21 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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23 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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25 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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27 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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29 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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35 IV.C.14, and IV.C.18.

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37 21. Failure to discount special benefit estimates to account for risks and present
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39 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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41 have accounted for risks associated with delivery of the improvements (including permitting
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43 risk, construction risk, general economic risk) and any special damages associated with
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45 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
46
47 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the

1 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
2 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
3 the impact of future conditions [through] discounted cash flow analysis.”).
4

5
6 22. Mr. Macaulay acknowledged that appraisers can discount the value of a
7 future condition not in place at the date of valuation and can discount for the time value of
8 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
9 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
10 Discounting would also have been consistent with his approach for analyzing special
11 benefits to vacant land. He testified that the difference between similarly situated vacant
12 sites slated for development and already developed sites was that the labor, capital and risks
13 associated with development had not yet been borne for those vacant sites. Therefore, the
14 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
15 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
16 fully permitted, has not completed environmental review, and has not reached full design is
17 presently worth significantly less.
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30 23. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
31 present value, an appraiser would consider discount rates for land development to account
32 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
33 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
34 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
35 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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42 24. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley’s
43 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
44 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
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1 Ex. A. Notably, this is lower than the City’s proposed \$171,000,000 assessment. Thus,
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3 ignoring momentarily all of the other methodological and other flaws discussed here and in
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5 Taxpayer’s case-in-chief, and assuming that the LID Improvements provide special benefits
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7 as soon as they are complete in 2024, Mr. Macaulay’s hypothetical assessment materially
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9 exceeds special benefits when reduced to present value. Further, to the extent the City is
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11 arguing that because they are permitted to assess 100% of the special benefit, the special
12
13 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
14
15 is again wrong. After applying proper discounting, the City’s proposed special benefit
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17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
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19 100% of the total estimated special benefit.

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21 25. But even the assumption that the LID improvements would deliver benefits
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23 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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25 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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27 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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29 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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31 indicates that during the construction period, the Greenway district “significantly” lagged in
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33 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
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35 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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37 30-31 (discussing New York City High Line and San Francisco Embarcadero
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39 improvements). Given the lengthy delay, any prediction of future special benefits is
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41 speculative, especially during the construction phase where values are likely to decline.
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43 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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45 Improvements take a similarly long period of time after they are complete to start producing
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47 tangible property value benefits, each additional year of delay results in further discount to

1 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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3 A.

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5 26. Applying the same discounting methods described above and in Mr. Gibbons
6 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
7 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
8 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
9 100% revised assessment should be no more than \$19,687. Anything more would permit
10 the City to assess Taxpayer based on a hypothetical assumption that these improvements are
11 in place and providing benefit, and ignore the risks, construction disamenity, and time value
12 of money that normal appraisal principles would take into account. *Id.*, ¶ 20.
13
14 Proportionality would counsel that the assessment should be only 39.2% of that assessment
15 cap, or \$7,717.
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18 27. Attachment C includes two Excel spreadsheets applying these discounting
19 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
20 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
21 demonstrates that discounting the City's hypothetical October 2019 special benefits to
22 present value would reduce Taxpayer's assessment to \$28,096, exclusive of any other flaws
23 in the City's proposed assessment. The second spreadsheet shows even more drastic
24 reductions after taking into account: (1) Taxpayer's experts' estimated "Before" value based
25 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
26 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
27 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
28 the time it takes for the improvements to capture property value). After such reductions,
29 Taxpayer's assessment would be just \$16,798 (for the 5-year discount) or \$4,616 (for the
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1 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
2 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
3 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
4 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
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9 **Appraisal and Assessment Calculation Methods Are Flawed**

10 28. The "general rule is that each lot, piece, or parcel of land should be assessed
11 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
12 Wn.2d at 97.
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16 29. It is proper to sustain a challenge to an assessment, even without the appraisal
17 testimony from the owner, where the objector's expert establishes that the assessment was
18 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
19 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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23 30. The City's appraiser purports to utilize the comparable sales method of
24 valuation, but no City witness attempted "to characterize any one, or all of them, as
25 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
26 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
27 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
28 characterize any one, or all of them, as comparable to any particular property within the LID").
29 And no City witness could explain how specific adjustments were made to these sales to
30 account for value increases due to the hypothesized Before and After Improvements. For this
31 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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42 31. Special assessment improperly includes value lift from the Before
43 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
44 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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1 Improvements, which WSDOT had independently committed to fund. However, Mr.
2
3 Macaulay did not calculate the actual market value of LID properties in October 2019, and
4
5 did not separately analyze the hypothetical increase to property values attributable to
6
7 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
8
9 current value and then separately calculate a hypothetical "With WSDOT" Before value);
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11 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
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13 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
14
15 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
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17 documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
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19 occupancy and rates would have been for the commercial properties assuming all of the
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21 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
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23 outright omission precludes any independent evaluation of the true market "Before" values.
24
25 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
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27 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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29 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
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31 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
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33 other road, pedestrian and landscaping improvements WSDOT had already committed to
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35 make.

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37 32. However, because Mr. Macaulay testified that he did include some WSDOT-
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39 related value-lift in the "Before" values, it follows that part of the special assessment
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41 improperly is based on value attributable to the WSDOT Improvements. As shown by
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43 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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45 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
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47 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%

1 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
2 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
3 to properly exclude the value of Before Improvements from the assessments. For these
4 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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6 Sections II.19, II.29, and IV.B.11(a)(ii)
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10 33. Special benefits were assigned rather than measured. Mr. Macaulay
11 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
12 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
13 Shorett) Hrg. Tr. at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13.
14 Based on formulas in spreadsheets that Mr. Macaulay used to analyze the commercial
15 properties, Taxpayer's experts concluded that Mr. Macaulay based adjustments on
16 hypothesized very small increases to land value. Attachment B (ABS Spreadsheet). These
17 micro adjustments were based on "professional judgment" that are neither shown nor
18 replicable.
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28 34. For these reasons, Taxpayer appeals the following portions of the Examiner's
29 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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32 35. Special benefit falls within margin of error. The Final Special Benefit Study
33 applies an estimated value enhancement of less than 4%, which is generally within the
34 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
35 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
36 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
37 of one another, this difference is considered reasonable as it falls within the standard margin
38 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
39 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
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1 percentages fall far below that 5% margin, “there is no way of authenticating” such
2 incremental changes because “[m]arket forces completely obliterate any tiny little noise
3 factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
4 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25.
5
6 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
7
8 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
9
10 appraiser to discern the micro-value differences between hypothetical conditions that are so
11
12 similar (the WSDOT improvements compared to the LID improvements) “verges on being
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14 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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18 36. Even if it were possible to accurately tease out such a miniscule hypothetical
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20 value change due to improvements coming five years later, experts testified that there is no
21
22 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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24 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (P. Shorett) Hrg. Tr. at
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26 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at 88:21-88:24 (“you cannot measure one percent
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28 difference in a high-rise building for this kind of a medium ... it’s simply assigned to a
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30 before value”). For these reasons, Taxpayer appeals the following portions of the
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32 Examiner’s Recommendation: II.27 and IV.B.4.
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35 37. No analysis of value increase attributable to individual components of the
36
37 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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39 percentage difference between hypothetical Before and After conditions. Throughout his
40
41 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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43 descriptions in the Addenda even though he testified that he relied on these to calculate
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45 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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47 someone might be able to determine how he attributed value to After conditions described in

1 the Addenda, he answered that that was “not the scope of the assignment” because he was
2 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
3 that the six components were not actually a continuous project, that he was viewing them
4 together because the City asked him to, and that if he were to view them independently,
5 there was a low probability that properties in the north would specially benefit from
6 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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12 38. Not only did he fail to analyze benefits from each of these non-contiguous
13 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
14 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
15 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
16 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
17 objectives that guided regulators’ assessment of architectural plans for buildings along a
18 “signature street” were so vague that they amounted to ad hoc review based on the
19 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
20 even though he used the renderings as “visual aid[s] in appraising the property in the before
21 and after” to “visually see what the differences would be,” he could not explain what
22 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
23 when shown a rendering of a two-lane road going down to one-lane in the After condition
24 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. See RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
2 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
3 could explain the depiction of the same trees in the After condition nearly twice as tall as in
4 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
5 of the Examiner’s Recommendation: II.27 and IV.B.4.
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10 39. Special assessment is not supported by comparable studies, data or reports.
11 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
12 that the LID Improvements will lead to meaningfully increased real estate values for
13 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
14 comparable sales or information from the “over twenty-five studies and reports” to arrive at
15 very precise special benefit increases for the commercial properties, including Taxpayer’s
16 property. For example, although Mr. Macaulay stated that no single report or study was
17 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
18 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
19 parcel-by-parcel analysis other than to say that the studies generally provided “some
20 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
21 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
22 similarities and differences between these improvements and the comparable parks he
23 looked at).
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38 40. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
39 assignment of incremental increase of 0.5% to 4% to property values within the LID.
40 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
41 research misinterprets his work in critical ways, including because the LID Improvements
42 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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1 a *park*'s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
2 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
3 related value increases are in fact smaller; that estimated increases are "best guesses" rather
4 than predictions of property value increases in a particular city; and that percentages do not
5 account for diminishing returns after taking into account water views, which would be the
6 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
7 topography grants most properties in downtown a water view.
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15 41. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
16 that this was just one source of information that was not entirely relevant because, among
17 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
18 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
19 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
20 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
21 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
22 Crompton concluded that 500 feet via road from "park" improvements is just one or two
23 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
24 significantly beyond that which the park study indicated (even if it was legitimate to use the
25 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
26 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
27 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
28 Taxpayer's property is not within 500 road network feet from the "park" improvements. *See*
29 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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44 42. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
45 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
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1 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
2 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
3 materials, it was clearly an important—if not *the* most important—source of information for
4 estimating special benefits (especially with respect to the condos).⁷ No City witness
5 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
6 parcel-by-parcel analysis.
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12 43. The destination parks discussed in the Final Special Benefit Study do not
13 provide reliable, comparable, and valid support for the calculation of special assessments
14 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
15 critique of every case study cited concludes the changes to those “dwarf the difference
16 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
17 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
18 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
19 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
20 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
21 funded by a LID. And in virtually all of those cases, the park improvements dramatically
22 restored unimproved or blighted areas, and properties evaluated were within two or three
23 blocks of the park.
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36 44. ABS’s claimed reliance on three economic studies to support property value
37 increase is also flawed. The HR&A study does not inform what value increases are
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 expected from the LID Improvements because it projects increases to tourism from *all* of the
2 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
3 dissimilar parks in other cities,⁸ making the methodological application to the LID
4 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
5 conclusion that there would be *no new net visitors* from downtown residents as a result of
6 the LID Improvements and could not explain how this impacted his condo analysis.
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8 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
9 Property Values" primarily focused on whether the benefits accrue to the larger community
10 rather than properties adjacent to the park. And the 2014 New York City Department of
11 Transportation study is not based on real estate transactions and market sales and fails to
12 substantiate any link between increased retail sales and property values. Moreover, this
13 study only looked at impact either directly abutting the streetscape improvement, or a couple
14 hundred feet for plaza-like improvements.
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17 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
18 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
19 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
20 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
21 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
22 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
23 asked whether he considered that HR&A's estimated LID impact is six times greater than
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⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated expected tourists visiting the LID park was calculated using data from only from New York City, a notorious tourist destination.

1 TLP's assessment of Seattle's entire park system, he surmised that it was because the
2 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
3 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
4 assumptions to account for this difference, which may be partly explained by the fact that
5 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
6 approximately 3.44% of King County tourists visit Seattle primarily because of the city
7 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
8 waterfront improvements.

16 46. Although proximity to the improvements is a key factor in all of these
17 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
18 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
19 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
20 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
21 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
22 Improvements is approximate 20 acres and it is not a community park.⁹

30 47. There is no explanation in the Final Study or the supporting materials of how
31 the studies or comparable sales were used to derive values for Taxpayer's property. For
32 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
33 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

38 48. Failure to comply with USPAP. Taxpayer's assessment also rests on a
39 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
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43 ⁹ *See*
44 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
45 connecting Seattle's central waterfront to downtown.").

1 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
2 recognized) for developing the MAI standards for mass appraisals, testified that the Final
3 Study does not meet mass appraisal standards nor allow for independent assessment of the
4 accuracy of Mr. Macauley's conclusions.
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9 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
10 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
11 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
12 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
13 testimony suggests that he incorrectly believed that the only difference between direct
14 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
15 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
16 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
17 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
18 Gordon uses in doing his limited restricted report").
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23 50. But the difference is not only in reporting—mass appraisal techniques must
24 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
25 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
26 parcel approach:
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37 The mass appraisal technique is an appraisal method used to evaluate
38 a group of properties that are subject to similar market forces as of a
39 certain date through the use of market data, statistical analysis and
40 testing. As a result, the mass appraisal technique does not require or
41 involve analysis of each individual property's specific data.
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43 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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1 51. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
2 universe of properties as a given date using standard methodology, employing common data,
3 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
4 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
5 model” is “a mathematical expression of how supply and demand factors interact in a
6 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
7 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
8 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
9

10 52. Regardless of client direction, Mr. Macaulay is required to comply with
11 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
12 economically feasible because it would have taken “an incredible amount of time and cost”
13 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
14 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
15 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
16

17 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
18 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
19 value, fails to calibrate the model structure to determine the contribution of the individual
20 characteristics affecting value, and does not review the mass appraisal results against actual
21 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
22 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
23

24 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
25 relationship between characteristics that affect value, and to calibrate that model to specify how
26 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
27 21). The purpose is to rationally determine what characteristics will create value, and by how much.
28 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
29 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
30

1 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
9 values were hypothetical, it was not possible to identify matched pair sales and no City
10 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
11 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
12 requires him to explain his model structure.
13
14

15 55. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
19
20

21 56. Finally, Taxpayer’s property is not appurtenant—or even in close
22 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
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41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See USPAP Standard 6: Mass Appraisal, Reporting* at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See 3/3/2020 (R. Scott)*
47 Hrg. Tr. at 206:15-207:17.

1 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
2 property is not even within 500 road network feet from the core “park” improvements. And,
3 as described above, the special assessment is overstated because the Final Study makes no
4 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
5 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
6 improvements were not in in place—and, in fact, much of the waterfront is a construction
7 zone following removal of the viaduct and now Pier 58 demolition. Under these
8 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
9 Mr. Macaulay at the very least should have discounted the special benefit estimates or
10 waited to perform the Study until the improvements were at least close to complete.
11

12 **Erroneous Pre-Improvement Valuation**

13 57. The proposed final assessment erroneously overstates the pre-improvement
14 value of Taxpayer’s property as of October 1, 2019 and, as a result, overstates the special
15 benefit to the Taxpayer’s property.
16

17 58. The City’s Final Study was used to compute the proposed final assessment of
18 Taxpayer’s property. The City’s Study purportedly uses data from the King County
19 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
20 Study does not accurately reflect this data. For example, the City’s Study values United
21 Way of King County’s property at \$24,019,000 as of October 1, 2019. However, the King
22 County assessor determined the true and fair value of the property to be \$20,325,900, valued
23 in 2019 for tax year 2020. In other words, the Final Special Benefit Study’s valuation is
24

25 ¹¹ See, e.g., Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
26 (providing a “County Link” to the King County Department of Assessment’s online “eReal
27 Property” search tool).
28

1 118% of King County's assessed value. The Final Special Benefit Study does not explain
2 this difference—or any differences—between its pre-improvement valuation and its
3 supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the
4 Examiner's Recommendation.
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8 59. Further, the City's analysis was based on unreliable market data. Testimony
9 presented by Taxpayer showed that the building is encumbered by development restrictions
10 that were not considered by Mr. Macaulay when conducting the final benefit study and
11 appraisal. Mr. Macaulay has since conceded that his valuations were incorrect and the City
12 submitted a revised assessment for this property. *See* 6/23/2020 Hrg. Tr. at 7:7-18.
13 However, thus far Taxpayer has not seen or received any information supporting or
14 otherwise explaining the revised assessment amount.
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22 60. Taxpayer expects an opportunity to respond to the revised (*see* Examiner's
23 Recommendation at V) and appeals the remainder of the Examiner's Recommendation to
24 the extent it rejects Taxpayer's other bases for reducing the assessment.
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29 **Erroneous Computation of Special Benefit**

30 61. "Special benefit" is "the increase in fair market value attributable to the local
31 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
32 may receive by reason of the improvement is not measured alone by the physical character
33 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
34 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is
35 the particular tract or property benefited by the entire improvement, and is it assessed
36 proportionately with the other property included within the assessment district?" *Id.* 165–
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45 66.
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1 62. The proposed final assessment erroneously overstates the special benefit of
2 LID improvements in a number of ways.
3

4 63. Spreadsheets show arbitrary assignment of special benefit. For the United
5 Way building, Mr. Macaulay assumed land value would increase by \$25.50 per square foot.
6 This is an increase of 1.5% due to the LID Improvements.
7
8

9 64. Mr. Macaulay offered little justification for his micro adjustment. There is
10 nothing in the report to allow a reader to understand how he came up with these percentages.
11 6/23/2020 Hrg. Tr. at 112:24-113:3. And there is no model or equation that he relied on—
12 again, just his “judgment.” *Id.* at 113:4-6. Although Mr. Macaulay claims that the
13 spreadsheets explain the basis for his belief that certain factors—liked increased
14 connectivity—will increase property values (*id.* at 50:7-25), he could not explain how he
15 went from general principles to very specific percentage adjustments in the spreadsheets. *Id.*
16 at 115:10-24. Thus, he has not rebutted Taxpayer’s expert’s conclusion that the adjustments
17 are arbitrary and fall below generally accepted margins of error, and that there is no actual,
18 measurable, non-speculative special benefit to Taxpayer’s properties. *See* 3/12/2020 Hrg.
19 Tr. (P. Shorett) at 49:4-50:4.
20
21

22 65. Mr. Macaulay testified that he used comparable sales as a reasonableness
23 check for commercial properties. But as explained above, no City witness has explained
24 how anyone, or all, of the sales are comparable to any particular commercial property within
25 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
26 in order to make sales “comparable,” he would have had to make adjustments to account for
27 Before and After conditions, but there is no way to understand how adjustments were made
28 because he “didn’t do a separate sales comparison approach where we showed adjustments
29 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
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1 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”

2
3 *Id.* at 127:10-128:24.

4
5 66. It also bears noting that any “internal review” of the special benefit estimates
6
7 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
8
9 error. Indeed, given all the same information, he seemed to suggest that it would be
10
11 perfectly reasonable for another experienced appraiser to come up with special benefit
12
13 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
14
15 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
16
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18
19 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
20
21 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
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23 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
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25 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
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27 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
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29 special because it is arbitrarily assigned; and it is too small to realistically be supported by
30
31 appraisal techniques.

32
33 67. No evidence of special benefit. Meanwhile, there is “no actual evidence from
34
35 any seller or purchaser that the price was higher because of the LID improvements.”
36
37 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
38
39 identified any seller or buyer, or any particular property where the existence of the LID
40
41 improvements had an effect on the market price.” *Id.* at 410-11. Taxpayer has explained
42
43 that the property has not increased rental rates due to the forthcoming LID Improvements,
44
45 because, among other reasons, the improvements ABS believes will generate value do not
46
47 exist, and will not for a number of years to come. There are no comparable sales because

1 the LID Improvements are not in place, nor will they be until the end of 2024 if completed
2 on schedule.
3

4
5 68. The fair market value of Taxpayer's property has not changed due to
6 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
7 benefited from installation of new water main and fire hydrant where it was already
8 adequately supplied with water and afforded adequate fire protection). And in any event,
9 any value attributable to removal of the viaduct was to be excluded from the assessment
10 calculation.
11

12
13 69. There is no special benefit because LID improvements may in fact diminish
14 the value of Taxpayer's property by, for example, limiting vehicle access to the building and
15 decreasing parking availability. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert
16 that LID actually diminished value of property was sufficient to rebut presumption that
17 assessment was proper).
18

19
20 70. Moreover, the assessment formula is an attempt to distribute costs that do not
21 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
22 "merely a mathematical model that distributes costs").
23

24
25 71. The Special Benefit Study fails to address whether the \$346,000,000
26 estimated LID project cost takes into account the investment that would have occurred in the
27 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
28 invested. This is a critical component of estimating which properties receive a direct benefit
29 from the improvements, versus more incidental benefits further from the park.
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32 72. The proposed revised final assessment substantially still exceeds the special
33 benefit to the property and is grossly disproportionate to similarly situated properties within
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1 the LID. For these reasons, Taxpayer appeals the following portions of the Examiner's
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3 Recommendation: Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

4
5 **State Environmental Policy Act and Other Environmental Permitting**

6
7 73. While this appeal is not challenging the City's environmental review and
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9 permitting processes, those processes are relevant in determining the legality of the
10
11 assessments, and to assessing the delivery risk, the present value of the City's plans, and
12
13 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
14
15 pursue projects that have not yet undergone environmental review (thus limiting the choice
16
17 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
18
19 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
20
21 is just beginning. Further, the City has segmented environmental review, and still has a
22
23 gauntlet of federal, state and tribal review processes to complete before it will be clear what
24
25 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
26
27 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
28
29 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
30
31 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
32
33 committing to reconstruction of Pier 58 and major street improvements without
34
35 environmental review, or the City's Final Special Study has improperly included and is
36
37 proposing to assess the Taxpayer the costs and special benefits of improvements that may
38
39 not get built. Either way, it is faulty process.

40
41 **Due Process Rights**

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43 74. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
44
45 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
46
47 Because LID assessments involve a deprivation of property, affected owners have the right

1 to a hearing as to whether the improvement resulted (or will result) in special benefits to
2 their properties and whether their assessments are proportionate, which necessarily includes
3 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
4 555, 569–70, 229 P.3d 761 (2010).
5
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7

8 75. The LID statute specifies that cities must mail notices giving the time and
9 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
10 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
11 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
12 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
13 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
14 secure their own appraisal), evaluate proportionality of the proposed assessments, and
15 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
16 for anybody to get an appraisal”).
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26 76. The City’s Notice of Assessment was sent on December 30, 2019. And the
27 Final Special Benefit Study has only been available for public review since January 7, 2020.
28 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
29 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
30 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
31 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
32 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
33 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
34 the Examiner’s Recommendation: I.B.
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45 **VII. Relief Requested**

46 Taxpayer respectfully requests that the City Council:
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- 1 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
2 assessment dated December 30, 2019; or
3
- 4 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final
5 assessment to \$0 (zero), or such amount as Taxpayer establishes at the hearing in this
6 matter; or
7
- 8 3. Grant the Examiner's recommended remand but with instructions recalculate and
9 reduce Taxpayer's assessment using recognized appraisal techniques consistent with
10 USPAP and:
11
 - 12 a. Excluding any property value increase attributable to viaduct removal and
13 other planned WSDOT Improvements;
14
 - 15 b. Taking into account the effects of the COVID-19 pandemic on the value of
16 Taxpayer's property and other relevant developments since October 2019;
17
 - 18 c. Accounting for and excluding (1) any special benefits from existing or
19 planned improvements that already provide similar benefits to Taxpayer's
20 property, and (2) any special detriments from construction and other
21 anticipated LID-related disamenities;
22
 - 23 d. Accounting for and including only those actual benefits anticipated to accrue
24 to Taxpayer's property based on its location relative to Pier 58, Overlook
25 Walk, and the Promenade, and specific elements of the LID Improvements;
26
 - 27 e. Discounting anticipated special benefits to present value, based on reliable
28 estimates regarding when special benefits will start accruing following
29 completion of the LID Improvements; and
30
 - 31 f. Accounting for such other issues specific to Taxpayer's property relevant to
32 calculation of such assessment; and
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1 3. Grant such further relief as the City Council deems just and proper.
2

3 DATED: September 22, 2020
4

PERKINS COIE LLP

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8
9 By: 

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29 Attorneys for United Way of King County
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4:33 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0417
Date: Tuesday, February 16, 2021 4:01:11 PM
Attachments: [Amended LID Appeal before City Council CWF 0417 United Way.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Amended LID Appeal before City Council CWF 0417 United Way.pdf

Kimball Mullins | Perkins Coie LLP

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0417

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON UNITED WAY
OF KING COUNTY’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0939000240

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33
34 United Way of King County (“Taxpayer”) files this amended appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
36 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
37
38 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
39
40 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
41
42 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
43
44 Recommendation issued February 1, 2021.
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47

1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 United Way of King County
6 720 2nd Ave., Seattle, WA 98104
7

8 **II. Taxpayer's Representatives**

9
10 United Way of King County's representatives in this matter are:

11
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20
21 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

22 United Way of King County owns the property that is subject to the proposed final
23 assessment described in Section IV.
24

25
26 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
27 include additional arguments relevant to the revised Final Recommendations of the Hearing
28 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
29 objection to the assessment, which was based on the Final Study. Taxpayer further timely
30 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
31
32 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
33 with the City Clerk on September 22, 2020. This amendment is a supplement and is to be
34 read together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates
35 by reference all filings, evidence, and pleadings filed by any party before the Hearing
36 Examiner as authorized by the Hearing Examiner, including without limitation all records
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1 pertaining to the November 2020 through February 2021 remand hearing ordered by
2 Council.
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5 **IV. Amended Arguments on Appeal**

6 United Way of King County supplements its appeal of the Hearing Examiner's
7 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
8 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
9 the following property:
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13

14 King County Parcel No. 0939000240
15 Site Address: 720 2nd Ave., Seattle, Washington 98104
16 Proposed Final LID Assessment for Parcel: \$139,097
17 Revised Final LID Assessment for Parcel: \$81,928
18

19 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
20 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
21 amended appeal.
22
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24

25
26 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
27 **Discounted to Present Value and Assessments Adjusted as Appropriate**
28

29 On remand, the City's appraiser acknowledged that special benefits to parcels can be
30 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
31 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
32 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
33 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
34 the theatre parcel is too remote to support a current assessment. *Id.* The Examiner accepted
35 that recommendation. The City's appraiser further acknowledged that benefit reductions
36 due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined by
37 discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
38 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
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1 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
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3 calculations to present value because the general benefits are not anticipated from the LID
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5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8
9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
10
11 benefit calculation, and related assessments, to account for the delay between the assessment
12
13 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
14
15 standard appraisal practice, and renders the other proposed Waterfront LID special
16
17 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
18
19 “fundamentally wrong methods.”

20
21 All special benefit taxes assessed by a municipality must be based on “actual,
22
23 physical and material [special benefits that are] not merely speculative or conjectural.”
24
25 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
26
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
28
29 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
30
31 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
32
33 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
34
35 discount benefits the City estimated would accrue to the properties from improvements to be
36
37 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
38
39 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
40
41 property while treating all or most others (including Taxpayer’s) differently, and
42
43 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
44
45 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
46
47 for some properties because the benefit are too distant, while assessing other properties as

1 though distant benefits have already been secured. As Taxpayer identified in its September
2
3 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
4
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8
9 reject the improper calculation of the benefit or remand and require the appraiser to discount
10
11 the benefits to net present value.
12

13 **B. In Light of Covid's Continuing Impact on United Way and other**
14 **Material Changes Since October 2019, the LID Should be Cancelled, or**
15 **at Least Assessments Recalculated, to take Into Account Property Value**
16 **Reductions**

17
18 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
19
20 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
21
22 other relevant developments since October 2019." When Washington's first COVID
23
24 restrictions were imposed in March and April 2020, there was an assumption that they
25
26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
27
28 II" but many of the City's businesses and its citizens are still struggling through the
29
30 difficulties of the pandemic. In current circumstances, a downtown tax to fund new, non-
31
32 essential park improvements against United Way of King County will impose additional
33
34 burdens on the organization which is dedicated towards fighting homelessness, helping
35
36 students, and breaking the cycle of poverty. Instead, United Way of King County
37
38 respectfully requests that the City dissolve the assessment, at least until it (and property
39
40 owners) have a chance to recover, and that any assessment take into account the changed
41
42 circumstances since this appeal process started on February 4, 2020.
43
44
45
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47

1 **V. Relief Requested**

2 Particularly in light of the Committee's decision not to take further comment from
3 appellants, Taxpayer respectfully request that each Committee member carefully review the
4 full record transmitted to Council before voting on Taxpayer's appeal.
5
6

7 United Way of King County respectfully reiterates its request from the September
8
9 22, 2020 appeal that the City Council:
10

- 11 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
12 assessment dated December 30, 2019; or
13
- 14 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final
15 assessment to \$0 (zero), or such amount as Taxpayer establishes at the hearing in this
16 matter; or
17
- 18 3. Grant the Examiner's recommended reduction on remand but reduce Taxpayer's
19 assessment using recognized appraisal techniques consistent with USPAP and:
20
21
 - 22 a. Excluding any property value increase attributable to viaduct removal and
23 other planned WSDOT Improvements;
24
 - 25 b. Taking into account the effects of the COVID-19 pandemic on the value of
26 Taxpayer's property and other relevant developments since October 2019;
27
 - 28 c. Accounting for and excluding (1) any special benefits from existing or
29 planned improvements that already provide similar benefits to Taxpayer's
30 property, and (2) any special detriments from construction and other
31 anticipated LID-related disamenities;
32
 - 33 d. Accounting for and including only those actual benefits anticipated to accrue
34 to Taxpayer's property based on its location relative to Pier 58, Overlook
35 Walk, and the Promenade, and specific elements of the LID Improvements;
36
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- 1 e. Discounting anticipated special benefits to present value, based on reliable
2 estimates regarding when special benefits will start accruing following
3 completion of the LID Improvements; and
4
5
6 f. Accounting for such other issues specific to Taxpayer's property relevant to
7 calculation of such assessment; and
8
9
10
11 4. Grant such further relief as the City Council deems just and proper.
12
13
14
15
16

17 DATED: February 16, 2021

PERKINS COIE LLP

18
19
20 By:

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38 Attorneys for United Way of King County
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3:00 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0418
Date: Tuesday, September 22, 2020 2:35:49 PM
Attachments: [CWF-0418.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0418.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0418
A – Master List of Evidence
B – D-245 Renaissance
C – Discounting for CWF-0418
CWF-0418 Appeal Notice for Renaissance Hotel

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Renaissance Hotel Seattle

Map Nos.	D-245
Tax Parcel Nos.	094200-0430
Property key:	7818
Address	515 Madison Street
Zoning:	DOC1 U/450/U
Proximity to park	1,900± feet to park (via Madison), 12-minute walk
Ownership	Madison Hotel, LLC
Description:	21,600 SF site on the northeast corner corner of 5th Avenue and Marion Street (a Avenue and Madison Street), zoned DOC1 U/450/U, improved with a 557-room h parking structure.

INCOME ANALYSIS Before	Year Built	1983
	Rooms	557
	Parking	140

Revenues

Occupancy rate: 80.0%

Occupied rooms: 162,644

Revenues

Room revenue	162,644	occupied rooms @	\$300.00	per occupied roo
Food & beverage revenue	162,644	occupied rooms @	\$35.00	per occupied roo
Parking & other income	51,100	occupied rooms @	\$57.00	per occupied roo
Total revenues				
Less: Departmental expenses				
Rooms	162,644	occupied rooms @	29.0%	of room revenue
Food & beverage	162,644	occupied rooms @	79.0%	of food & bevera
Parking & other	162,644	occupied rooms @	50.0%	of parking & oth

Total departmental expenses

Total departmental net income

	<u>GBA</u>	<u>NRA</u>		
Retail rental income	0	0	SF NRA @	\$0.00
Basement office rental income	0	0	SF NRA @	\$0.00
Other rental income	0	0	SF NRA @	\$0.00
Total Bldg Area & Gross Income	427,472	331,281	SF NRA @	\$112.58

Less: Undistributed expenses

Admin, marketing, utilities, maintenance, insurance @		\$20,000	per available room
Franchise fees @	7.5%	of room revenue	
Management fee @	3.0%	of total revenue	
Real estate taxes			
Replacement reserve @	4.0%	of total revenue	
Total undistributed expenses			
Total operating expenses	70.3%	of total revenue	

Net operating income

Indicated Value

Land Value			
	21,600	SF @	\$1,850.00
Residual Improvements	331,281	SF NRA @	\$565.27
	427,472	SF GBA @	\$438.07

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,850.00	\$39,960,000	\$187,264,000	N/A
With LID				
Scenario A1	\$1,859.25	\$40,160,000	\$187,656,000	0.21%
Scenario A2	\$1,859.25	\$40,160,000	\$188,841,000	0.84%
Scenario B1	\$1,859.25	\$40,160,000	\$188,896,000	0.87%
Scenario B2	\$1,859.25	\$40,160,000	\$187,671,000	0.22%
Percent change in land value	0.50%		average \$188,266,000	0.54%
Summary				
Without LID	\$1,850.00	\$39,960,000	\$187,264,000	N/A
With LID	\$1,859.25	\$40,160,000	\$188,200,000	0.50%

Renaissance Hotel Seattle

Scenario A - Rate and Vacancy Changes

ind southeast corner of 5th
otel built in 1983, with 140-stall

		INCOME ANALYSIS After				Year Built	1983
		Revenues					
		Revenues					
m	\$48,793,200	Room revenue					
m	\$5,692,540	Food & beverage revenue					
m	\$2,912,700	Parking & other income					
		Total revenues					
		Less: Departmental expenses					
		Rooms				29.0%	of room revenue
		Food & beverage				79.0%	of food & beverage
		Parking & other				50.0%	of parking & other
		Total departmental expenses					
		Total departmental net income					
						<u>GBA</u>	<u>NRA</u>
		Retail rental income				0	0
		Basement office rental income				0	0
		Other rental income				0	0
		Total Bldg Area & Gross Income				427,472	331,281
		Less: Undistributed expenses					
		Admin, marketing, utilities, maintenance, insurance @					
		Franchise fees @				7.5%	of room revenue
		Management fee @				3.0%	of total revenue
		Real estate taxes					
		Replacement reserve @				4.0%	of total revenue
		Total undistributed expenses					
		Total operating expenses					
		Net operating income					
		Indicated Values					

Capitalized @	7.50%
Indicated value	\$227,223,608
(R) \$227,224,000	
Per SF NRA	\$685.90
Per room	\$407,943
<hr/>	
per SF =	\$39,960,000
per SF =	\$187,264,000
<hr/>	

<hr/>	
Land Value	
	21,600
Residual Improvements	
<hr/>	
Special Benefit Summary	

Total			
Estimated Value	Special Benefit	% Change	
\$227,224,000	N/A	N/A	
Per Room			
\$227,816,000	\$592,000	0.26%	\$1,063
\$229,001,000	\$1,777,000	0.78%	\$3,190
\$229,056,000	\$1,832,000	0.81%	\$3,289
\$227,831,000	\$607,000	0.27%	\$1,090
\$227,224,000	N/A		
\$228,360,000	\$1,136,000	0.50%	\$2,039

Renaissance Hotel Seattle
Scenario B - OAR Changes

			Low	High
Occupancy rate:			80.00%	80.00%
Occupied rooms:			162,644	162,644
	<u>Per Room</u>	<u>Per Room</u>	0.15%	0.45%
	\$300.45	\$301.35	\$48,866,390	\$49,012,769
	\$35.05	\$35.16	\$5,701,079	\$5,718,156
	\$57.09	\$57.26	\$2,917,069	\$2,925,807
			\$57,484,538	\$57,656,733
je revenue			(\$14,171,253)	(\$14,213,703)
r income			(\$4,503,852)	(\$4,517,344)
			(\$1,458,535)	(\$1,462,904)
			(\$20,133,640)	(\$20,193,950)
			\$37,350,898	\$37,462,783
	<u>Per SF</u>	<u>Per SF</u>		
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$112.75	\$113.08	\$37,350,898	\$37,462,783
\$20,000 per available room			(\$11,140,000)	(\$11,140,000)
			(\$3,664,979)	(\$3,675,958)
			(\$1,724,536)	(\$1,729,702)
			(\$1,435,804)	(\$1,435,804)
			(\$2,299,382)	(\$2,306,269)
			(\$20,264,701)	(\$20,287,733)
			(\$40,398,341)	(\$40,481,683)
			\$17,086,197	\$17,175,050

INCOME ANALYSIS After	
Potential Gross Income	
Revenues	
Room revenue	
Food & beverage revenue	
Parking & other income	
Total revenues	
Less: Departmental expenses	
Rooms	
Food & beverage	
Parking & other	
Total departmental expenses	
Total departmental net income	
Retail rental income	
Basement office rental income	
Other rental income	
Total Bldg Area & Gross Income	
Less: Undistributed expenses	
Admin, marketing, utilities, mair	
Franchise fees @	
Management fee @	
Real estate taxes	
Replacement reserve @	
Total undistributed expenses	
Total operating expenses	
Net operating income	
Indicated Values	

Capitalized @	7.50%	7.50%
	\$227,815,959	\$229,000,662
(R) \$227,816,000	\$227,816,000	\$229,001,000
Per SF NRA	\$687.68	\$691.26
Per room	\$409,005	\$411,133
% change	0.26%	0.78%
SF @ \$1,859.25 per SF =	\$40,160,000	\$40,160,000
	\$187,656,000	\$188,841,000
Per SF NRA	\$566.46	\$570.03
	\$592,000	\$1,777,000

0.50%

Land Value
Residual Improvements
Special Benefit Summary

Year Built	1983
162,644 occupied rooms @ \$300.00 per occupied room	\$48,793,200
162,644 occupied rooms @ \$35.00 per occupied room	\$5,692,540
51,100 occupied rooms @ \$57.00 per occupied room	\$2,912,700
	\$57,398,440
29.0% of room revenue	(\$14,150,028)
79.0% of food & beverage revenue	(\$4,497,107)
50.0% of parking & other income	(\$1,456,350)
	(\$20,103,485)
	\$37,294,955
<u>GBA</u>	<u>NRA</u>
0	0
SF NRA @ \$0.00 per SF =	\$0
0	0
SF NRA @ \$0.00 per SF =	\$0
0	0
SF NRA @ \$0.00 per SF =	\$0
427,472	331,281
SF NRA @ \$112.58 /SF	\$37,294,955
Maintenance, insurance @ \$20,000 per available room	(\$11,140,000)
7.5% of room revenue	(\$3,659,490)
3.0% of total revenue	(\$1,721,953)
	(\$1,435,804)
\$0.04 of total revenue	(\$2,295,938)
	(\$20,253,185)
	(\$40,356,669)
	\$17,041,771
	Low
	High

Capitalized @				7.44%	7.48%
Indicated Value				\$229,056,056	\$227,831,158
(R) \$229,056,000				\$227,831,000	
Per SF NRA				\$691.43	\$687.73
Per room				\$411,232	\$409,032
% change				0.81%	0.27%
21,600 SF @ \$1,859.25 per SF =				\$40,160,000	\$40,160,000
				\$188,896,000	\$187,671,000
per SF NRA				\$570.20	\$566.50
				\$1,832,000	\$607,000

0.50%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0418	Renaissance Seattle Hotel F-UL	515 Madison Street	0942000430

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$1,136,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$152,712

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0418	Renaissance Seattle Hotel F-UL	515 Madison Street	0942000430

	BEFORE	Appraiser	Value	
A	Final City Before Value	City	\$227,224,000	
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$200,700,000	excludes personal property
C	COVID 19 Discount and value		-12.5%	
D				
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$175,612,500	

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$1,136,000		
H/A	As Percentage of Final City Before Value	0.500%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$877,970		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$301,084	\$82,728
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$118,025	\$32,429

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0418

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON MADISON
HOTEL LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0942000430

33
34 Madison Hotel LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070,
35
36 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
37
38 Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
39
40 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
41

42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:
44
45

46 Madison Hotel LLC
47 217 Pine St. Suite 200

1 Seattle, WA 98101
2 Zahoor Ahmed
3 206-624-8909
4 ahmed@rchco.com
5

6 **II. Taxpayer's Representatives**
7

8 Taxpayer's representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
16 Bellevue, Washington 98004
17 Telephone: 425.635.1400
18 Facsimile: 425.635.2400
19

20
21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27
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29
30 **III. Statement of Taxpayer's Interest**
31

32 Madison Hotel LLC is the taxpayer for the property that is subject to the proposed
33 final assessment described in Section IV. This property is the Renaissance Hotel Seattle, a
34 28-story hotel containing 557 guest rooms and 26,781 square feet of meeting space.
35

36 The basis of the proposed assessment is a Final Special Benefit/Proportionate
37 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
38 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
39 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
40 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
41
42
43
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Taxpayer appeals the Hearing Examiner’s recommendation to remand Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 0942000430
34 Site Address: 515 Madison St., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$445,110

36
37 See Examiner’s Recommendation at 61-62, 104. To avoid repetition, Taxpayer incorporates
38
39 the evidence and arguments raised before the Hearing Examiner into this appeal. In
40
41 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
42
43 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
44
45
46
47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4
5 As discussed more fully below, Taxpayer specifically appeals the following Findings
6 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
7
8 Pages 61-62, 104, Sections II.6, II.7, II.12, II.14, II.16, II.17, II.18, II.19, II.20, II.21, II.22,
9 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
10 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
11 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5,
12 IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14, and IV.C.18.
13
14

15 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
16 recommendations on material issues raised during Taxpayer's appeal that were supported by
17 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
18 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
19 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
20 recommended anything other than denial of objectors' appeals were where the City's
21 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
22 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
23 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

23
24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$1,136,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
9

10
11 **Legal Requirement:** Must comply with appraisal standards
12

13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
18
19

20 **Legal Requirement:** Actual and measurable special benefit
21

22 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
23 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
24 on a host of "micro-judgments" that are not supported by any documentation, nor capable
25 of replication or quality assurance/quality control. The assessments are undocumented,
26 unreliable, and not supported by empirical studies, data, or reports.
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29 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
30 supported by empirical evidence
31

32 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
33 value of parks and other public amenities and on whom ABS purported to rely, testified
34 that ABS had completely misapplied his work and dramatically overstated both the
35 distance to which economic benefits might extend from the LID Improvements and the
36 extent of any anticipated benefit within the potentially benefited area.
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40 **Legal Requirement:** Actual special benefit—Must take into account potential
41 disamenities
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43 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
44 construction, as well as other potential disamenities associated with public places.
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1 **Legal Requirement:** Cannot prematurely commit to build

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3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
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11 In addition to these general objections, there are property-specific issues raised by
12 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
13 statement below.
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17 **V. Standard of Review**

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19 “When considering the assessment roll, the city council sits ‘as a board of
20 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
21 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
22 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
23 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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27 The proposed assessments are presumed correct, “unless overcome by clear, cogent
28 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
29 than the heightened presumption of correctness on judicial appeal because “applying these
30 elevated standards at the municipal hearing would afford unwarranted deference to a report
31 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
32 presumption is not evidence and its efficacy is lost when the other party adduces credible
33 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
34 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
35 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
36 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
4

5 **VI. Grounds for Appeal**

6 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
7 following grounds.
8

9 **Taxpayer Not Required to Provide A Special Benefit Study**

10 1. Contrary to the Examiner's findings and recommendations, there is no
11 requirement that experts or property owners provide an alternative special benefit
12 calculation under these circumstances—to do so would also require the same improper
13 speculation the City's expert engaged in, given the timing and information provided. *See*,
14 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
15 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
16 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
17 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
18 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
19 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
20 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
21 provided expert opinion showing that improvements actually diminished value of the
22 property). In fact, no independent evidence is required at all if, for example, objectors show
23 that the assessment was grounded on a fundamentally wrong basis due to an error in the
24 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
25 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
26 a property owner could simply point out that the square footage assumed in the City's
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1 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
2 Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8,
3 and IV.C.11.
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6
7 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
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9 2. RCW 35.43.040 provides cities and towns authority for ordering local
10 improvements and for levying and collecting special assessments "on property specially
11 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
12 upon all the property in accordance with the special benefits conferred thereon." RCW
13 35.44.010.
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18 3. No analysis of general benefits. Special assessments have been "held valid
19 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
20 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
21 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
22 they are for the construction of local improvements that are appurtenant to specific land and
23 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
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27 4. Taxpayer's property is not specially benefited by the LID Improvements.
28 The primary purpose and effect of the LID Improvements are to benefit "members of the
29 whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public
30 library is for the benefit of the members of the whole community individually and
31 collectively who may be served by it"). Mr. Macaulay's own chapter of the LID Manual
32 states clearly that appraisers should "[c]onsider general benefits as well as special benefits"
33 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that "general benefits probably accrue
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46 ² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
47 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil

1 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
2 that if an appraiser “identifies both general and special benefits, these benefits should be
3 clearly distinguished and explained, and only special benefits should be included in the
4 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
6 183:4; *See* P. Shorett January 30, 2020 Appraisal Review (attached to Appeal Petition) at
7 Attachment p. 15 (explaining the examples in the Final Study only provide information
8 about general benefits and Study does not use proper measure of analysis to show special
9 benefits).

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19 5. It is undisputed that Mr. Macaulay did not analyze or measure general
20 benefits, including those arising from construction necessary to meet basic design standards.
21 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
22 construction costs related to meeting design standards which may be general benefits as
23 distinct from construction costs emanating from requirements of the LID project”). To the
24 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
25 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
26 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
27 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
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37 6. LID Improvements not necessary. Unlike typical LID projects, the
38 Waterfront LID improvements are largely unnecessary to the functionality of any particular
39 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
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 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
 Taxpayer has attached a master list of the hearing exhibits and evidence presented as Attachment A
 to this appeal notice.

1 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
2 held invalid where owners would have benefitted equally from increase of only 9 feet);
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4 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
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6 intersection for new water main for hydrant held invalid because land was already afforded
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8 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
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10 not necessary to their hotel business, which caters primarily to business travelers attending
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12 conventions and meetings and visiting Seattle companies. Hrg. Exhibit 114 (Decl. of Z.
13
14 Ahmed) at ¶¶ 31, 38, 39. For this reason, the Renaissance Hotel does not expect the LID
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16 Improvements to increase impact on demand for rooms or room rates. *Id.*

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18 7. The fact that there is no case law differentiating between binary
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20 improvements and parks does not change the law prohibiting assessments on properties
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22 already adequately served by existing amenities. *See* Examiner's Recommendation at
23
24 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
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26 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
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28 reasoning excuse the City's failure to account for existing amenities as part of the special
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30 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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32 the incremental effect of new park improvements on the value of properties, much like
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34 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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36 (Crompton's Report) at 12-13.

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38 8. To the extent benefits can be considered "special" as opposed to general, they
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40 are nominal or nonexistent for many properties even in the Central Waterfront, which
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42 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
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44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
45
46 change due to expansion of sewer service *near* owners' parcel which were already
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1 connected). Even if the City could assess for a view change (and it has promised not to
2 assess for viaduct removal), the fair market value of Taxpayer's property has not changed
3 because the LID Improvements have not improved the property's waterfront view or access
4 to the waterfront, nor will they when the City anticipates completion in 2024. For these
5 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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7 Sections IV.C.3, IV.B.9, and IV.C.3.
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12 9. No analysis of special detriments. The Final Study fails to properly account
13 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
14 owners for removal and cleanup of underground storage tanks discovered during the
15 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
16 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
17 of how lost parking might be a detriment, and no property-specific parking analysis in any
18 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
19 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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23 10. Likewise, there was no analysis of the risks associated with disamenities such
24 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
25 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
26 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
27 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
28 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
29 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
2 the maintenance agreement. *Id.* at 13:4-14:2.

3
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5 11. There was also no consideration of negative impacts from another four-plus
6 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
7 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
8 law allowing him to dismiss these actual, non-speculative impacts. Because future special
9 benefits calculations are inherently speculative, Washington’s eminent domain statute
10 specifically allows condemnees to postpone special benefits assessments until improvements
11 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
12 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
13 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
14 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
15 Greenway, the Greenway district “significantly” lagged in value).
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18 12. Meanwhile, Mr. Ahmed testified that the assessment is an immediate expense
19 for the Renaissance Hotel that comes with no immediate increase in revenue, thereby
20 decreasing property values. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed), ¶ 39. Mr. Ahmed
21 further testified that the Renaissance will receive no special benefit from the proposed
22 improvements, and in fact the property is more valuable without the proposed LID
23 improvements and the corresponding assessment. *Id.*, ¶¶ 40, 41. For these reasons,
24 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
25 II.25, IV.B.8, and IV.B.9.
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28 13. Special benefit estimate is speculative. When calculating a special benefit,
29 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
30 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
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1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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5 14. Assuming without conceding that one day, the City’s planned LID
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7 Improvements might increase the value of neighboring properties to some extent, that
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9 potential benefit is many years away and speculative. While appraisers tolerate some degree
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11 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
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13 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
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15 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
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17 the level of precision implied in the Final Study due to the size of the LID and use of
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19 hypotheticals).
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21 15. Although LIDs are sometimes finalized prior to completion of improvements,
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23 this is typically just six month or a year prior, and the assessments are otherwise supported
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25 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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27 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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29 will not be realized for four or five years. In the meantime, there is permitting risk,
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31 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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33 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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35 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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37 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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39 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
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41 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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43 market value would be as of the date the project would be finally constructed” because
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45 “[t]here could be a lot of elements in the market that did occur between now and then that
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47 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if

1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

3
4 16. The record is clear that while no one can know what “special benefit” might
5 accrue to these properties in four years (if any), we do know that there are no actual benefits
6 now. The LID improvements provide no immediate special benefit to property owners
7 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
8 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
9 sewer system for future users). For example, notwithstanding the questionable hypothesis
10 that hotels will benefit from an expected increase in tourism (higher room rates or
11 occupancy) when the improvements are complete, it is undisputed that tourists are not
12 coming in larger numbers and paying higher room rates now because of something
13 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23.

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15 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
16 for the LID Improvements, and it is unlawful to move to final assessments without such
17 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
18 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
19 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
20 dollars on projects still early in the design process. *See* Washington Attorney General
21 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
22 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
23 of programs and included “only so much of the overall costs” that took place within and
24 benefitted the assessed properties).

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26 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
27 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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1 anticipated to be delivered five years later. Even before COVID, it was speculative to
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3 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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5 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
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7 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
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9 my analysis in October 2019, who would have thought that this COVID issue would
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11 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
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13 process was that the market was going to continue to go up”—in fact, it did not for
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15 Taxpayer’s property. *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that
16
17 downtown hotel values had already dropped an estimated 10-15% from their October 2019
18
19 levels, and occupancy rates were at zero or in single digits. *See* Gordon Decl. (dated
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21 4/21/2020) at ¶ 9. Hotels without guests will derive no benefit, special or otherwise, from
22
23 the planned LID Improvements. And even assuming hotels recover prior to 2024, there is
24
25 no basis for assuming that values hypothesized in October 2019 will remain relevant; they
26
27 are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020).
28
29 Although COVID does not change actual values as of October 2019 (*see* Examiner’s
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31 Recommendation at 109), the pandemic has impacted *current* values and rendered the
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33 hypothetical October 2019 Final Study valuations outdated.

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35 19. As another example of how future events could affect the accuracy and
36
37 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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39 Examiner re-open the record to allow the City to explain whether the assessments against
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41 property owners within the LID are, in fact, being used by the City to fund the emergency
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43 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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46 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
47 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor->

1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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10 20. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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35 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, *available at*
37 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=)
38 [ry=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); see also Aug. 13, 2020 Ltr. from H.
39 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
40 *available at*
41 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
42 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

43 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
44 2020), *available at* [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
45 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).
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1 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
2 he could not point to a single one where the assessment roll was finalized five years in
3 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
4 he has never recommended final special assessments based on designs less than 30 percent
5 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
6 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
7 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
8 at 66:17-25. He performed no independent due diligence to determine the reliability of the
9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
10 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
11 agreed that if any of his assumptions are incorrect, his opinion of market value would need
12 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
13 68:11-18.

14 22. The City has cited no authority—and Taxpayer is aware of none—that
15 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
16 assess taxes for “actual” special benefits that will not accrue for another five years (if all
17 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
18 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
19 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
20 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
21 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
22 IV.C.14, and IV.C.18.

23 23. Failure to discount special benefit estimates to account for risks and present
24 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should

1 have accounted for risks associated with delivery of the improvements (including permitting
2 risk, construction risk, general economic risk) and any special damages associated with
3 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
4 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
5 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
7 the impact of future conditions [through] discounted cash flow analysis.”).
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15 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
16 future condition not in place at the date of valuation and can discount for the time value of
17 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
18 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
19
20 Discounting would also have been consistent with his approach for analyzing special
21 benefits to vacant land. He testified that the difference between similarly situated vacant
22 sites slated for development and already developed sites was that the labor, capital and risks
23 associated with development had not yet been borne for those vacant sites. Therefore, the
24 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
25 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
26 fully permitted, has not completed environmental review, and has not reached full design is
27 presently worth significantly less.
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39 25. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
40 present value, an appraiser would consider discount rates for land development to account
41 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
42 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
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1 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
2 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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5 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
6 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
7 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
8 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
9 ignoring momentarily all of the other methodological and other flaws discussed here and in
10 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
11 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
12 exceeds special benefits when reduced to present value. Further, to the extent the City is
13 arguing that because they are permitted to assess 100% of the special benefit, the special
14 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
15 is again wrong. After applying proper discounting, the City's proposed special benefit
16 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
17 100% of the total estimated special benefit.
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21 27. But even the assumption that the LID improvements would deliver benefits
22 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
23 on. Rather, those studies demonstrate that a discount period of five years is conservative.
24 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
25 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
26 indicates that during the construction period, the Greenway district "significantly" lagged in
27 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
28 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
29 30-31 (discussing New York City High Line and San Francisco Embarcadero
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1 improvements). Given the lengthy delay, any prediction of future special benefits is
2 speculative, especially during the construction phase where values are likely to decline.
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4 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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6 Improvements take a similarly long period of time after they are complete to start producing
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8 tangible property value benefits, each additional year of delay results in further discount to
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10 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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12 A.
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15 28. Applying the same discounting methods described above and in Mr. Gibbons
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17 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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19 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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21 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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23 100% assessment should be no more than \$107,011. Anything more would permit the City
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25 to assess Taxpayer based on a hypothetical assumption that these improvements are in place
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27 and providing benefit, and ignore the risks, construction disamenity, and time value of
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29 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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31 would counsel that the assessment should be only 39.2% of that assessment cap, or \$41,948.
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33 29. Attachment C includes two Excel spreadsheets applying these discounting
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35 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
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37 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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39 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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41 present value would reduce Taxpayer's assessment to \$152,712, exclusive of any other
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43 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
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45 reductions after taking into account: (1) Taxpayer's experts' estimated "Before" value based
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47 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-

1 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
2 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
3 the time it takes for the improvements to capture property value). After such reductions,
4 Taxpayer's assessment would be just \$118,025 (for the 5-year discount) or \$32,429 (for the
5 10-year discount). Further, the spreadsheet concludes a "zero" benefit for this property
6 because, based on Dr. Crompton's testimony, Taxpayer's property is more than 2,000 feet
7 from the core "park" improvements and therefore too distant to receive any special benefit.
8 Neither of these spreadsheets address other issues raised by Taxpayer's appeal, but are
9 intended to help demonstrate how unfair and inflated the City's proposed hypothetical
10 assessment is. The Hearing Examiner's Recommendation simply dismisses Taxpayer's
11 discounting argument without legal or factual analysis; that failure is error.
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23 **Appraisal and Assessment Calculation Methods Are Flawed**

24 30. The "general rule is that each lot, piece, or parcel of land should be assessed
25 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
26 Wn.2d at 97.
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30 31. It is proper to sustain a challenge to an assessment, even without the appraisal
31 testimony from the owner, where the objector's expert establishes that the assessment was
32 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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38 32. The City's appraiser purports to utilize the income method of valuation but
39 relied on inaccurate revenue and market data, as discussed further below.
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42 33. The City's appraiser purports to utilize the comparable sales method of
43 valuation, but no City witness attempted "to characterize any one, or all of them, as
44 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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1 “several serious flaws” in ABS’s LID analysis in that case, including that the appraiser
2 “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
3 characterize any one, or all of them, as comparable to any particular property within the LID”).
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5 And no City witness could explain how specific adjustments were made to these sales to
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7 account for value increases due to the hypothesized Before and After Improvements. For this
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9 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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11 34. Special assessment improperly includes value lift from the Before
12 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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14 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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16 Improvements, which WSDOT had independently committed to fund. However, Mr.
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18 Macaulay did not calculate the actual market value of LID properties in October 2019, and
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20 did not separately analyze the hypothetical increase to property values attributable to
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22 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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24 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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26 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
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28 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
29
30 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
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32 documented basis or support, Mr. Macaulay simply “ma[de] a judgment a call” on what
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34 occupancy and rates would have been for the commercial properties assuming all of the
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36 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
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38 outright omission precludes any independent evaluation of the true market “Before” values.
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40 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
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42 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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44 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
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1 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
2 other road, pedestrian and landscaping improvements WSDOT had already committed to
3 make.
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6 35. However, because Mr. Macaulay testified that he did include some WSDOT-
7 related value-lift in the “Before” values, it follows that part of the special assessment
8 improperly is based on value attributable to the WSDOT Improvements. As shown by
9 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
10 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
11 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
12 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
13 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
14 to properly exclude the value of Before Improvements from the assessments. For these
15 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
16 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)
17

18 36. Special benefits were assigned rather than measured. Mr. Macaulay
19 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
20 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
21 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 3/3/2020 (A. Gibbons) Hrg Tr. at
22 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay used to
23 analyze the commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based
24 adjustments on hypothesized very small increases to property revenue and very small
25 reductions to cap rates to “calculate” an “After” value due to the coming 2024 LID
26 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
27 based on “professional judgment” that are neither shown nor replicable.
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1 37. For these reasons, Taxpayer appeals the following portions of the Examiner's
2 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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4 38. Special benefit falls within margin of error. The Final Special Benefit Study
5 applies an estimated value enhancement of less than 4%, which is generally within the
6 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
7 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
8 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
9 of one another, this difference is considered reasonable as it falls within the standard margin
10 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
11 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
12 percentages fall far below that 5% margin, "there is no way of authenticating" such
13 incremental changes because "[m]arket forces completely obliterate any tiny little noise
14 factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
15 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Yet,
16 Mr. Macaulay assigned or purported to measure a difference in revenue and cap rates for
17 Taxpayer's property within that margin. Additionally, the fact that "Before" values are also
18 based on a hypothetical that adds some unstated incremental value to actual 2019 values
19 exacerbates this issue—the ability for an appraiser to discern the micro-value differences
20 between hypothetical conditions that are so similar (the WSDOT improvements compared to
21 the LID improvements) "verges on being ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at
22 89:4-90:7.
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24 39. Even if it were possible to accurately tease out such a miniscule hypothetical
25 value change due to improvements coming five years later, experts testified that there is no
26 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
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1 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
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3 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
8
9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 40. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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14 percentage difference between hypothetical Before and After conditions. Throughout his
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16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
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26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 41. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 42. Special assessment is not supported by comparable studies, data or reports.
25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for the commercial properties, including Taxpayer’s
30 property. For example, although Mr. Macaulay stated that no single report or study was
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
2 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
3 parcel-by-parcel analysis other than to say that the studies generally provided “some
4 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
5 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
6 similarities and differences between these improvements and the comparable parks he
7 looked at).

14 43. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
15 assignment of incremental increase of 0.5% to 4% to property values within the LID.
16 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
17 research misinterprets his work in critical ways, including because the LID Improvements
18 manifest the characteristics of a parkway (not a park), and his research indicates that most of
19 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
20 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
21 related value increases are in fact smaller; that estimated increases are “best guesses” rather
22 than predictions of property value increases in a particular city; and that percentages do not
23 account for diminishing returns after taking into account water views, which would be the
24 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
25 topography grants most properties in downtown a water view.

38 44. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
39 that this was just one source of information that was not entirely relevant because, among
40 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
41 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
42 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
4 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
5 significantly beyond that which the park study indicated (even if it was legitimate to use the
6 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
7 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
8 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
9 Taxpayer’s property is not even within 2,000 road network feet from the “park”
10 improvements. *See* Hrg. Exhibits 104 (Ellen Kersten Decl.) at Exs. E, F; 114 (Decl. of Z.
11 Ahmed) at ¶ 37.

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13 45. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
14 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
15 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
16 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
17 materials, it was clearly an important—if not *the* most important—source of information for
18 estimating special benefits (especially with respect to the condos).⁷ No City witness
19 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
20 parcel-by-parcel analysis.

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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 46. The destination parks discussed in the Final Special Benefit Study do not
2 provide reliable, comparable, and valid support for the calculation of special assessments
3 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
4 critique of every case study cited concludes the changes to those “dwarf the difference
5 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
6 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
7 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
8 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
9 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
10 funded by a LID. And in virtually all of those cases, the park improvements dramatically
11 restored unimproved or blighted areas, and properties evaluated were within two or three
12 blocks of the park.
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14 47. ABS’s claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁸ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
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22 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
23 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
24 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
25 expected tourists visiting the LID park was calculated using data from only from New York City, a
26 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
27 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
28 how hotel visitors actually select hotels to stay in.
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1 the LID Improvements and could not explain how this impacted his condo analysis.
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3 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
4 Property Values” primarily focused on whether the benefits accrue to the larger community
5 rather than properties adjacent to the park. And the 2014 New York City Department of
6 Transportation study is not based on real estate transactions and market sales and fails to
7 substantiate any link between increased retail sales and property values. Moreover, this
8 study only looked at impact either directly abutting the streetscape improvement, or a couple
9 hundred feet for plaza-like improvements.
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12 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
13 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
14 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
15 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
16 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
17 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
18 asked whether he considered that HR&A’s estimated LID impact is six times greater than
19 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
20 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
21 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
22 assumptions to account for this difference, which may be partly explained by the fact that
23 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
24 approximately 3.44% of King County tourists visit Seattle primarily because of the city
25 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
26 waterfront improvements.
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1 49. Although proximity to the improvements is a key factor in all of these
2 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
3 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
4 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
5 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
7 Improvements is approximate 20 acres and it is not a community park.⁹
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10 50. There is no explanation in the Final Study or the supporting materials of how
11 the studies or comparable sales were used to derive values for Taxpayer's property. For
12 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
13 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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16 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
17 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
18 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
19 recognized) for developing the MAI standards for mass appraisals, testified that the Final
20 Study does not meet mass appraisal standards nor allow for independent assessment of the
21 accuracy of Mr. Macauley's conclusions.
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24 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
25 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
26 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
27 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 testimony suggests that he incorrectly believed that the only difference between direct
2 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
3
4 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
5
6 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
7
8 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
9
10 Gordon uses in doing his limited restricted report”).
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13 53. But the difference is not only in reporting—mass appraisal techniques must
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15 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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17 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
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19 parcel approach:

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21 The mass appraisal technique is an appraisal method used to evaluate
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23 a group of properties that are subject to similar market forces as of a
24
25 certain date through the use of market data, statistical analysis and
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27 testing. As a result, the mass appraisal technique does not require or
28
29 involve analysis of each individual property’s specific data.

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31 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

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33 54. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
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35 universe of properties as a given date using standard methodology, employing common data,
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37 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
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39 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
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41 model” is “a mathematical expression of how supply and demand factors interact in a
42
43 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
44
45 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
46
47 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

1 55. Regardless of client direction, Mr. Macaulay is required to comply with
2
3 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
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5 economically feasible because it would have taken “an incredible amount of time and cost”
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7 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).

12 56. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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14 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
15
16 value, fails to calibrate the model structure to determine the contribution of the individual
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18 characteristics affecting value, and does not review the mass appraisal results against actual
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20 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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22 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

23 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
24
25 proximity to the elements, the increase in market rent, market vacancy changes,
26
27 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
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29 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
47

1 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
2 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
3 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
4 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
5 values were hypothetical, it was not possible to identify matched pair sales and no City
6 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
7 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
8 requires him to explain his model structure.
9

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11 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
12 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
13 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
14 and appeals the Examiner’s denial of that motion.
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17 59. Finally, Taxpayer’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, the
21 Renaissance Hotel is more than a 3/4 of a mile walk—approximately 2,700 feet as a crow
22 flies—from Pier 58 and the core “park” improvements. Hrg. Exhibit 114 (Decl. of Z.
23 Ahmed) at ¶ 37. And, as described above, the special assessment is overstated because the
24 Final Study makes no attempt to determine general benefits, existing amenities for
25 Taxpayer’s specific property, or special detriments. In addition, it is speculative due to the
26 fact that, as of October 2019, improvements were not in in place—and, in fact, much of the
27 waterfront is a construction zone following removal of the viaduct and now Pier 58
28 demolition. Under these circumstances, rather than relying on entirely imaginary income
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1 and shaky hypotheticals, Mr. Macaulay at the very least should have discounted the special
2 benefit estimates or waited to perform the Study until the improvements were at least close
3 to complete.
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6 **Erroneous Pre-Improvement Valuation**

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9 60. The proposed final assessment erroneously overstates the pre-improvement
10 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
11 benefit to the Taxpayer's property.
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15 61. The City's Final Study was used to compute the proposed final assessment of
16 Taxpayer's property. The City's Study purportedly uses data from the King County
17 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
18 Study does not accurately reflect this data. For example, the City's Study values Taxpayer's
19 property at \$227,224,000 as of October 1, 2019. However, the King County assessor
20 determined the true and fair value of the property to be \$188,576,100, valued in 2019 for tax
21 year 2020. In other words, the Final Special Benefit Study's valuation is 120% of King
22 County's assessed value. The Final Special Benefit Study does not explain this difference—
23 or any differences—between its pre-improvement valuation and its supposed source for
24 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
25 Recommendation.
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37 62. Further, the City's analysis was based on unreliable market data. For the
38 hotels, Mr. Macaulay's decision to rely on inaccurate market data notably deviates from
39 standard appraisal practices because more reliable data in the form of STR reports are
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45 ¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 readily available. Examiner Recommendation at Section IV.C.10; 3/12/2020 (J. Gordon)
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3 Hrg. Tr. at 196:5-197:12; 215:9-18. Without the STR reports or actual input from the hotels,
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5 Mr. Macaulay's "Before" valuations are drastically overstated in large part because he relies
6
7 on publicly available "room rack rates" to estimate hotel income. *See id.* (J. Gordon) at
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9 162:3-18; 170:16-171:13; 179:25-180:14; 192:15-22. As the Examiner found, "Mr. Gordon
10
11 is a specialist expert in appraising hotels and his expert opinion, in addition to the specific
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13 information he relied on for that opinion, is superior to the opinion and supporting data of
14
15 the City in its valuation." Examiner's Recommendation at II.16. The Examiner concluded
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17 that Mr. Gordon's valuations were more reliable "due to the specialist nature of Mr.
18
19 Gordon's background and the specificity of the valuation data upon which he relied"—
20
21 namely STR reports or actual revenue data from the hotel. *Id.* at IV.C.10. Therefore, "the
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23 valuation of [this] property should be remanded for recalculation by the City appraiser based
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25 on the information provided by [this] Objector." *Id.*

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27 63. Specifically, the evidence and testimony presented showed that the actual
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29 average daily room rate (ADR) for this property in 2019 was \$204. However, Mr. Macaulay
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31 incorrectly estimated an ADR of \$300 for this property which is 45% higher than actual
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33 ADR, far exceeds the most optimistic assumptions about future growth in hotel room rates
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35 for the Renaissance and is not a reasonable assumption in valuing a hotel of this type in the
36
37 downtown Seattle market. In addition, the Renaissance has significantly reduced operations
38
39 as a result of the COVID-19 outbreak.

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41 64. Due to these errors alone, Mr. Macaulay artificially raised the property's
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43 Before value; Mr. Gordon valued the property at \$200,700,000 (without personal property),
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45 which is \$26,524,000 (or about 11.75%) less than ABS Valuation's estimate. Setting aside
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47 that ABS Valuation's inclusion of personal property when valuing hotels is disproportionate

1 and flawed, Mr. Gordon's estimate of value including personal property is \$206,300,000,
2 which is still significantly lower than ABS Valuation's estimate (\$227,224,000). *See* Fourth
3 Decl. of Gordon, at ¶ 5 (dated 7/7/2020).
4

5
6 65. Taxpayer expects an opportunity to respond to the revised assessment once
7 that is provided (*see* Examiner's Recommendation at V) and appeals the remainder of
8 Section IV.C.10 of the Examiner's Recommendation rejecting Taxpayer's other bases for
9 reducing the assessment. For example, Taxpayer disagrees with the Examiner's conclusion
10 that one of the reasons Mr. Gordon's appraisals concludes a lower value for this property is
11 because he was not valuing the properties in the "Before" condition. Examiner's
12 Recommendation at Section II.16. This does not explain the 45% difference between ABS
13 Valuation's estimate and actual average room rates for the Renaissance. Further, Mr.
14 Lukens—who reviewed ABS's valuation estimates for reasonableness—was not even aware
15 that the Before values were supposed to include the WSDOT Improvements. 6/26/2020
16 Hrg. Tr. at 165:2-166:22.
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19 66. Thus, aside from multiple other reasons why computation of the special
20 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
21 improvement values that do not accurately reflect market data. For these reason, Taxpayer
22 appeals Section II.16 of the Examiner's Recommendation.
23
24

25 **Erroneous Computation of Special Benefit**

26 67. "Special benefit" is "the increase in fair market value attributable to the local
27 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
28 may receive by reason of the improvement is not measured alone by the physical character
29 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
30 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is
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1 the particular tract or property benefited by the entire improvement, and is it assessed
2 proportionately with the other property included within the assessment district?” *Id.* 165–
3
4 66.
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6 68. The proposed final assessment erroneously overstates the special benefit of
7
8 LID improvements in a number of ways.
9

10 69. Overstated Before value led to overstated special benefit. ABS Valuation’s
11 overstated Before value resulted in an inflated special benefit estimate and assessment after
12
13 Mr. Macaulay made micro adjustments to “Before” revenue and capitalization rates to
14
15 calculate an After value. Mr. Macaulay conceded that using his methods and his
16
17 spreadsheets, changing the room rate alone would change the special assessment. 6/25/2020
18
19 Hrg. Tr. at 42:21-43:15 (explaining that changing the room rate will result in a different
20
21 assessment and the same is true for every hotel); *see also* 6/23/2020 Hrg. Tr. at 111:9-11,
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23 132:12-133:10, 140:20-141:9. And he agreed that if Mr. Gordon’s numbers are accurate—
24
25 and there is no evidence they are not—then ABS would need to redo the appraisal for the
26
27 Renaissance to determine if adjustments are needed. *Cf. id.* 109:17-110:2 (discussing the
28
29 Hyatt Regency), 137:20-138:13 (discussing Grand Hyatt).
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32 70. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
33 the Renaissance, Mr. Macaulay assumed room/rental rates would increase by 0.15% (low)
34
35 and 0.45% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not
36
37 possible to accurately conclude that the reason for this level of percentage increase would be
38
39 due to the LID Improvements, and there appears to be no support for assignment of these
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41 percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same
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43 percentages (0.15% and 0.45%) to increase food and beverage revenue, and parking and
44
45 other income. He then uses this hypothesized increased revenue to calculate a new net
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1 operating income for the commercial properties and capitalizes that to come up with an
2 “After” valuation.
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5 71. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
6 operating income remains the same as in the hypothetical “Before” condition, but changes
7 the cap rate. For the Renaissance, the cap rate goes from 7.50% to 7.44% (low scenario,
8 creating a bigger value increase) and 7.48% (high scenario, creating a lower value increase).
9 Mr. Gordon likewise explained that cap rate changes of 0.06% or 0.02% are not typically
10 measurable, and there appears to be no support for these changes in the Final Study or any
11 of its supporting materials.
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19 72. Mr. Macaulay then averages his four “After” values to arrive at a final special
20 benefit conclusion. For the Renaissance, this is an increase in property value of 0.50% due
21 to the LID Improvements.
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24
25 73. Mr. Macaulay offered little justification for his micro adjustments to revenue
26 and capitalization rates. When asked precisely what the basis is for his special benefit
27 percentage increases to revenue for each commercial property, he could not point to
28 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
29 is nothing in the report to allow a reader to understand how he came up with these
30 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
31 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
32 the basis for his belief that certain factors—liked increased connectivity—will increase
33 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
34 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
35 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
36 sources equally even though there was no separate analysis done for food and beverage or
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1 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
2 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
3 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
4 properties.
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8 74. When asked the basis for making such adjustments specifically for hotels,
9 Mr. Macaulay pointed to “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7
10 (“Mr. Lukens helped significantly in that regard in helping, you know, look at probable
11 adjustments”). However, Mr. Lukens testified that he did not review the percentage
12 increases. *See* 6/25/2020 Hrg. Tr. at 170:24-172:20.¹² And he did not review any work or
13 data to determine whether the revenue percentage adjustments in the spreadsheets were
14 reasonable, nor did he ever find them to be unreasonable or suggest any changes. *Id.* at
15 172:3-20. Instead, he appeared to be considering them for the first time on cross
16 examination, testifying that the adjustments “appear to be a kind of sensitivity analysis” and
17 “appear to be a very minor change.” *Id.* at 170:18-172:13. Likewise, he had no
18 understanding of what factors went into determining the change in capitalization rates in the
19 spreadsheets. *Id.* at 173:23-174:1. And he did not know how ABS Valuation reconciled the
20 four scenarios to come to final estimated special benefit. *Id.* at 174:22-175:4.
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38 ¹² As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different
39 special benefit and capitalization rate increases to the parking and retail parcels associated with the
40 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
41 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special
42 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
43 parcels). When asked whether this was a matter of coincidence, his answer was that is “just our
44 estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
45 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
46 though it is one block closer to the waterfront.
47

1 75. Mr. Macaulay testified that he used comparable sales as a reasonableness
2 check for commercial properties. But as explained above, no City witness has explained
3 how anyone, or all, of the sales are comparable to any particular commercial property within
4 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
5 in order to make sales “comparable,” he would have had to make adjustments to account for
6 Before and After conditions, but there is no way to understand how adjustments were made
7 because he “didn’t do a separate sales comparison approach where we showed adjustments
8 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
9 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
10 *Id.* at 127:10-128:24.

11 76. It also bears noting that any “internal review” of the special benefit estimates
12 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
13 error. Indeed, given all the same information, he seemed to suggest that it would be
14 perfectly reasonable for another experienced appraiser to come up with special benefit
15 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
16 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
19 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
20 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
21 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
22 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
23 special because it is arbitrarily assigned; and it is too small to realistically be supported by
24 appraisal techniques.

1 77. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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3 any seller or purchaser that the price was higher because of the LID improvements.”
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5 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
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7 identified any seller or buyer, or any particular property where the existence of the LID
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9 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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11 explained that the property has not increased rental rates or revenue due to the forthcoming
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13 LID Improvements, because, among other reasons (and apart from COVID), the
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15 improvements ABS believes will generate value do not exist, and will not for a number of
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17 years to come. There are no comparable sales because the LID Improvements are not in
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19 place, nor will they be until the end of 2024 if completed on schedule. Notably, this
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21 property is further than 2,000 feet from the core waterfront improvement, making any basis
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23 for finding a special benefit extremely tenuous given Dr. Crompton’s testimony and reports.
24
25 And, this property has closer direct access to the waterfront via the Harbor Steps, and
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27 testimony regarding the Harbor Steps establishes that this property will not benefit from
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29 increased connectivity.

30 78. The fair market value of Taxpayer’s property has not changed due to
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32 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
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34 benefited from installation of new water main and fire hydrant where it was already
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36 adequately supplied with water and afforded adequate fire protection). And in any event,
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38 any value attributable to removal of the viaduct was to be excluded from the assessment
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40 calculation.
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42 79. There is no special benefit because LID improvements in fact diminish the
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44 value of Taxpayer’s property by drawing visitors away towards improvements that do not
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46 abut the property. *See Kusky*, 85 Wn. App. 493 (testimony of owners’ expert that LID
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1 actually diminished value of property was sufficient to rebut presumption that assessment
2 was proper).

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5 80. Moreover, the assessment formula is an attempt to distribute costs that do not
6 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
7 “merely a mathematical model that distributes costs”).
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11 81. The Special Benefit Study fails to address whether the \$346,000,000
12 estimated LID project cost takes into account the investment that would have occurred in the
13 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
14 invested. This is a critical component of estimating which properties receive a direct benefit
15 from the improvements, versus more incidental benefits further from the park.
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19 82. Assessments are disproportionate. Taxpayer also presented evidence
20 showing that the assessments are disproportionate. For example, the City disproportionately
21 assessed hotels a greater percentage of the cost of the Improvements even though there no
22 evidence that hotel properties will in fact benefit.
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26 83. Mr. Macaulay also included personal property in his valuation of hotels even
27 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
28 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
29 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
30 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
31 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
32 receiving a disproportionately high LID assessment in comparison to other property types,
33 since hotels were the only property type subject to personal property LID assessments.
34 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
35 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
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1 notice procedures because hotel property owners only received notice that their real estate
2 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).

3
4 84. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
5 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
6 a television at the waterfront Marriott is assigned a greater special benefit than the same
7 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
8 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
9 unreasonable to assign a value lift to personal property that is replaceable at the same cost
10 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
11 Shorett ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
12 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
13 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
14 for this error.

15
16 85. The only evidence the City provided specific to this property was to rebut
17 Mr. Gordon's "Before" valuation. But the Hearing Examiner has already found that Mr.
18 Gordon's valuation is more reliable. The remainder of the City's evidence and testimony
19 regarding this property provides only general responses which have already been rebutted by
20 Objectors in their case-in-chief and cross-examination. *See* Second Decl. of Bird, at ¶¶ 91-
21 96 (dated 6/26/2020).

22
23 86. The proposed final assessment substantially exceeds the special benefit to the
24 property and is grossly disproportionate to similarly situated properties within the LID. For
25 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
26 Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.10.
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State Environmental Policy Act and Other Environmental Permitting

87. While this appeal is not challenging the City's environmental review and permitting processes, those processes are relevant in determining the legality of the assessments, and to assessing the delivery risk, the present value of the City's plans, and ultimately the amount of the assessment. If the roll is finalized, the City will commit to pursue projects that have not yet undergone environmental review (thus limiting the choice of reasonable alternatives to those projects). For example, if the roll is finalized, the City is committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63) is just beginning. Further, the City has segmented environmental review, and still has a gauntlet of federal, state and tribal review processes to complete before it will be clear what the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b), SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and committing to reconstruction of Pier 58 and major street improvements without environmental review, or the City's Final Special Study has improperly included and is proposing to assess the Taxpayer the costs and special benefits of improvements that may not get built. Either way, it is faulty process.

Due Process Rights

88. The City's failed to notify Taxpayer sufficiently in advance of the hearing to allow Taxpayer to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes

1 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
2 555, 569–70, 229 P.3d 761 (2010).

3
4 89. The LID statute specifies that cities must mail notices giving the time and
5 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
6 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
7 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
8 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
9 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
10 secure their own appraisal), evaluate proportionality of the proposed assessments, and
11 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
12 for anybody to get an appraisal”).

13
14 90. The City’s Notice of Assessment was sent on December 30, 2019. And the
15 Final Special Benefit Study has only been available for public review since January 7, 2020.
16 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
17 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
18 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
19 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
20 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
21 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
22 the Examiner’s Recommendation: I.B.

23 **VII. Relief Requested**

24 Taxpayer respectfully requests that the City Council:

25 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
26 assessment dated December 30, 2019; or
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1 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
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3 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
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5 hearing in this matter; or

6 3. Grant the Examiner's recommended remand but with instructions recalculate
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8 and reduce Taxpayer's assessment using recognized appraisal techniques consistent with
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10 USPAP and

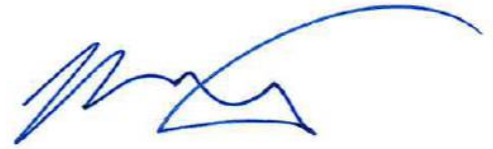
- 11 a. Excluding any property value increase attributable to viaduct removal and
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13 other planned WSDOT Improvements;
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15 b. Excluding any value attributable to personal property;
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17 c. Taking into account the effects of the COVID-19 pandemic on the value of
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19 Taxpayer's property and other relevant developments since October 2019;
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21 d. Accounting for and excluding (1) any special benefits from existing or
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23 planned improvements that already provide similar benefits to Taxpayer's
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25 property, and (2) any special detriments from construction and other
26
27 anticipated LID-related disamenities;
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29 e. Accounting for and including only those actual benefits anticipated to accrue
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31 to Taxpayer's property based on its location relative to Pier 58, Overlook
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33 Walk, and the Promenade, and specific elements of the LID Improvements;
34
35 f. Discounting anticipated special benefits to present value, based on reliable
36
37 estimates regarding when special benefits will start accruing following
38
39 completion of the LID Improvements; and
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41 g. Accounting for such other issues specific to Taxpayer's property relevant to
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43 calculation of such assessment; and
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46 3. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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PERKINS COIE LLP

By:



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Attorneys for Madison Hotel LLC

FILED

3:58 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0418
Date: Tuesday, February 16, 2021 3:39:11 PM
Attachments: [Hyatt Renaissance Amended LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
[Hyatt Renaissance Amended LID Appeal before City Council.pdf](#)

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0418

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON MADISON
HOTEL LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0942000430

33
34 MADISON HOTEL LLC (“Taxpayer”) known as the Hyatt Renaissance, files this
35 amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of
36 Seattle Resolution 31915, City of Seattle Resolution 31979, the notice of the Seattle Office
37 of the City Clerk dated December 30, 2019, the notice of the Seattle Office of the City Clerk
38 dated February 1, 2021, the Hearing Examiner’s Findings and Recommendation issued
39 September 8, 2020 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings
40 and Recommendation issued February 1, 2021.
41
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1 **I. Madison Hotel LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 MADISON HOTEL LLC

6 217 Pine St. suite 200

7 Seattle, WA 98101

8 Zahoor Ahmed

9 206-624-8909

10 ahmed@rchco.com

11
12
13 **II. Madison Hotel LLC's Representatives**

14 MADISON HOTEL LLC'S representatives in this matter are:

15
16
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24
25
26 **III. Statement of Madison Hotel LLC's Interest and Incorporation of Prior**
27 **Arguments**

28
29 MADISON HOTEL LLC is the taxpayer for the property that is subject to the
30 proposed final assessment described in Section IV.

31
32
33 Madison Hotel LLC is amending its appeal as authorized in City of Seattle
34 Resolution 31979 to include additional arguments relevant to the revised Final
35 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
36 2020, Madison Hotel LLC timely filed an objection to the assessment, which was based on
37 the Final Study. Madison Hotel LLC further timely filed an appeal of the Hearing
38 Examiner's 2020 recommendations to the City Council. Madison Hotel LLC maintains and
39 incorporates all objections and arguments raised in its appeal filed with the City Clerk on
40 September 22, 2020. This amendment is a supplement is to be read together with Madison
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1 Hotel LLC's appeal filed on September 22, 2020. Madison Hotel LLC incorporates by
2 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
3 as authorized by the Hearing Examiner, including without limitation all records pertaining to
4 the November 2020 through February 2021 remand hearing ordered by Council.
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9 **IV. Amended Arguments on Appeal**

10 MADISON HOTEL LLC supplements its appeal of the Hearing Examiner's
11 recommendation to deny in part and revise on remand in part Madison Hotel LLC's
12 objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 30, 2019 against the following property:
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18 King County Parcel No. 0942000430
19 Site Address: 515 Madison St., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$420,425
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23 To avoid repetition, Madison Hotel LLC incorporates the evidence and arguments
24 raised before the Hearing Examiner and before the City in its September 22, 2020 appeal,
25 into this amended appeal.
26
27

28
29 **A. The Anticipated Special Benefits to Madison Hotel LLC's Property**
30 **should be Discounted to Present Value and Assessments Adjusted as**
31 **Appropriate**
32

33 On remand, the City's appraiser acknowledged that special benefits to parcels can be
34 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
35 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
36 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
37 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
38 the theatre parcel is too remotely to support a current assessment. *Id.* The Examiner
39 accepted that recommendation. The City's appraiser further acknowledged that benefit
40 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
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1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
13
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefits are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
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17 **B. The City's Appraiser's Disregard of Hotel STR Report Performance**
18 **Data is Another Example of How His Analysis is Unreliable, Not**
19 **Admissible under Frye or ER 702, and His Proposed Special**
20 **Assessments are not based on Actual, Measurable and Special Value**
21 **Increases from the anticipated LID Improvements.**
22

23 The City's appraiser was provided actual performance data for the remanded hotels,
24 including their average daily room rates, from which he had been instructed to "recalculate"
25 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
26 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
27 would be "too low." Instead, he divined an alternative value from "comparable sales", and
28 then worked backwards to calculate small adjustments to his average daily room rate
29 assumptions, substituting them in his "income spreadsheets," and thereby correlating his
30 income analysis to his preconceived value estimate. His remand analysis demonstrates that
31 his whole "income approach to valuation", used for both hotels and other commercial
32 properties, is contrived speculation on speculation. The City's appraiser disregarded these
33 hotels' actual net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J.
34 Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on
35 Remand for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436). Taxpayer's
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1 appraiser submitted an appraisal with room rates much closer to the actual performance of
2 the hotel and should be incorporated. *See* Declaration of John D. Gordon in City Council's
3 LID Remand, (Jan. 8, 2021).
4

5
6 For example, compare the room rate and valuation for the appraisals in the table
7 below, where the actual average daily room rate for 2019 was \$204. Madison Hotel LLC
8 testified that the City Appraiser's assumed room rate was too high - it not only had not been
9 achieved, but even pre-Covid, was not reasonably achievable.
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Hyatt Renaissance CWF-0418	City's Revised Appraisal	Madison Hotel LLC's Appraisal
Hotel Value	\$221,097,000	\$206,300,000
Less Personal Property	\$5,600,000	\$5,600,000
Real Estate Value	\$215,497,000	\$200,700,000
Benefit Ratio	0.50%	0.50%
Special Benefit	\$1,073,000	\$999,000
Levy Ratio	39.18%	39.18%
LID Levy	\$420,425	\$391,430
Average Room Rate	\$295	\$209
Daily RevPAR	\$236	\$176

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33 To correct the "before value" alone, the City Council should instead adopt Madison
34 Hotel LLC's valuation, which was developed using actual data, and otherwise applying the
35 City appraiser's assessment formula:
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Hyatt Renaissance CWF-0418	Appraisal Amount
Hotel Value	\$116,292,000
Less Personal Property	\$5,600,000
Real Estate Value	\$110,692,000
Benefit Ratio	0.50%
Special Benefit	\$551,000
Levy Ratio	39.18%
LID Levy	\$215,894

The City's appraiser only slightly reduced his original values in ways that are still entirely inconsistent with historical performance data. The City's appraisal and analysis is speculative and should be rejected. The City Council should at least adopt Madison Hotel LLC's "before values" and resultant LID assessments.

C. In Light of Covid's Continuing Impact on Madison Hotel LLC and other Downtown Property Owners and other Material Changes Since October 2019, the LID Should be Cancelled, or at Least Assessments Recalculated, to take Into Account Property Value Reductions

In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e] into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019." When Washington's first COVID restrictions were imposed in March and April 2020, there was an assumption that they would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover for another 5 years. Retail stores are boarded up. Homelessness and related challenges have gotten much worse. The City has already imposed higher minimum wages and taxes on businesses to try to fund recovery. The West Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several

1 years from completion, as a best case. In current circumstances, a downtown tax to fund
2 new, non-essential park improvements against financially strapped taxpayers, and likely
3 passed through to financially strapped tenants and customers would be unfair to taxpayers
4 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
5 rethinks its budget priorities for the next few years, and its potentially funding sources,
6 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
7 property owners) have a chance to recover, and that any assessment take into account the
8 changed circumstances since this appeal process started on February 4, 2020 to avoid
9 unnecessarily and perhaps permanently killing downtown properties and businesses in the
10 name of bettering them.
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21 **V. Relief Requested**

22 Particularly in light of the Committee's decision not to take further comment,
23 Madison Hotel LLC respectfully request that each Committee member carefully review the
24 record transmitted to Council before voting on our appeal.
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MADISON HOTEL LLC respectfully reiterates its request from the September 22,
2020 appeal that the City Council:

1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
assessment dated December 30, 2019; or

2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
hearing in this matter; or

3. Grant the Examiner's recommended remand but with instructions to
recalculate and reduce Taxpayer's assessment using recognized appraisal techniques
consistent with USPAP and

- 1 a. Excluding any property value increase attributable to viaduct removal and
2
3 other planned WSDOT Improvements;
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5 b. Taking into account the effects of the COVID-19 pandemic on the value of
6
7 Taxpayer's property and other relevant developments since October 2019;
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9 c. Accounting for and excluding (1) any special benefits from existing or
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11 planned improvements that already provide similar benefits to Taxpayer's property, and (2)
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13 any special detriments from construction and other anticipated LID-related disamenities;
14
15 d. Accounting for and including only those actual benefits anticipated to accrue
16
17 to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the
18
19 Promenade, and specific elements of the LID Improvements;
20
21 e. Discounting anticipated special benefits to present value, based on reliable
22
23 estimates regarding when special benefits will start accruing following completion of the
24
25 LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property relevant to
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29 calculation of such assessment; and
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31 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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5 By:

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22 Attorneys for MADISON HOTEL LLC
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3:02 pm, Tue, September 22, 2020

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Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0420
Date: Tuesday, September 22, 2020 2:39:48 PM
Attachments: [CWF-0420.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0420.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0420
A – Master List of Evidence
B – E-029-002_TwoPine
C – Discounting for CWF-0420
CWF-0420 Appeal Notice for TwoPine

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> ○ (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> ○ John Gordon property-specific direct ○ (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> ○ John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

TwoPine (formerly Broadacres Building)							
Map No.	E-029-002		Historic:		No		
Tax Parcel Nos.	111708-0020		Stories:		10		
Address:			Current Rent:		-		
Zoning:	DMC 240/290-440		NOTE:				
Property rights:	Fee Simple						
Proximity to project:	Approx. 3 blocks to Waterfront						
Previous sale:	\$0 4/17/2018		Special Warranty Deed				
Ownership:	LBR RV-COMPANY XXVIII LP						
INCOME ANALYSIS WITHOUT "Before"							
	Year Built		1908				
	Parking		0				
Potential Gross Income							
Office	GBA	NRA	SF NRA @	\$22.00	per SF =	\$1,683,198	
	83,187	76,509					
Retail	36,380	36,380	SF NRA @	\$40.00	per SF =	\$1,455,200	
Restaurant space	0	0	SF NRA @	\$0.00	per SF =	\$0	
Other	0	0	SF NRA @	\$0.00	per SF =	\$0	
Other	0	0	SF NRA @	\$0.00	per SF =	\$0	
Other	0	0	SF NRA @	\$0.00	per SF =	\$0	
Subtotals	119,567	112,889		\$40.00		\$1,455,200	
Parking Area/Stalls	0	0	0 stalls @	\$0.00	/month	\$0	
Basement-retail	13,431	0	SF NRA @	\$15.00	per SF =	\$201,465	
Other	0	0	SF NRA @	\$0.00	per SF =	\$0	
Other			0.0% of GRI			\$0	
Total Bldg Area & Gross Income	132,998	112,889	SF NRA @	\$29.59	/SF =	\$3,339,863	
Less: Vacancy/credit allowance @	0.0%						\$0
	5.0%						(\$166,993)
Total vacancy/credit allowance							(\$166,993)
Effective gross income							\$3,172,870
Less: Operating expenses							
Management fee @	5.0%	of total EGI					(\$158,643)
Parking operating expenses @	0.0%	of parking EGI					\$0
Structural maintenance/reserve	\$0.20	per SF of NRA					(\$22,578)
Total operating expenses							(\$181,221)
Net operating income							\$2,991,649
Indicated Value							

Special Benefit Summary						
	Land		Improved	% Change	Total Estimated Value	% Change
	Per SF	Total				
Without LID	\$1,700.00	\$20,730,000	\$40,324,000	N/A	\$61,054,000	N/A
With LID						
Scenario A1	\$1,746.75	\$21,300,000	\$40,561,000	0.59%	\$61,861,000	1.32%
Scenario A2	\$1,746.75	\$21,300,000	\$41,294,000	2.41%	\$62,594,000	2.52%
Scenario B1	\$1,746.75	\$21,300,000	\$41,026,000	1.74%	\$62,326,000	2.08%
Scenario B2	\$1,746.75	\$21,300,000	\$41,682,000	3.37%	\$62,982,000	3.16%
Summary						
Without LID	\$1,700	\$20,730,000	\$40,324,000	N/A	\$61,054,000	N/A
With LID	\$1,746.75	\$21,300,000	\$41,465,000	2.83%	\$62,765,000	2.80%
Percent change in land value	2.75%					

TwoPine (formerly Broadacres Building)										
Scenario A: Rental and Vacancy Rate Changes										
INCOME ANALYSIS WITH "After"						Year Built		1908		
Potential Gross Income										
		GBA	NRA		Per SF	Per SF	Low	High		
Office		83,187	76,509	SF NRA @	\$22.10	\$22.50	0.45%	2.27%	\$1,721,453	
							1.88%	2.50%		
Retail		36,380	36,380	SF NRA @	\$40.75	\$41.00	\$1,482,485	\$1,491,580		
Restaurant space		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Subtotals		119,567	112,889		\$40.75	\$41.00	\$1,482,485	\$1,491,580		
					Per Month	Per Month				
Parking Area/Stalls		0	0	0 stalls @	\$0.00	\$0.00	\$0	\$0		
					Per SF	Per SF				
Basement-retail		13,431	0	SF NRA @	\$15.00	\$15.00	\$201,465	\$201,465		
Other		0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other				0.0% of GRI			\$0	\$0		
Total Bldg Area & Gross Income		132,998	112,889	SF NRA @	\$29.89	\$30.25	\$3,374,799	\$3,414,498		
Less: Vacancy/credit allowance							0.0%	0.0%		
Total vacancy/credit allowance							4.75%	4.75%		
Effective gross income							(\$160,303)	(\$162,189)		
							\$3,214,496	\$3,252,309		
Less: Operating expenses										
Management fee @	5.0%	of total EGI					(\$160,725)	(\$162,615)		
Parking operating expenses @	0.0%	of parking EGI					\$0	\$0		
Structural maintenance/reserve	\$0.20	per SF of NRA					(\$22,578)	(\$22,578)		
Total operating expenses							(\$183,303)	(\$185,193)		
Net operating income							\$3,031,193	\$3,067,116		
Indicated Value										
							Capitalized @	4.90%	4.90%	
							Indicated value	\$61,861,089	\$62,594,196	
							(R)	\$61,861,000	\$62,594,000	
							Per SF NRA	\$547.98	\$554.47	
							% change	1.32%	2.52%	
Land Value										
		12,194	SF @	\$1,746.75	per SF =	\$21,300,000	\$21,300,000			
Residual Improvements										
							Per SF NRA	\$40,561,000	\$41,294,000	
								\$359.30	\$365.79	
Special Benefit Summary							\$807,000	\$1,540,000		

TwoPine (formerly Broadacres Building)									
Scenario B: Overall Capitalization Rates Changes									
INCOME ANALYSIS WITH "After"			Year Built		1908				
Potential Gross Income									
Office	GBA	NRA	SF NRA @	\$22.00	per SF =	\$1,683,198			
	83,187	76,509							
Retail	36,380	36,380	SF NRA @	\$40.00	per SF =	\$1,455,200			
Restaurant space	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Subtotals	119,567	112,889				\$1,455,200			
Parking Area/Stalls	0	0	0 stalls @	\$0.00	/month	\$0			
Basement-retail	13,431	0	SF NRA @	\$15.00	per SF =	\$201,465			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other			0.0% of GRI			\$0			
Total Bldg Area & Gross Income	132,998	112,889	SF NRA @	\$29.59	/SF	\$3,339,863			
Less: Vacancy/credit allowance @	0.0%						\$0		
	5.0%						(\$166,993)		
Total vacancy/credit allowance							(\$166,993)		
Effective gross income							\$3,172,870		
Less: Operating expenses									
Management fee @	5.0%	of total EGI					(\$158,643)		
Parking operating expenses @	0.0%	of parking EGI					\$0		
Structural maintenance/reserve	\$0.20	per SF of NRA					(\$22,578)		
Total operating expenses							(\$181,221)		
							\$2,991,649		
Net operating income									
Indicated Value									
						Low	High		
						Capitalized @	4.80%	4.75%	
						Indicated Value	\$62,326,012	\$62,982,075	
						(R)	\$62,326,000	\$62,982,000	
						Per SF	\$552.10	\$557.91	
						% change	2.08%	3.16%	
Land Value									
			12,194	SF @	\$1,746.75	per SF =	\$21,300,000	\$21,300,000	
Residual Improvements									
						\$41,026,000	\$41,682,000		
						\$363.42	\$369.23		
						per SF NRA			
						\$1,272,000	\$1,928,000		
Special Benefit Summary									

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0420	TwoPine (formerly Broadacres Building)	1601 2nd Avenue	1117080020

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$1,711,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$230,008

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0420	TwoPine (formerly Broadacres Building)	1601 2nd Avenue	1117080020

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$61,054,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C)		Corrected FMV for Assessment	\$53,422,250

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$1,711,000		
H/A	As Percentage of Final City Before Value	2.802%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$1,497,125		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$513,412	\$141,068
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$201,257	\$55,299

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0420

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON LBA RV
COMPANY XXVIII, LP’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1117080020

33
34 LBA RV Company XXVIII, LP (“Taxpayer”) files this appeal pursuant to RCW
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
36 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”).
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44 **I. Taxpayer / Appellant**

45 The Taxpayer filing this appeal is:
46
47

1 LBA RV Company XXVIII, LP
2 3347 Michelson Drive
3 Attn: Principal-Operations
4 Irvine, CA 92616
5 Ross Beckley
6 206-812-1000
7 rbeckley@lbarealty.com
8

9
10 **II. Taxpayer's Representatives**

11 Taxpayer's representatives in this matter are:

12
13
14 R. Gerard Lutz, WSBA No. 17692
15 JLutz@perkinscoie.com
16 Megan Lin, WSBA No. 53716
17 MLin@perkinscoie.com
18 Perkins Coie LLP
19 10885 N.E. Fourth Street, Suite 700
20 Bellevue, Washington 98004
21 Telephone: 425.635.1400
22 Facsimile: 425.635.2400
23
24

25 Robert L. Mahon, WSBA No. 26523
26 RMahon@perkinscoie.com
27 1201 Third Avenue, Suite 4900
28 Seattle, Washington 98101
29 Telephone: 206.359.8000
30 Facsimile: 206.359.9000
31
32

33 **III. Statement of Taxpayer's Interest**

34
35 LBA RV Company XXVIII, LP owns the property that is subject to the proposed
36 final assessment described in Section IV. This property is located at 1601 2nd Ave., Seattle,
37 WA. The basement is occupied by a grocery store and the remainder of the building is
38 currently vacant.
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41 The basis of the proposed assessment is a Final Special Benefit/Proportionate
42 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
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1 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
2 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
3 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
4 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
5 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
6 to exclude charges for other improvement projects in the Central Waterfront, and
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
9 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
10 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
11 because construction was not complete on the LID Improvements or the WSDOT
12 Improvements at the time the Final Study was prepared, Mr. Macaulay's October 1, 2019
13 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
14 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
15 was based on the Final Study.

31 **IV. Matter Under Appeal**

32 Taxpayer appeals the Hearing Examiner's recommendation to deny Taxpayer's
33 objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed
34 final assessment dated December 30, 2019 against the following property:

35 King County Parcel No. 1117080020
36 Site Address: 1601 2nd Ave., Seattle, Washington
37 Proposed Final LID Assessment for Parcel: \$670,407

38 See Examiner's Recommendation at 61-62, 104-105. To avoid repetition, Taxpayer
39 incorporates the evidence and arguments raised before the Hearing Examiner into this
40 appeal. In particular, Taxpayer points the City Council to Taxpayer's initial Appeal
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1 Petition, *Frye* motion, Closing Brief submitted at the close of its case-in-chief (dated
2 4/16/2020), and supplemental Closing Statement submitted at the close of the City's case-in-
3 chief (dated 7/7/2020).¹
4

5
6 As discussed more fully below, Taxpayer specifically appeals the following Findings
7 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
8
9 Pages 61-62, 104-105, Sections II.6, II.7, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
10 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
11 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
12 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
13 IV.C.12, IV.C.14, and IV.C.18.
14
15

16 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
17 recommendations on material issues raised during Taxpayer's appeal that were supported by
18 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
19 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
20 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
21 recommended anything other than denial of objectors' appeals were where the City's
22 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
23 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
24 special assessments based on "fundamentally wrong methods."
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¹ Because the City has not provided "metered index numbers," our appeals cannot reference them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated, citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$1,711,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

7
8 **Legal Requirement:** Actual and measurable special benefit
9

10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
4
5

6
7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
15

16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington
12 court has explained: "[W]e have explicitly rejected an argument that, because certain
13 protestors 'failed to offer expert testimony at the city council hearing[,] the presumptions [in
14 favor of the assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at
15 946 (quoting *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kusky v. City of*
16 *Goldendale*, 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an
17 appraisal, he provided expert opinion showing that improvements actually diminished value
18 of the property). In fact, no independent evidence is required at all if, for example, objectors
19 show that the assessment was grounded on a fundamentally wrong basis due to an error in
20 the City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
21 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
22 a property owner could simply point out that the square footage assumed in the City's
23 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
24 Examiner's Recommendation: Sections II.14, IV.A, IV.B.11(a), IV.C.8, and IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
3
4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
6
7 upon all the property in accordance with the special benefits conferred thereon.” RCW
8
9 35.44.010.
10

11 3. No analysis of general benefits. Special assessments have been “held valid
12
13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14
15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
16
17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
18
19 they are for the construction of local improvements that are appurtenant to specific land and
20
21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
22

23 4. Taxpayer’s property is not specially benefited by the LID Improvements.
24
25 The primary purpose and effect of the LID Improvements are to benefit “members of the
26
27 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
28
29 library is for the benefit of the members of the whole community individually and
30
31 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
32
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
34
35 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
36
37 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
38
39
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 that if an appraiser “identifies both general and special benefits, these benefits should be
2 clearly distinguished and explained, and only special benefits should be included in the
3 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
4
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that Mr. Macaulay did not
6
7 analyze or measure general benefits, including those arising from construction necessary to
8
9 meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration
10
11 may also be given to those construction costs related to meeting design standards which may
12
13 be general benefits as distinct from construction costs emanating from requirements of the
14
15 LID project”). To the extent Taxpayer’s property may benefit from the LID improvements,
16
17 the benefit is general and incidental, and failure to consider general benefits was a fatal flaw
18
19 in the City’s methodology. For these reasons, Taxpayer appeals the following portions of
20
21 the Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and
22
23 IV.C.4.
24
25

26
27 5. LID Improvements not necessary. Unlike typical LID projects, the
28
29 Waterfront LID improvements are largely unnecessary to the functionality of any particular
30
31 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
32
33 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
34
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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37 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
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39 intersection for new water main for hydrant held invalid because land was already afforded
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41 functional hydrant at nearby street). Specifically, Ross Beckley, representative for
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43 Taxpayer, testified that the proposed LID Improvements are not necessary to the use of this
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45 property as an office and retail space. Hrg. Exhibit 112 (Decl. of R. Beckley) at ¶ 11.
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1 6. The fact that there is no case law differentiating between binary
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3 improvements and parks does not change the law prohibiting assessments on properties
4 already adequately served by existing amenities. *See* Examiner’s Recommendation at
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6 IV.C.3 (reasoning that “no case law is provided to support the differentiation between a
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8 hardscape benefit and the more ephemeral benefits of park”). Nor does the Examiner’s
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10 reasoning excuse the City’s failure to account for existing amenities as part of the special
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12 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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14 the incremental effect of new park improvements on the value of properties, much like
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16 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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18 (Crompton’s Report) at 12-13.
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20 7. To the extent benefits can be considered “special” as opposed to general, they
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22 are nominal or nonexistent for many properties even in the Central Waterfront, which
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24 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
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26 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties’ fair market value did not
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28 change due to expansion of sewer service *near* owners’ parcel which were already
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30 connected). Even if the City could assess for a view change (and it has promised not to
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32 assess for viaduct removal), the fair market value of Taxpayer’s property has not changed
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34 because the LID Improvements have not improved the property’s waterfront view or access
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36 to the waterfront, nor will they when the City anticipates completion in 2024. For these
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38 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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40 Sections IV.C.3, IV.B.9, and IV.C.3.
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42 8. No analysis of special detriments. The Final Study fails to properly account
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44 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
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46 owners for removal and cleanup of underground storage tanks discovered during the
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1 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
2 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
3 of how lost parking might be a detriment, and no property-specific parking analysis in any
4 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
5 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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10 9. Likewise, there was no analysis of the risks associated with disamenities such
11 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
12 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
13 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
14 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
15 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
16 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
17 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
18 the maintenance agreement. *Id.* at 13:4-14:2.
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28 10. There was also no consideration of negative impacts from another four-plus
29 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
30 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
31 law allowing him to dismiss these actual, non-speculative impacts. Because future special
32 benefits calculations are inherently speculative, Washington's eminent domain statute
33 specifically allows condemnees to postpone special benefits assessments until improvements
34 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
2 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
3 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
4 Greenway, the Greenway district “significantly” lagged in value).
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9 11. Meanwhile, Mr. Beckley testified that the proposed LID assessment of
10 \$670,407 is a substantial additional cost to the TwoPine building, which will decrease the
11 fair market value of the property. Hrg. Exhibit 112 (Decl. of R. Beckley) at ¶ 12. No
12 rational office and retail building owner would invest \$670,407 today in a project that will
13 have no return for either the five years of planning and construction or the period afterward.
14 *Id.* In his professional opinion, the TwoPine building will receive no special benefit from
15 the proposed LID Improvements. *Id.* at ¶ 13. Further, the revenue and demand increases that
16 the TwoPine building would need to generate to recover the LID assessments are unrealistic
17 given the downtown Seattle commercial real estate market conditions, which have been
18 severely impacted by the COVID-19 outbreak. *Id.* at ¶ 14.
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29 12. For these reasons, Taxpayer appeals the following portions of the Examiner’s
30 Recommendation: Sections II.25, IV.B.8, and IV.B.9.
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33 13. Special benefit estimate is speculative. When calculating a special benefit,
34 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
35 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
36 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
37 P.2d 1078 (1958)).
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43 14. Assuming without conceding that one day, the City’s planned LID
44 Improvements might increase the value of neighboring properties to some extent, that
45 potential benefit is many years away and speculative. While appraisers tolerate some degree
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1 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
2 far too speculative to satisfy industry practices and standards.
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5 15. Although LIDs are sometimes finalized prior to completion of improvements,
6 this is typically just six month or a year prior, and the assessments are otherwise supported
7 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
8 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
9 will not be realized for four or five years. In the meantime, there is permitting risk,
10 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
11 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
12 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
13 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
14 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
15 testified: "I just don't know what the market value would be as of the date the project would
16 be finally constructed" because "[t]here could be a lot of elements in the market that did
17 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
18 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
19 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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23 16. The record is clear that while no one can know what "special benefit" might
24 accrue to these properties in four years (if any), we do know that there are no actual benefits
25 now. The LID improvements provide no immediate special benefit to property owners
26 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
27 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
28 sewer system for future users). For example, notwithstanding the questionable hypothesis
29 that retail may benefit from an expected increase in tourism when the improvements are
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1 complete, it is undisputed that tourists are not coming in larger numbers and paying higher
2 room rates now because of something happening five years down the road.

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5 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
6 for the LID Improvements, and it is unlawful to move to final assessments without such
7 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
8 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
9 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
10 dollars on projects still early in the design process. *See* Washington Attorney General
11 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
12 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
13 of programs and included “only so much of the overall costs” that took place within and
14 benefitted the assessed properties).

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17 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
18 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
19 anticipated to be delivered five years later. Even before COVID, it was speculative to
20 assume that market highs experienced in October 2019¹ would be sustained through 2024,
21 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
22 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
23 my analysis in October 2019, who would have thought that this COVID issue would
24 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
25 process was that the market was going to continue to go up.” But there is no basis for
26 assuming that values hypothesized in October 2019 will remain relevant; they are already
27 irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although
28 COVID does not change actual values as of October 2019 (*see* Examiner’s
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1 Recommendation at 109), the pandemic has impacted *current* values and rendered the
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3 hypothetical October 2019 Final Study valuations outdated.

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5 19. As another example of how future events could affect the accuracy and
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7 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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9 Examiner re-open the record to allow the City to explain whether the assessments against
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11 property owners within the LID are, in fact, being used by the City to fund the emergency
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13 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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15 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
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17 would be improperly imposing costs on property owners within the LID for improvements
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19 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
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21 habitat and City infrastructure—this does not provide any special benefit to LID property
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23 owners.

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25 20. There is also no certainty the improvements will be delivered on time. Mr.
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27 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
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29 delay in construction schedule would not constitute a “material change” under the City
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31 Council’s ordinance authorizing the improvements. In other words, the City cannot
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34 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfkT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

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47 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8, 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.

1 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
2 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
3
4 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
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6 potential delays and project changes inherent in those processes, that call into question the
7
8 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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10 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
11
12 Decl., dated 4/15/2020).
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14 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
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16 he could not point to a single one where the assessment roll was finalized five years in
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18 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
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20 he has never recommended final special assessments based on designs less than 30 percent
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22 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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24 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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26 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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28 at 66:17-25. He performed no independent due diligence to determine the reliability of the
29
30 City’s estimates for completion of the LID Improvements, or to ensure that proposed
31
32 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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34 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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36 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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38 68:11-18.
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40 22. The City has cited no authority—and Taxpayer is aware of none—that
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42 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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44 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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46 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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1 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
2 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
3 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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5 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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7 IV.C.14, and IV.C.18.
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10 23. Failure to discount special benefit estimates to account for risks and present
11 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
12 have accounted for risks associated with delivery of the improvements (including permitting
13 risk, construction risk, general economic risk) and any special damages associated with
14 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
15 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
16 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
17 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
18 the impact of future conditions [through] discounted cash flow analysis.”).
19
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21 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
22 future condition not in place at the date of valuation and can discount for the time value of
23 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
24 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
25 Discounting would also have been consistent with his approach for analyzing special
26 benefits to vacant land. He testified that the difference between similarly situated vacant
27 sites slated for development and already developed sites was that the labor, capital and risks
28 associated with development had not yet been borne for those vacant sites. Therefore, the
29 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
30 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
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1 fully permitted, has not completed environmental review, and has not reached full design is
2 presently worth significantly less.
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4 25. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
5 present value, an appraiser would consider discount rates for land development to account
6 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
7 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
8 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
9 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
10

11 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
12 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
13 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
14 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
15 ignoring momentarily all of the other methodological and other flaws discussed here and in
16 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
17 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
18 exceeds special benefits when reduced to present value. Further, to the extent the City is
19 arguing that because they are permitted to assess 100% of the special benefit, the special
20 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
21 is again wrong. After applying proper discounting, the City's proposed special benefit
22 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
23 100% of the total estimated special benefit.
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25 27. But even the assumption that the LID improvements would deliver benefits
26 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
27 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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1 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
2 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
3 indicates that during the construction period, the Greenway district “significantly” lagged in
4 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
5 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
6 30-31 (discussing New York City High Line and San Francisco Embarcadero
7 improvements). Given the lengthy delay, any prediction of future special benefits is
8 speculative, especially during the construction phase where values are likely to decline. And
9 assuming the LID Improvements take a similarly long period of time after they are complete
10 to start producing tangible property value benefits, each additional year of delay results in
11 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
12 Closing Stmt., ¶ 19, Ex. A.

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15 28. Applying the same discounting methods described above and in Mr. Gibbons
16 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
17 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
18 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
19 100% assessment should be no more than \$161,176. Anything more would permit the City
20 to assess Taxpayer based on a hypothetical assumption that these improvements are in place
21 and providing benefit, and ignore the risks, construction disamenity, and time value of
22 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
23 would counsel that the assessment should be only 39.2% of that assessment cap, or \$63,181.

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25 29. Attachment C includes two Excel spreadsheets applying these discounting
26 methods to Taxpayer’s assessment. It is undisputed that special benefits will not actually
27 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet

1 demonstrates that discounting the City’s hypothetical October 2019 special benefits to
2 present value would reduce Taxpayer’s assessment to \$230,008, exclusive of any other
3 flaws in the City’s proposed assessment. The second spreadsheet shows even more drastic
4 reductions after taking into account: (1) a rough discount for property value loss due to
5 COVID-19; and (2) discounting to present value for 5 years (*i.e.*, from 2024 when the City
6 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
7 the time it takes for the improvements to capture property value). After such reductions,
8 Taxpayer’s assessment would be just \$201,257 (for the 5-year discount) or \$55,299 (for the
9 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer’s
10 appeal, but are intended to help demonstrate how unfair and inflated the City’s proposed
11 hypothetical assessment is. The Hearing Examiner’s Recommendation simply dismisses
12 Taxpayer’s discounting argument without legal or factual analysis; that failure is error.
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24 **Appraisal and Assessment Calculation Methods Are Flawed**

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26 30. The “general rule is that each lot, piece, or parcel of land should be assessed
27 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
28 Wn.2d at 97.
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32 31. It is proper to sustain a challenge to an assessment, even without the appraisal
33 testimony from the owner, where the objector’s expert establishes that the assessment was
34 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
35 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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40 32. The City’s appraiser purports to utilize the income method of valuation but
41 relied on inaccurate revenue and market data, as discussed further below.
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45 33. The City’s appraiser purports to utilize the comparable sales method of
46 valuation, but no City witness attempted “to characterize any one, or all of them, as
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1 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
2 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
3 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
4 characterize any one, or all of them, as comparable to any particular property within the LID").
5 And no City witness could explain how specific adjustments were made to these sales to
6 account for value increases due to the hypothesized Before and After Improvements. For this
7 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
8

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10 34. Special assessment improperly includes value lift from the Before
11 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
13 Improvements, which WSDOT had independently committed to fund. However, Mr.
14 Macaulay did not calculate the actual market value of LID properties in October 2019, and
15 did not separately analyze the hypothetical increase to property values attributable to
16 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
17 current value and then separately calculate a hypothetical "With WSDOT" Before value);
18 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
19 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
20 3-4. Without any documented basis or support, Mr. Macaulay simply "ma[de] a judgment a
21 call" on what occupancy and rates would have been for the commercial properties assuming
22 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
23 130:11. This outright omission precludes any independent evaluation of the true market
24 "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
25 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
26 must explain how he analyzed that data and other information to come up with the
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1 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
2 removal of the viaduct, but also other road, pedestrian and landscaping improvements
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4 WSDOT had already committed to make.
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6 35. However, because Mr. Macaulay testified that he did include some WSDOT-
7 related value-lift in the “Before” values, it follows that part of the special assessment
8 improperly is based on value attributable to the WSDOT Improvements. As shown by
9 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
10 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
11 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
12 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
13 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
14 to properly exclude the value of Before Improvements from the assessments. For these
15 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
16 Sections II.19, II.29, and IV.B.11(a)(ii)
17
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19 36. Special benefits were assigned rather than measured. Mr. Macaulay
20 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
21 property. *See* 1/30/2020 A. Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
22 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
23 Macaulay used to analyze the commercial properties, it is clear that Mr. Macaulay based
24 adjustments on hypothesized very small increases to property revenue and very small
25 reductions to cap rates to “calculate” an “After” value due to the coming 2024 LID
26 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
27 based on “professional judgment” that are neither shown nor replicable.
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1 37. For these reasons, Taxpayer appeals the following portions of the Examiner's
2 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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4 38. Special benefit falls within margin of error. The Final Special Benefit Study
5 applies an estimated value enhancement of less than 4%, which is generally within the
6 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
7 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
8 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
9 of one another, this difference is considered reasonable as it falls within the standard margin
10 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9. Because Mr.
11 Macaulay's micro-special benefit percentages fall far below that 5% margin, "there is no
12 way of authenticating" such incremental changes because "[m]arket forces completely
13 obliterate any tiny little noise factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
14 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too small to
15 measure. Macaulay Depo. at 25:17-25. Additionally, the fact that "Before" values are also
16 based on a hypothetical that adds some unstated incremental value to actual 2019 values
17 exacerbates this issue—the ability for an appraiser to discern the micro-value differences
18 between hypothetical conditions that are so similar (the WSDOT improvements compared to
19 the LID improvements) "verges on being ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at
20 89:4-90:7.
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38 39. Even if it were possible to accurately tease out such a miniscule hypothetical
39 value change due to improvements coming five years later, experts testified that there is no
40 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
41 what he felt the changes (hypothetically) would be. *See, e.g.*, 3/3/2020 (A. Gibbons) Hrg. Tr.
42 at 88:21-88:24 ("you cannot measure one percent difference in a high-rise building for this
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1 kind of a medium ... it's simply assigned to a before value"). For these reasons, Taxpayer
2
3 appeals the following portions of the Examiner's Recommendation: II.27 and IV.B.4.
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5 40. No analysis of value increase attributable to individual components of the
6 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
7
8 percentage difference between hypothetical Before and After conditions. Throughout his
9
10 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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12 descriptions in the Addenda even though he testified that he relied on these to calculate
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14 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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16 someone might be able to determine how he attributed value to After conditions described in
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18 the Addenda, he answered that that was "not the scope of the assignment" because he was
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20 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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22 that the six components were not actually a continuous project, that he was viewing them
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24 together because the City asked him to, and that if he were to view them independently,
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26 there was a low probability that properties in the north would specially benefit from
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28 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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30 41. Not only did he fail to analyze benefits from each of these non-contiguous
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32 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
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34 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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36 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
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38 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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40 objectives that guided regulators' assessment of architectural plans for buildings along a
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42 "signature street" were so vague that they amounted to ad hoc review based on the
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1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.
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23 42. Special assessment is not supported by comparable studies, data or reports.

24 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
25 that the LID Improvements will lead to meaningfully increased real estate values for
26 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
27 comparable sales or information from the "over twenty-five studies and reports" to arrive at
28 very precise special benefit increases for the commercial properties, including Taxpayer's
29 property. For example, although Mr. Macaulay stated that no single report or study was
30 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
2
3 parcel-by-parcel analysis other than to say that the studies generally provided “some
4
5 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
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7 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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9 similarities and differences between these improvements and the comparable parks he
10
11 looked at).

12 43. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
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14 assignment of incremental increase of 0.5% to 4% to property values within the LID.
15
16 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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18 research misinterprets his work in critical ways, including because the LID Improvements
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20 manifest the characteristics of a parkway (not a park), and his research indicates that most of
21
22 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
23
24 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
25
26 related value increases are in fact smaller; that estimated increases are “best guesses” rather
27
28 than predictions of property value increases in a particular city; and that percentages do not
29
30 account for diminishing returns after taking into account water views, which would be the
31
32 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
33
34 topography grants most properties in downtown a water view.
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36 44. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
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38 that this was just one source of information that was not entirely relevant because, among
39
40 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
41
42 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
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44 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
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46 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
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1 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
2
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
4
5 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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7 significantly beyond that which the park study indicated (even if it was legitimate to use the
8
9 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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11 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
12
13 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
14
15 Taxpayer’s property is not within 500 road network feet from the “park” improvements. *See*
16
17 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Ex D.

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19 45. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
20
21 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
22
23 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
24
25 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
26
27 materials, it was clearly an important—if not *the* most important—source of information for
28
29 estimating special benefits (especially with respect to the condos).⁷ No City witness
30
31 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
32
33 parcel-by-parcel analysis.

34
35 46. The destination parks discussed in the Final Special Benefit Study do not
36
37 provide reliable, comparable, and valid support for the calculation of special assessments
38
39 here. Gibbons 5/2/2018 Letter (attached to Appeal Petition) at 4. None of the parks cited in
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 the Final Special Benefit Study were funded by a LID. And in virtually all of those cases,
2 the park improvements dramatically restored unimproved or blighted areas, and properties
3 evaluated were within two or three blocks of the park.
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6 47. ABS's claimed reliance on three economic studies to support property value
7 increase is also flawed. The HR&A study does not inform what value increases are
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
10 dissimilar parks in other cities,⁸ making the methodological application to the LID
11 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
12 conclusion that there would be *no new net visitors* from downtown residents as a result of
13 the LID Improvements and could not explain how this impacted his condo analysis.
14

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16 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
17 Property Values" primarily focused on whether the benefits accrue to the larger community
18 rather than properties adjacent to the park. And the 2014 New York City Department of
19 Transportation study is not based on real estate transactions and market sales and fails to
20 substantiate any link between increased retail sales and property values. Moreover, this
21 study only looked at impact either directly abutting the streetscape improvement, or a couple
22 hundred feet for plaza-like improvements.
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25 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
26 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
2 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
3 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
4 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
5 asked whether he considered that HR&A's estimated LID impact is six times greater than
6 TPL's assessment of Seattle's entire park system, he surmised that it was because the
7 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
8 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
9 assumptions to account for this difference, which may be partly explained by the fact that
10 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
11 approximately 3.44% of King County tourists visit Seattle primarily because of the city
12 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
13 waterfront improvements.

26 49. Although proximity to the improvements is a key factor in all of these
27 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
28 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
29 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
30 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
31 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
32 Improvements is approximate 20 acres and it is not a community park.⁹

43
44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 50. There is no explanation in the Final Study or the supporting materials of how
2 the studies or comparable sales were used to derive values for Taxpayer's property. For
3 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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5 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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8 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
9 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
10 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12 Study does not meet mass appraisal standards nor allow for independent assessment of the
13 accuracy of Mr. Macauley's conclusions.
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16 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
17 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
18 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
19 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
20 testimony suggests that he incorrectly believed that the only difference between direct
21 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
22 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
23 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
24 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
25 Gordon uses in doing his limited restricted report").
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28 53. But the difference is not only in reporting—mass appraisal techniques must
29 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
30 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
31 parcel approach:
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1 The mass appraisal technique is an appraisal method used to evaluate
2 a group of properties that are subject to similar market forces as of a
3 certain date through the use of market data, statistical analysis and
4 testing. As a result, the mass appraisal technique does not require or
5 involve analysis of each individual property's specific data.
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8 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

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10 54. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
11 universe of properties as a given date using standard methodology, employing common data,
12 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
13 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
14 model" is "a mathematical expression of how supply and demand factors interact in a
15 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
16 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
17 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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26 55. Regardless of client direction, Mr. Macaulay is required to comply with
27 USPAP. So if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
28 economically feasible because it would have taken "an incredible amount of time and cost"
29 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
30 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
31 individual appraisal of each [condo] parcel would have been cost and time prohibitive").
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38 56. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
39 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
40 value, fails to calibrate the model structure to determine the contribution of the individual
41 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
2 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
3

4 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
5 proximity to the elements, the increase in market rent, market vacancy changes,
6 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
7 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
8 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
9 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
10 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
11 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
12 values were hypothetical, it was not possible to identify matched pair sales and no City
13 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
14 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
15 requires him to explain his model structure.
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28 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
29 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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3 and appeals the Examiner’s denial of that motion.
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5 59. Finally, Taxpayer’s property is not appurtenant—or even in close
6
7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
8
9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
10
11 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
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13 property is not even within 500 road network feet from the core “park” improvements. And,
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15 as described above, the special assessment is overstated because the Final Study makes no
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17 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
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19 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
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21 improvements were not in in place—and, in fact, much of the waterfront is a construction
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23 zone following removal of the viaduct and now Pier 58 demolition. Under these
24
25 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
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27 Mr. Macaulay at the very least should have discounted the special benefit estimates or
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29 waited to perform the Study until the improvements were at least close to complete.
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31 **Erroneous Pre-Improvement Valuation**

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33 60. The proposed final assessment erroneously overstates the pre-improvement
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35 value of Taxpayer’s property as of October 1, 2019 and, as a result, overstates the special
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37 benefit to the Taxpayer’s property.
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39 61. The City’s Final Study was used to compute the proposed final assessment of
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41 Taxpayer’s property. The City’s Study purportedly uses data from the King County
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1 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
2 Study does not accurately reflect this data. For example, the City's Study values Taxpayer's
3 property at \$61,054,000 as of October 1, 2019. However, the King County assessor
4 determined the true and fair value of the property to be \$33,270,000, valued in 2019 for tax
5 year 2020. In other words, the Final Special Benefit Study's valuation is 184% of King
6 County's assessed value. The Final Special Benefit Study does not explain this difference—
7 or any differences—between its pre-improvement valuation and its supposed source for
8 market data. For this reason, Taxpayer appeals Section IV.C. of the Examiner's
9 Recommendation.
10

11 62. In addition, Mr. Beckley testified that there is no evidence the City took into
12 account the fact that redevelopment of this property is restricted due to the fact that
13 development rights have been sold. Hrg. Exhibit 112 (Decl. of R. Beckley) at ¶ 10. Mr.
14 Macaulay claims he knew about the sold development rights but does not otherwise explain
15 his Before valuation or provide any other specific testimony regarding this property. *See*
16 Second Decl. of Macaulay, ¶¶ 2, 65-69 (dated 6/26/2020). There is no analysis of the sold
17 development rights in the spreadsheet for this property, ABS's backup data, or anywhere in
18 the Final Study. Thus, aside from multiple other reasons why computation of the special
19 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
20 improvement values that do not accurately reflect market data. For this reason, Taxpayer
21 appeals pages 104-105 of the Examiner's Recommendation.
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45 ¹¹ *See, e.g.*, Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

Erroneous Computation of Special Benefit

63. “Special benefit” is “the increase in fair market value attributable to the local improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?” *Id.* 165–66.

64. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For the TwoPine property, Mr. Macaulay assumed office rental rates would increase by 0.45% (low) and 2.27% (high) due to the 2024 LID Improvements. But it is not possible to accurately conclude that the reason for this level of percentage increase would be due to the LID Improvements, and there appears to be no support for assignment of these percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same percentages (0.45% and 2.27%) to increase retail rental rates. He then uses this hypothesized increased revenue to calculate a new net operating income for the commercial properties and capitalizes that to come up with an “After” valuation.

66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net operating income remains the same as in the hypothetical “Before” condition, but changes the cap rate. For the TwoPine property, the cap rate goes from 4.90% to 4.80% (low scenario, creating a bigger value increase) and 4.75% (high scenario, creating a lower value

1 increase). But cap rate changes of 0.10% or 0.15% are not typically measurable, and there
2 appears to be no support for these changes in the Final Study or any of its supporting
3 materials.
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6 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
7 benefit conclusion. For this property, this is an increase in property value of 2.80% due to
8 the LID Improvements.
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11 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
12 and capitalization rates. When asked precisely what the basis is for his special benefit
13 percentage increases to revenue for each commercial property, he could not point to
14 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
15 is nothing in the report to allow a reader to understand how he came up with these
16 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
17 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
18 the basis for his belief that certain factors—liked increased connectivity—will increase
19 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
20 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
21 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
22 sources equally even though there was no separate analysis done for food and beverage or
23 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
24 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
25 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
26 properties.
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29 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
30 check for commercial properties. But as explained above, no City witness has explained
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1 how anyone, or all, of the sales are comparable to any particular commercial property within
2 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
3 in order to make sales “comparable,” he would have had to make adjustments to account for
4 Before and After conditions, but there is no way to understand how adjustments were made
5 because he “didn’t do a separate sales comparison approach where we showed adjustments
6 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
7 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
8 *Id.* at 127:10-128:24.
9

10
11 70. It also bears noting that any “internal review” of the special benefit estimates
12 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
13 error. Indeed, given all the same information, he seemed to suggest that it would be
14 perfectly reasonable for another experienced appraiser to come up with special benefit
15 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
16 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
19 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
20 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
21 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
22 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
23 special because it is arbitrarily assigned; and it is too small to realistically be supported by
24 appraisal techniques.
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27 71. No evidence of special benefit. Meanwhile, there is “no actual evidence from
28 any seller or purchaser that the price was higher because of the LID improvements.”
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1 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
2 identified any seller or buyer, or any particular property where the existence of the LID
3 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
4 explained that the property has not increased rental rates or revenue due to the forthcoming
5 LID Improvements, because, among other reasons (and apart from COVID), the
6 improvements ABS believes will generate value do not exist, and will not for a number of
7 years to come. There are no comparable sales because the LID Improvements are not in
8 place, nor will they be until the end of 2024 if completed on schedule.
9

10
11 72. The fair market value of Taxpayer’s property has not changed due to
12 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
13 benefited from installation of new water main and fire hydrant where it was already
14 adequately supplied with water and afforded adequate fire protection). And in any event,
15 any value attributable to removal of the viaduct was to be excluded from the assessment
16 calculation.
17

18
19 73. There is no special benefit because LID improvements in fact diminish the
20 value of Taxpayer’s property by, for example, imposing an immediate tax on the property
21 while providing no immediate benefits. *See Kusky*, 85 Wn. App. 493 (testimony of owners’
22 expert that LID actually diminished value of property was sufficient to rebut presumption
23 that assessment was proper).
24

25
26 74. Moreover, the assessment formula is an attempt to distribute costs that do not
27 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
28 “merely a mathematical model that distributes costs”).
29

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31 75. The Special Benefit Study fails to address whether the \$346,000,000
32 estimated LID project cost takes into account the investment that would have occurred in the
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1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

5
6 76. The proposed final assessment substantially exceeds the special benefit to the
7 property and is grossly disproportionate to similarly situated properties within the LID.
8

9
10 Aside from claiming he knew about the sold development rights, Mr. Macaulay does not
11 provide any other specific testimony regarding this property; neither does the City. Instead,
12 the City offers only general responses which have already been rebutted by Objectors in
13 their case-in-chief and cross-examination. For these reasons, Taxpayer appeals the following
14 portions of the Examiner's Recommendation: Sections II.22, II.23, II.27, IV.B.4, and
15 IV.B.11(a)(iii).
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22 **State Environmental Policy Act and Other Environmental Permitting**

23
24 77. While this appeal is not challenging the City's environmental review and
25 permitting processes, those processes are relevant in determining the legality of the
26 assessments, and to assessing the delivery risk, the present value of the City's plans, and
27 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
28 pursue projects that have not yet undergone environmental review (thus limiting the choice
29 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
30 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
31 is just beginning. Further, the City has segmented environmental review, and still has a
32 gauntlet of federal, state and tribal review processes to complete before it will be clear what
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
34 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
35 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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1 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
2
3 committing to reconstruction of Pier 58 and major street improvements without
4
5 environmental review, or the City's Final Special Study has improperly included and is
6
7 proposing to assess the Taxpayer the costs and special benefits of improvements that may
8
9 not get built. Either way, it is faulty process.

10 **Due Process Rights**

11
12 78. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
13
14 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
15
16 Because LID assessments involve a deprivation of property, affected owners have the right
17
18 to a hearing as to whether the improvement resulted (or will result) in special benefits to
19
20 their properties and whether their assessments are proportionate, which necessarily includes
21
22 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
23
24 555, 569–70, 229 P.3d 761 (2010).
25

26
27 79. The LID statute specifies that cities must mail notices giving the time and
28
29 place of the hearing to the affected owners "[a]t least fifteen days before" the hearing and
30
31 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
32
33 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
34
35 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
36
37 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
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39 secure their own appraisal), evaluate proportionality of the proposed assessments, and
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41 whether the owner asked for more time. *Id.* (noting that 15 days was entirely "insufficient
42
43 for anybody to get an appraisal").
44

45 80. The City's Notice of Assessment was sent on December 30, 2019. And the
46
47 Final Special Benefit Study has only been available for public review since January 7, 2020.

1 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
2 order that would preserve and protect Taxpayer's right to analyze and respond to the Final
3 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
4 preliminary motions (e.g., with respect to the interplay between SEPA and the City's
5 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
6 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
7 the Examiner's Recommendation: I.B.
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14

15 **VII. Relief Requested**

16 Taxpayer respectfully requests that the City Council:

- 17 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
18
19 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
20 assessment dated December 30, 2019; or
21
22 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
23 proposed final assessment to \$0 (zero), or such amount as Taxpayer
24 establishes at the hearing in this matter; or
25
26 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
27 and reduce Taxpayer's assessment using recognized appraisal techniques
28 consistent with USPAP and:
29
30 i. Excluding any property value increase attributable to viaduct removal
31 and other planned WSDOT Improvements;
32
33 ii. Taking into account the effects of the COVID-19 pandemic on the
34 value of Taxpayer's property and other relevant developments since
35 October 2019;
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- iii. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to Taxpayer's property, and (2) any special detriments from construction and other anticipated LID-related disamenities;
 - iv. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - v. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vi. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and
2. Grant such further relief as the City Council deems just and proper.

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2 DATED: September 22, 2020
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Attorneys for LBA RV Company XXVIII, LP

FILED

4:08 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0420
Date: Tuesday, February 16, 2021 3:44:59 PM
Attachments: [LBA RV Company XXVIII Amended LID Appeal before City Council CWF 420.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

LBA RV Company XXVIII Amended LID Appeal before City Council CWF 420

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0420

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON LBA RV
COMPANY XXVIII, LP’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1117080020

32
33
34 LBA RV Company XXVIII, LP (“Taxpayer”) files this amended appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
36 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
37
38 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
39
40 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
41
42 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
43
44 Recommendation issued February 1, 2021.
45
46
47

1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 LBA RV Company XXVIII, LP
6 3347 Michelson Drive
7 Attn: Principal-Operations
8 Irvine, CA 92616
9

10
11 **II. Taxpayer's Representatives**

12 LBA RV Company XXVIII, LP representatives in this matter are:

13
14
15
16 R. Gerard Lutz, WSBA No. 17692
17 JLutz@perkinscoie.com
18 Perkins Coie LLP
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24
25 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

26 LBA RV Company XXVIII, LP owns the property that is subject to the proposed
27
28 final assessment described in Section IV.
29

30 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
31
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34
35 objection to the assessment, which was based on the Final Study. Taxpayer further timely
36
37 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
38
39 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
40
41 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
42
43 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
44
45 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
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47

1 as authorized by the Hearing Examiner, including without limitation all records pertaining to
2 the November 2020 through February 2021 remand hearing ordered by Council.
3

4
5 **IV. Amended Arguments on Appeal**

6 LBA RV Company XXVIII, LP supplements its appeal of the Hearing Examiner's
7 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
8 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
9 the following property:
10
11
12
13

14 King County Parcel No. 1117080020
15 Site Address: 1601 2nd Ave., Seattle, Washington
16 Proposed Final LID Assessment for Parcel: \$670,407
17

18 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
19 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
20 amended appeal.
21
22
23

24
25 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
26 **Discounted to Present Value and Assessments Adjusted as Appropriate**
27

28 On remand, the City's appraiser acknowledged that special benefits to parcels can be
29 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
30 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
31 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
32 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
33 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
34 accepted that recommendation. The City's appraiser further acknowledged that benefit
35 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
36 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
37 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
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1 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
2
3 calculations to present value because the general benefits are not anticipated from the LID
4
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8
9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
10
11 benefit calculation, and related assessments, to account for the delay between the assessment
12
13 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
14
15 standard appraisal practice, and renders the other proposed Waterfront LID special
16
17 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
18
19 “fundamentally wrong methods.”

20
21 All special benefit taxes assessed by a municipality must be based on “actual,
22
23 physical and material [special benefits that are] not merely speculative or conjectural.”
24
25 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
26
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
28
29 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
30
31 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
32
33 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
34
35 discount benefits the City estimated would accrue to the properties from improvements to be
36
37 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
38
39 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
40
41 property while treating all or most others (including Taxpayer’s) differently, and
42
43 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
44
45 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
46
47 for some properties because the benefits are too distant, while assessing other properties as

1 though distant benefits have already been secured. As Taxpayer identified in its September
2 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
3 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
4 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
5 reject the improper calculation of the benefit or remand and require the appraiser to discount
6 the benefits to net present value.
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13 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
14 **Downtown Property Owners and other Material Changes Since October**
15 **2019, the LID Should be Cancelled, or at Least Assessments**
16 **Recalculated, to take Into Account Property Value Reductions**
17

18 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
19 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
20 other relevant developments since October 2019." When Washington's first COVID
21 restrictions were imposed in March and April 2020, there was an assumption that they
22 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
23 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
24 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
25 gotten much worse. The City has already imposed higher minimum wages and taxes on
26 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
27 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
28 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
29 years from completion, as a best case. In current circumstances, a downtown tax to fund
30 new, non-essential park improvements against financially strapped taxpayers, and likely
31 passed through to financially strapped tenants and customers would be unfair to taxpayers
32 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
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1 rethinks its budget priorities for the next few years, and its potentially funding sources,
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3 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
4
5 property owners) have a chance to recover, and that any assessment take into account the
6
7 changed circumstances since this appeal process started on February 4, 2020 to avoid
8
9 unnecessarily and perhaps permanently killing downtown properties and businesses in the
10
11 name of bettering them.
12

13 **V. Relief Requested**

14
15 Particularly in light of the Committee's decision not to take further comment from
16
17 appellants, Taxpayer respectfully request that each Committee member carefully review the
18
19 full record transmitted to Council before voting on Taxpayer's appeal.
20

21 LBA RV Company XXVIII, LP respectfully reiterates its request from the
22
23 September 22, 2020 appeal that the City Council:
24

25 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and

26
27 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
28
29 final assessment dated December 30, 2019; or

30
31 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
32
33 proposed final assessment to \$0 (zero), or such amount as Taxpayer
34
35 establishes at the hearing in this matter; or

36
37 c. Remand the matter to the Hearing Examiner or City appraiser to
38
39 recalculate and reduce Taxpayer's assessment using recognized appraisal
40
41 techniques consistent with USPAP and:

42
43 i. Excluding any property value increase attributable to viaduct
44
45 removal and other planned WSDOT Improvements;
46
47

- 1 ii. Taking into account the effects of the COVID-19 pandemic on
2 the value of Taxpayer's property and other relevant
3 developments since October 2019;
4
5 iii. Accounting for and excluding (1) any special benefits from
6 existing or planned improvements that already provide similar
7 benefits to Taxpayer's property, and (2) any special detriments
8 from construction and other anticipated LID-related
9 disamenities;
10
11 iv. Accounting for and including only those actual benefits
12 anticipated to accrue to Taxpayer's property based on its
13 location relative to Pier 58, Overlook Walk, and the
14 Promenade, and specific elements of the LID Improvements;
15
16 v. Discounting anticipated special benefits to present value,
17 based on reliable estimates regarding when special benefits
18 will start accruing following completion of the LID
19 Improvements; and
20
21 vi. Accounting for such other issues specific to Taxpayer's
22 property relevant to calculation of such assessment; and
23
24 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

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23 Attorneys for LBA RV Company XXVIII, LP
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3:36 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0421
Date: Tuesday, September 22, 2020 2:55:28 PM
Attachments: [CWF-0421.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0421.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0421

A – Master List of Evidence

B – B-247 2+U

C – Discounting for CWF-0421

CWF-0421 Appeal Notice for 2+U

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0421

NOTICE OF HS 2U OWNER LLC’S
AMENDED APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON 2ND AVENUE
REAL ESTATE INVESTMENTS/ SCD2+U
LLC’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NOS.
1974700175, 1974700210, and 1974700190¹

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35
36 2ND AVENUE REAL ESTATE INVESTMENTS/ SCD2+U LLC/ Taxpayer files
37
38 this amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of
39
40 Seattle Resolution 31915, City of Seattle Resolution 31979, the notice of the Seattle Office
41
42 of the City Clerk dated December 30, 2019, the notice of the Seattle Office of the City Clerk
43

44
45 ¹ The original appeal just listed King County Parcel No. 1971700175 because the City has
46 erroneously described Parcel No. 1974700190 as “Freedman’s Lot (Retail)” and Parcel No.
47 1974700210 as a “Vacant Lot.” These three parcels comprise the 2+U building, and therefore the
appeal is being amended to add each parcel.

1 dated February 1, 2021, the Hearing Examiner's Findings and Recommendation issued
2
3 September 8, 2020 ("Examiner's Recommendation") and the Hearing Examiner's Findings
4
5 and Recommendation issued February 1, 2021.
6

7 **I. HS 2U Owner LLC, as successor in interest to SCD2+U LLC / Appellant**

8 The taxpayer filing this amended appeal is:
9

10
11 HS 2U Owner LLC
12 c/o Hines
13 Managing Director - Asset Management
14 Hines
15 10885 NE 4th Suite 320
16 Bellevue, WA 98004
17 ATTN: Chris Chung (Hana Alternative Asset Management)
18 (206) 839-8407
19 Andy.albrecht@hines.com; chris.chung@hana-aamc.com
20
21

22 **II. Representatives of HS 2U Owner LLC, as successor in interest to SCD2+U LLC**
23 **/ Appellant in this proceeding**
24

25 HS 2U Owner LLC's representatives in this matter are:
26

27
28 R. Gerard Lutz, WSBA No. 17692
29 JLutz@perkinscoie.com
30 Perkins Coie LLP
31 10885 N.E. Fourth Street, Ste 700
32 Bellevue, Washington 98004
33 Telephone: 425.635.1400
34 Facsimile: 425.635.2400
35

Robert L. Mahon, WSBA No.
26523
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1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

36
37 **III. Statement of 2nd Avenue Real Estate Investments/ SCD2+U LLC's Interest and**
38 **Incorporation of Prior Arguments**

39 HS 2U Owner LLC, which recently acquired the property from SCD2+U LLC is the
40
41 long term ground lessee responsible for paying the LID assessment against the property that
42
43 is subject to the proposed final assessment described in Section IV.
44
45
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1 HS 2U Owner LLC amending its appeal as authorized in City of Seattle Resolution
2
3 31979 to include additional arguments relevant to the revised Final Recommendations of the
4
5 Hearing Examiner issued on February 1, 2021. On February 4, 2020, 2nd Avenue Real
6
7 Estate Investments/ SCD2+U LLC timely filed an objection to the assessment, which was
8
9 based on the Final Study. 2nd Avenue Real Estate Investments/ SCD2+U LLC further
10
11 timely filed an appeal of the Hearing Examiner's 2020 recommendations to the City
12
13 Council. 2nd Avenue Real Estate Investments/ SCD2+U LLC maintains and incorporates
14
15 all objections and arguments raised in its appeal filed with the City Clerk on September 22,
16
17 2020. This amendment is a supplement is to be read together with 2nd Avenue Real Estate
18
19 Investments/ SCD2+U LLC's appeal filed on September 22, 2020. HS 2U Owner LLC
20
21 incorporates by reference all filings, evidence, and pleadings filed by any party before the
22
23 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
24
25 records pertaining to the November 2020 through February 2021 remand hearing ordered by
26
27 Council.

28
29 **IV. Amended Arguments on Appeal**

30 HS 2U Owner LLC supplements its appeal of the Hearing Examiner's
31
32 recommendation to deny 2nd Avenue Real Estate Investments/ SCD2+U LLC's objection to
33
34 the City of Seattle's Waterfront Local Improvement District No. 6751 proposed final
35
36 assessment dated December 30, 2019 against the following property:
37

38
39 King County Parcel No. 1974700175
40 Site Address: 1215 2nd Ave., Seattle, Washington
41 Proposed Final LID Assessment for Parcel: \$1,611,564
42

43 King County Parcel No. 1974700190
44 Site Address: 1206 1st Ave., Seattle, Washington
45 Proposed Final LID Assessment for Parcel: \$180,238
46

47 King County Parcel No. 1974700210

1 Site Address: 1200 1st Ave., Seattle, Washington
2 Proposed Final LID Assessment for Parcel: \$70,528
3
4

5 To avoid repetition, HS 2U Owner LLC incorporates the evidence and arguments
6 raised by 2nd Avenue Real Estate Investments/ SCD2+U LLC before the Hearing Examiner
7 and before the City in its September 22, 2020 appeal, into this amended appeal.
8
9

10
11 **A. The Anticipated Special Benefits to 2nd Avenue Real Estate Investments/
12 SCD2+U LLC's Property should be Discounted to Present Value and
13 Assessments Adjusted as Appropriate**
14

15 On remand, the City's appraiser acknowledged that special benefits to parcels can be
16 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
17 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
18 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
19 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
20 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
21 accepted that recommendation. The City's appraiser further acknowledged that benefit
22 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
23 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
24 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
25 value."). Nevertheless, the appraiser refused to more generally discount his benefit
26 calculations to present value because the general benefits are not anticipated from the LID
27 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
28 perhaps not until 2029. The appraiser's and Examiner's recommendation to reduce the
29 theatre's assessment to zero is reasonable. His refusal to make other discounts to his special
30 benefit calculation, and related assessments, to account for the delay between the assessment
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1 and realization of any special benefits to Taxpayer's property is unreasonable, contrary to
2 standard appraisal practice, and renders the other proposed Waterfront LID special
3 assessments, and the Examiner's Recommendations, arbitrary and capricious and based on
4 "fundamentally wrong methods."
5

6 All special benefit taxes assessed by a municipality must be based on "actual,
7 physical and material [special benefits that are] not merely speculative or conjectural."
8
9 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
10

11 Additionally, the assessments may not materially exceed the actual special benefit conferred
12 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
13 to meet any of these legal requirements is fatal to the assessment. Taxpayer's September 22,
14 2020 appeal challenged the City appraiser's valuation because, among other flaws, it did not
15 discount benefits the City estimated would accrue to the properties from improvements to be
16 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
17 appraiser's inconsistent approach, selectively applying discounting to one (that we know of)
18 property while treating all or most others (including Taxpayer's) differently, and
19 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
20 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
21 for some properties because the benefits are too distant, while assessing other properties as
22 though distant benefits have already been secured. As Taxpayer identified in its September
23 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
24 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
25 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
26 reject the improper calculation of the benefit or remand and require the appraiser to discount
27 the benefits to net present value.
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1 **V. Relief Requested**

2 Particularly in light of the Committee's decision not to take further comment, HS 2U
3 Owner LLC respectfully requests that each Committee member carefully review the record
4 transmitted to Council before voting on our appeal.
5
6

7 HS 2U Owner LLC respectfully reiterates 2ND AVENUE REAL ESTATE
8 INVESTMENTS/ SCD2+U LLC's request from the September 22, 2020 appeal that the City
9 Council:
10
11

- 12 1. Discount the Waterfront Local Improvement District No. 6751 proposed final
13 assessment dated December 30, 2019; or
14
- 15 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
16 proposed final assessment to \$0 (zero), or such amount as Taxpayer
17 establishes at the hearing in this matter; or
18
- 19 3. Grant the Examiner's recommended remand but with instructions to
20 recalculate and reduce Taxpayer's assessment using recognized appraisal
21 techniques consistent with USPAP and
22
23
 - 24 a. Excluding any property value increase attributable to viaduct removal
25 and other planned WSDOT Improvements;
26
 - 27 b. Taking into account the effects of the COVID-19 pandemic on the
28 value of Taxpayer's property and other relevant developments since
29 October 2019;
30
 - 31 c. Accounting for and excluding (1) any special benefits from existing
32 or planned improvements that already provide similar benefits to
33 Taxpayer's property, and (2) any special detriments from construction
34 and other anticipated LID-related disamenities;
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- 1 d. Accounting for and including only those actual benefits anticipated to
2 accrue to Taxpayer's property based on its location relative to Pier 58,
3 Overlook Walk, and the Promenade, and specific elements of the LID
4 Improvements;
5
6 e. Discounting anticipated special benefits to present value, based on
7 reliable estimates regarding when special benefits will start accruing
8 following completion of the LID Improvements; and
9
10 f. Accounting for such other issues specific to Taxpayer's property
11 relevant to calculation of such assessment; and
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18 4. Grant such further relief as the City Council deems just and proper.
19
20

21 DATED: February 16, 2021

PERKINS COIE LLP

22
23
24 By:

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42 Attorneys for HS 2U Owner LLC
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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

2+U Building (under const)									
Map No.	B-247		Historic:	No					
Tax Parcel Nos.	197470-0175		Stories:	38					
Address	1201 2nd Ave		Current Rent:	Office: \$42-\$55/NNN					
Zoning:	DOC1 U/450/U		NOTE:	1. 100% Complete -Lease up					
Property rights:	Fee Simple			2. Previous appraisal as Land-Only					
Proximity to project:	Approx. 2-blocks			3. Development includes land parcels B-249 & B-250					
Previous sale:	-			4. \$0 Sale 10/20/2016 including B-249 & B-250, Quit Claim Deed					
Ownership	2ND AVENUE REAL ESTATE INVE								
INCOME ANALYSIS WITHOUT "Before"									
	Year Built	2018							
	Parking	466							
Potential Gross Income									
		GBA	NRA						
Office		715,977	683,000	SF NRA @	\$40.00	per SF =		\$27,320,000	
Retail		18,000	18,000	SF NRA @	\$35.00	per SF =		\$630,000	
Restaurant space		0	0	SF NRA @	\$0.00	per SF =		\$0	
Other		0	0	SF NRA @	\$0.00	per SF =		\$0	
Other		0	0	SF NRA @	\$0.00	per SF =		\$0	
Other		0	0	SF NRA @	\$0.00	per SF =		\$0	
Subtotals		733,977	701,000		\$35.00			\$630,000	
Parking Area/Stalls		165,000	0	466	stalls @	\$300.00	/month	\$1,677,600	
Basement		0	0	SF NRA @	\$0.00	per SF =		\$0	
Other		0	0	SF NRA @	\$0.00	per SF =		\$0	
Other				0.0%	of GRI			\$0	
Total Bldg Area & Gross Income		898,977	701,000	SF NRA @	\$42.26	/SF =		\$29,627,600	
Less: Vacancy/credit allowance @		0.0%						\$0	
		5.0%						(\$1,481,380)	
Total vacancy/credit allowance								(\$1,481,380)	
Effective gross income								\$28,146,220	
Less: Operating expenses									
Management fee @		5.0%	of total EGI					(\$1,407,311)	
Parking operating expenses @		0.0%	of parking EGI					\$0	
Structural maintenance/reserve		\$0.20	per SF of NRA					(\$140,200)	
Total operating expenses								(\$1,547,511)	
Net operating income								\$26,598,709	
Indicated Value									
						Capitalized @	4.50%		
						Indicated value		\$591,082,422	
						(R)		\$591,082,000	
						Per SF NRA		\$843.20	
						Per SF GBA		\$657.51	
Land Value									
			25,760	SF @	\$1,800.00	per SF =		\$46,368,000	
Residual Improvements									
			701,000	SF NRA @	\$777.05	per SF =		\$544,714,000	
			898,977	SF GRA @	\$605.93				

Special Benefit Summary							
	Land		Improved	% Change	Total Estimated Value	Special Benefit	% Change
	Per SF	Total					
Without LID	\$1,800.00	\$46,368,000	\$544,714,000	N/A	\$591,082,000	N/A	N/A
With LID							
Scenario A1	\$1,836.00	\$47,295,000	\$545,713,000	0.18%	\$593,008,000	\$1,926,000	0.33%
Scenario A2	\$1,836.00	\$47,295,000	\$547,641,000	0.54%	\$594,936,000	\$3,854,000	0.65%
Scenario B1	\$1,836.00	\$47,295,000	\$546,426,000	0.31%	\$593,721,000	\$2,639,000	0.45%
Scenario B2	\$1,836.00	\$47,295,000	\$549,089,000	0.80%	\$596,384,000	\$5,302,000	0.90%
Summary							
Without LID	\$1,800	\$46,368,000	\$544,714,000	N/A	\$591,082,000	N/A	
With LID	\$1,836.00	\$47,295,000	\$547,900,000	0.58%	\$595,195,000	\$4,113,000	0.70%
Percent change in land value							
	2.00%						

2+U Building (under const)									
Scenario A: Rental and Vacancy Rate Changes									
INCOME ANALYSIS WITH "After"									
	Year Built		2018						
Potential Gross Income									
Office	GBA	NRA			Per SF	Per SF	Low	High	
	715,977	683,000		SF NRA @	\$40.00	\$40.00	\$27,320,000	\$27,320,000	
							2.86%	5.71%	
Retail	18,000	18,000		SF NRA @	\$36.00	\$37.00	\$648,000	\$666,000	
Restaurant space	0	0		SF NRA @	\$0.00	\$0.00	\$0	\$0	
Other	0	0		SF NRA @	\$0.00	\$0.00	\$0	\$0	
Other	0	0		SF NRA @	\$0.00	\$0.00	\$0	\$0	
Other	0	0		SF NRA @	\$0.00	\$0.00	\$0	\$0	
Subtotals	733,977	701,000			\$36.00	\$37.00	\$648,000	\$666,000	
					Per Month	Per Month	0.00%	0.00%	
Parking Area/Stalls	165,000	0	466	stalls @	\$300.00	\$300.00	\$1,677,600	\$1,677,600	
					Per SF	Per SF	0.00%	0.00%	
Basement	0	0		SF NRA @	\$0.00	\$0.00	\$0	\$0	
Other	0	0		SF NRA @	\$0.00	\$0.00	\$0	\$0	
Other				0.0%	of GRI		\$0	\$0	
Total Bldg Area & Gross Income	898,977	701,000		SF NRA @	\$42.29	\$42.32	\$29,645,600	\$29,663,600	
Less: Vacancy/credit allowance							0.0%	0.0%	
							4.75%	4.50%	
Total vacancy/credit allowance							(\$1,408,166)	(\$1,334,862)	
Effective gross income							\$28,237,434	\$28,328,738	
Less: Operating expenses									
Management fee @	5.0%	of total EGI					(\$1,411,872)	(\$1,416,437)	
Parking operating expenses @	0.0%	of parking EGI					\$0	\$0	
Structural maintenance/reserve	\$0.20	per SF of NRA					(\$140,200)	(\$140,200)	
Total operating expenses							(\$1,552,072)	(\$1,556,637)	
Net operating income							\$26,685,362	\$26,772,101	
Indicated Value									
					Capitalized @	4.50%	4.50%		
					Indicated Value			\$593,008,051	\$594,935,580
					(R)			\$593,008,000	\$594,936,000
					Per SF NRA	\$845.95	\$848.70		
					% change	0.33%	0.65%		
Land Value									
		25,760		SF @	\$1,836.00	per SF =	\$47,295,000	\$47,295,000	
Residual Improvements									
							\$545,713,000	\$547,641,000	
					Per SF NRA	\$778.48	\$783.23		
Special Benefit Summary									
							\$1,526,000	\$3,854,000	

	Land Area	Land Value/ SF		Before LID Land Value	After LID Land Value	Special Benefit	Percent Change
B-249	12,765	SF @ \$1,800	=	\$22,977,000	\$23,437,000	\$460,000	2.00%
B-250	4,995	SF @ \$1,800	=	\$8,991,000	\$9,171,000	\$180,000	2.00%

2+U Building (under const)									
Scenario B: Overall Capitalization Rates Changes									
INCOME ANALYSIS WITH "After"									
Year Built		2018							
Potential Gross Income									
Office	GBA	NRA							
	715,977	683,000	SF NRA @	\$40.00	per SF =			\$27,320,000	
Retail	18,000	18,000	SF NRA @	\$35.00	per SF =			\$630,000	
Restaurant space	0	0	SF NRA @	\$0.00	per SF =			\$0	
Other	0	0	SF NRA @	\$0.00	per SF =			\$0	
Other	0	0	SF NRA @	\$0.00	per SF =			\$0	
Other	0	0	SF NRA @	\$0.00	per SF =			\$0	
Subtotals	733,977	701,000						\$630,000	
Parking Area/Stalls	165,000	0	466 stalls @	\$300.00	/month			\$1,677,600	
Basement	0	0	SF NRA @	\$0.00	per SF =			\$0	
Other	0	0	SF NRA @	\$0.00	per SF =			\$0	
Other			0.0%	of GRI				\$0	
Total Bldg Area & Gross Income	898,977	701,000	SF NRA @	\$42.26	/SF			\$29,627,600	
Less: Vacancy/credit allowance @	0.0%							\$0	
	5.0%							(\$1,481,380)	
Total vacancy/credit allowance								(\$1,481,380)	
Effective gross income								\$28,146,220	
Less: Operating expenses									
Management fee @	5.0%	of total EGI						(\$1,407,311)	
Parking operating expenses @	0.0%	of parking EGI						\$0	
Structural maintenance/reserve	\$0.20	per SF of NRA						(\$140,200)	
Total operating expenses								(\$1,547,511)	
Net operating income								\$26,598,709	
Indicated Value									
					Capitalized @	Low	High		
					Indicated Value	\$593,721,183	\$596,383,610		
					(R)	\$593,721,000	\$596,384,000		
					Per SF	\$846.96	\$850.76		
					% change	0.45%	0.90%		
Land Value									
		25,760	SF @	\$1,836.00	per SF =	\$47,295,000	\$47,295,000		2.00%
Residual Improvements									
						\$546,426,000	\$549,089,000		
					per SF NRA	\$779.50	\$783.29		
Special Benefit Summary									
						\$2,639,000	\$5,302,000		

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0421	2+U Building	1215 2nd Avenue	1974700175

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$4,113,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$552,907

Model Input					
Appeal #	Property	Address	Assessor's #		
CWF-0421	2+U Building	1215 2nd Avenue	1974700175		
	BEFORE	Appraiser		Value	
A	Final City Before Value	City		\$591,082,000	
B	Actual Value per Taxpayer - January 2020	Taxpayer		\$559,114,000	
C	COVID 19 Discount and value		-12.5%		
D					
(B*(1+C) unless no value for B, then A*(1+C)	Corrected FMV for Assessment	\$489,224,750			
	SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%
	CORRECTION OF ASSESSMENT	Value		5-yr delay	10-yr delay
H	City LID special benefit for subject		\$4,113,000		
H/A	As Percentage of Final City Before Value		0.696%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$3,404,234		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$1,167,420	\$320,767
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$457,629	\$125,741
	DISTANCE FROM PARK IMPROVEMENTS	Value		5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A		N/A	N/A

FILED

4:26 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0421
Date: Tuesday, February 16, 2021 4:01:04 PM
Attachments: [2+U LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
[2+U LID Appeal before City Council.pdf](#)

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0421

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON 2ND AVENUE
REAL ESTATE INVESTMENTS
OBJECTION TO WATERFRONT LID NO.
6751 PROPOSED FINAL ASSESSMENT
FOR PARCEL NO. 1974700175

33 2ND AVENUE REAL ESTATE INVESTMENTS (“Taxpayer”) files this appeal
34 pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution
35 31915, the notice of the Seattle Office of the City Clerk dated December 30, 2019, and the
36 Hearing Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
37 Recommendation”).
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43 **I. Taxpayer / Appellant**
44

45 The taxpayer filing this appeal is:
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47

1 2ND AVENUE REAL ESTATE INVESTMENTS

2 221 Yale Ave. N. #400

3 Seattle, WA 98109

4 Phone: (206) 726-8000

5 Fax: (206) 328-9235

6 Michael.arnette@skanska.com, Murphy.Mccullough@skanska.com and

7 Charlie.foushee@skanska.com

8
9
10 **II. Taxpayer's Representatives**

11 Taxpayer's representatives in this matter are:

12
13
14 R. Gerard Lutz, WSBA No. 17692

15 JLutz@perkinscoie.com

16 Megan Lin, WSBA No. 53716

17 MLin@perkinscoie.com

18 Perkins Coie LLP

19 10885 N.E. Fourth Street, Suite 700

20 Bellevue, Washington 98004

21 Telephone: 425.635.1400

22 Facsimile: 425.635.2400

23
24
25 Robert L. Mahon, WSBA No. 26523

26 RMahon@perkinscoie.com

27 1201 Third Avenue, Suite 4900

28 Seattle, Washington 98101

29 Telephone: 206.359.8000

30 Facsimile: 206.359.9000

31
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33 **III. Statement of Taxpayer's Interest**

34
35 Taxpayer is the long term ground lessee responsible for paying the LID assessment
36 against the property that is subject to the proposed final assessment described in Section IV.

37
38 The property, the 2+U Building, is a recently completed office tower completely leased up
39 with 15 year tenancies along with ground floor retail. The basis of the proposed assessment
40 is a Final Special Benefit/Proportionate Assessment Study for Waterfront Seattle Local
41 Improvement District ("Final Study"), dated October 1, 2019 and prepared by Robert
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1 Macaulay with ABS Valuation (the City’s appraiser). The Final Study proposes assessments
2 that are purportedly limited to paying for the LID-funded components—namely, the
3 Promenade, Overlook Walk, Pioneer Square Street Improvements, Union Street Pedestrian
4 Connection, Pike/Pine Streetscape Improvements, and Pier 58 (together, the “LID
5 Improvements”). The Final Study purports to exclude charges for other improvement
6 projects in the Central Waterfront, and specifically those WSDOT had already agreed to pay
7 for and construct: viaduct demolition, the new Alaskan/Elliott Way surface street, the
8 new/improved Seawall, the State Route 99 Tunnel, the Pier 62 rebuild, Bell Street
9 improvements, and parking spaces WSDOT planned fronting piers between Pike and
10 Madison (together, the “WSDOT Improvements”). But because construction was not
11 complete on the LID Improvements or the WSDOT Improvements at the time the Final
12 Study was prepared, Mr. Macaulay’s October 1, 2019 “Before” and “After” valuations are
13 both based on hypothetical conditions rather than actual facts. On February 4, 2020,
14 Taxpayer timely filed an objection to the assessment, which was based on the Final Study.

28 **IV. Matter Under Appeal**

29 Taxpayer appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
30 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
31 final assessment dated December 30, 2019 against the following property:

32 King County Parcel No. 1974700175
33 Site Address: 1215 2nd Ave., Seattle, Washington
34 Proposed Final LID Assessment for Parcel: \$1,611,564

35 *See* Examiner’s Recommendation at 61-62, 105. To avoid repetition, Taxpayer incorporates
36 the evidence and arguments raised before the Hearing Examiner into this appeal. In
37 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
38 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
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1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
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7 Pages 61-62, 105, Sections II.6, II.7, II.14, II.15, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
8 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
9 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.9, IV.C.11,
11 IV.C.12, IV.C.14, and IV.C.18.
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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39 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
40 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
41 Public Works committee secure and provide appellants with such a record, so that the appeals can
42 then be supplemented with that additional information, so as to make the Committee's consideration
43 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
44 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
45 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
46 retained by Perkins Coie are part of this case file.
47

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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30

31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$4,113,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
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11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
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15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
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27 **Legal Requirement:** Benefits must be special, not general
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30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
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34 **Legal Requirement:** Must comply with appraisal standards
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36
37 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
38 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
39 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
40 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
41 Final Study fails to meet basic standards for admissibility and must be remanded.
42

43 **Legal Requirement:** Actual and measurable special benefit
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46 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
47 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based

on a host of “micro-judgments” that are not supported by any documentation, nor capable of replication or quality assurance/quality control. The assessments are undocumented, unreliable, and not supported by empirical studies, data, or reports.

Legal Requirement: Actual and measurable special benefit—Park benefits must be supported by empirical evidence

ABS Study: Dr. John Crompton, the world’s preeminent expert regarding the economic value of parks and other public amenities and on whom ABS purported to rely, testified that ABS had completely misapplied his work and dramatically overstated both the distance to which economic benefits might extend from the LID Improvements and the extent of any anticipated benefit within the potentially benefited area.

Legal Requirement: Actual special benefit—Must take into account potential disamenities

ABS Study: The appraiser ignores the negative value impact of five years or more of construction, as well as other potential disamenities associated with public places.

Legal Requirement: Cannot prematurely commit to build

ABS Study: The City has not completed NEPA review or other entitlement process for its Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments are being imposed. But finalizing the roll is a commitment by the City to build the improvements, which is a violation of legal process and commits the City to build things it may not secure permission to build.

In addition to these general objections, there are property-specific issues raised by Taxpayer as to which the Examiner also erred, discussed in the course of the appeal statement below.

V. Standard of Review

“When considering the assessment roll, the city council sits ‘as a board of equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider

1 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
2 part thereof or set aside the roll.” *Id.* at 949 (quoting RCW 35.44.080(3)).

3
4 The proposed assessments are presumed correct, “unless overcome by clear, cogent
5 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
6 than the heightened presumption of correctness on judicial appeal because “applying these
7 elevated standards at the municipal hearing would afford unwarranted deference to a report
8 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
9 presumption is not evidence and its efficacy is lost when the other party adduces credible
10 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
11 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
12 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
13 presented credible evidence showing that the City’s proposed assessment is arbitrary,
14 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
15 to the City to prove the assessments are actual, measurable, special, non-speculative and
16 proportionate. The City failed that burden.
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30 **VI. Grounds for Appeal**

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32 Taxpayer appeals the Hearing Examiner’s Findings and Recommendations on the
33 following grounds.
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36 **Taxpayer Not Required to Provide A Special Benefit Study**

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38 1. Contrary to the Examiner’s findings and recommendations, there is no
39 requirement that experts or property owners provide an alternative special benefit
40 calculation under these circumstances—to do so would also require the same improper
41 speculation the City’s expert engaged in, given the timing and information provided. *See*,
42 *e.g.*, Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
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1 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained:
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3 “[W]e have explicitly rejected an argument that, because certain protestors ‘failed to offer
4 expert testimony at the city council hearing[,] the presumptions [in favor of the assessment]
5 were still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian*
6 *Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App.
7 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided
8 expert opinion showing that improvements actually diminished value of the property). Here,
9 Ben Scott testified that he is an expert in reviewing mass appraisal reports and analyzing
10 their impact on individual properties - precisely the matter at issue in this appeal. *See*
11 3/5/2020 Hrg. Tr. at 13:1-4 (laying foundation as expert witness while testifying on behalf
12 of a different appellate represented by Perkins Coie). In fact, no independent evidence is
13 required at all if, for example, objectors show that the assessment was grounded on a
14 fundamentally wrong basis due to an error in the City’s appraiser’s methods—as is the case
15 here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106,
16 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out that
17 the square footage assumed in the City’s appraisal was incorrect. For these reasons,
18 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
19 II.14, II.15, IV.A, IV.B.11(a), IV.C.8, IV.C.9, and IV.C.11.
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37 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

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39 2. RCW 35.43.040 provides cities and towns authority for ordering local
40 improvements and for levying and collecting special assessments “on property specially
41 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
42 upon all the property in accordance with the special benefits conferred thereon.” RCW
43 35.44.010.
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1 3. No analysis of general benefits. Special assessments have been “held valid
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3 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
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5 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
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7 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
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9 they are for the construction of local improvements that are appurtenant to specific land and
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11 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*

12 4. Taxpayer’s property is not specially benefited by the LID Improvements.
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14 The primary purpose and effect of the LID Improvements are to benefit “members of the
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16 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
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18 library is for the benefit of the members of the whole community individually and
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20 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
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22 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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24 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
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26 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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28 that if an appraiser “identifies both general and special benefits, these benefits should be
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30 clearly distinguished and explained, and only special benefits should be included in the
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32 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
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34 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that Mr. Macaulay did not
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36 analyze or measure general benefits, including those arising from construction necessary to
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38 meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 may also be given to those construction costs related to meeting design standards which may
2 be general benefits as distinct from construction costs emanating from requirements of the
3 LID project”). To the extent Taxpayer’s property may benefit from the LID improvements,
4 the benefit is general and incidental, and failure to consider general benefits was a fatal flaw
5 in the City’s methodology. For these reasons, Taxpayer appeals the following portions of
6 the Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and
7 IV.C.4.
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15 5. LID Improvements not necessary. Unlike typical LID projects, the
16 Waterfront LID improvements are largely unnecessary to the functionality of any particular
17 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
18 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
19 held invalid where owners would have benefitted equally from increase of only 9 feet);
20 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
21 intersection for new water main for hydrant held invalid because land was already afforded
22 functional hydrant at nearby street). Here, Taxpayer provided testimony that the LID
23 Improvements are not necessary to the business of their income-producing property, which
24 already has sufficient access to the waterfront and other downtown amenities and
25 transportation connectivity necessary for their tenants and customers. *See* 3/11/2020 (M.
26 Arnette) Hrg. Tr. at 35:18-36:2, 43:9-14, 45:8-21. With respect to the 2+U Building ground
27 floor retail, the construction of new access points is in fact a negative point because the LID
28 Improvements will draw foot traffic away, increasing competition in other areas of the city.
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42 6. 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4 The fact that there is no case law
43 differentiating between binary improvements and parks does not change the law prohibiting
44 assessments on properties already adequately served by existing amenities. *See* Examiner’s
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1 Recommendation at IV.C.3 (reasoning that “no case law is provided to support the
2 differentiation between a hardscape benefit and the more ephemeral benefits of park”). Nor
3 does the Examiner’s reasoning excuse the City’s failure to account for existing amenities as
4 part of the special benefit calculation. As Dr. Crompton testified, existing view amenities
5 may in fact diminish the incremental effect of new park improvements on the value of
6 properties, much like turning on a weak light in an already brightly illuminated room. *See*
7 Hrg. Exhibit 94 (Crompton’s Report) at 12-13.
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11 7. To the extent benefits can be considered “special” as opposed to general, they
12 are nominal or nonexistent for many properties even in the Central Waterfront, which
13 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
14 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties’ fair market value did not
15 change due to expansion of sewer service *near* owners’ parcel which were already
16 connected). Even if the City could assess for a view change (and it has promised not to
17 assess for viaduct removal), the fair market value of Taxpayer’s property has not changed
18 because the LID Improvements have not improved the property’s waterfront view or access
19 to the waterfront, nor will they when the City anticipates completion in 2024. For these
20 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
21 Sections IV.C.3, IV.B.9, and IV.C.3.
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25 8. No analysis of special detriments. The Final Study fails to properly account
26 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
27 owners for removal and cleanup of underground storage tanks discovered during the
28 improvement project). Property values may in fact be negatively impacted by the LID
29 Improvements. Mr. Arnette testified that the office component of the 2+U Building is
30 entirely leased up with 15 year tenancies. The leases did not incorporate any value lift from
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1 the LID improvements; therefore, the building's ownership will absorb the assessment costs
2 without the ability to compensate this expense with higher rents for over a decade after the
3 improvements are complete. *See* 3/11/2020 (M. Arnette) Hrg. Tr. at 36:3-38:6. 97:4. This is
4 major detriment to property value that was not considered or analyzed. Additionally,
5 although Mr. Macaulay claims he analyzed impacts on the City's planned elimination of 450
6 parking stalls on a parcel-by-parcel basis, there is no explanation of how lost parking might
7 be a detriment, and no property-specific parking analysis in any of his materials. 6/23/2020
8 Hrg. Tr. at 185:20-24; 186:14-187:12.

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17 9. Likewise, there was no analysis of the risks associated with disamenities such
18 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
19 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
20 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
21 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
22 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
23 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
24 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
25 the maintenance agreement. *Id.* at 13:4-14:2.

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35 10. There was also no consideration of negative impacts from another four-plus
36 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
37 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
38 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 benefits calculations are inherently speculative, Washington’s eminent domain statute
2 specifically allows condemnees to postpone special benefits assessments until improvements
3 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
4

5
6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district “significantly” lagged in value). For these reasons,
10 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
11 II.25, IV.B.8, and IV.B.9.
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14 11. Special benefit estimate is speculative. When calculating a special benefit,
15 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
16 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
17 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
18 P.2d 1078 (1958)).
19

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21 12. Assuming without conceding that one day, the City’s planned LID
22 Improvements might increase the value of neighboring properties to some extent, that
23 potential benefit is many years away and speculative. While appraisers tolerate some degree
24 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
25 far too speculative to satisfy industry practices and standards.
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27
28 13. Although LIDs are sometimes finalized prior to completion of improvements,
29 this is typically just six month or a year prior, and the assessments are otherwise supported
30 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
31 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
32 will not be realized for four or five years. In the meantime, there is permitting risk,
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1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4
5 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
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7 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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9 testified: "I just don't know what the market value would be as of the date the project would
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11 be finally constructed" because "[t]here could be a lot of elements in the market that did
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13 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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15 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
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17 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 14. The record is clear that while no one can know what "special benefit" might
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23 accrue to these properties in four years (if any), we do know that there are no actual benefits
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25 now. The LID improvements provide no immediate special benefit to property owners
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27 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
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29 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
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31 sewer system for future users).
32

33 15. Further, there are no "plans and specifications" on file with the Clerk's Office
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35 for the LID Improvements, and it is unlawful to move to final assessments without such
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37 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*
38
39 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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41 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
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43 dollars on projects still early in the design process. *See* Washington Attorney General
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45 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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47 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs

1 of programs and included “only so much of the overall costs” that took place within and
2 benefitted the assessed properties).
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4
5 16. The COVID-19 crisis highlights how fundamentally speculative and unfair it
6 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
7 anticipated to be delivered five years later. Even before COVID, it was speculative to
8 assume that market highs experienced in October 2019¹ would be sustained through 2024,
9 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
10 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
11 my analysis in October 2019, who would have thought that this COVID issue would
12 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
13 process was that the market was going to continue to go up.” *See* Gibbons Decl. ISO
14 Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as
15 of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has impacted
16 *current* values and rendered the hypothetical October 2019 Final Study valuations outdated.
17
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19 17. As another example of how future events could affect the accuracy and
20 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
21 Examiner re-open the record to allow the City to explain whether the assessments against
22 property owners within the LID are, in fact, being used by the City to fund the emergency
23 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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40 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
41 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
42 58 (Waterfront Park) Emergency Demolition Project, *available at*
43 <https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; *see also* Aug. 13, 2020 Ltr. from H.
44 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
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1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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10 18. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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32 19. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
33 he could not point to a single one where the assessment roll was finalized five years in
34 advance of the anticipated project completion. See 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
35 he has never recommended final special assessments based on designs less than 30 percent
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42 available at
43 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
44 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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5 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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7 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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11 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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13 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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15 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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17 68:11-18.

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19 20. The City has cited no authority—and Taxpayer is aware of none—that
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21 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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23 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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25 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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27 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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29 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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35 IV.C.14, and IV.C.18.

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37 21. Failure to discount special benefit estimates to account for risks and present
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39 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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41 have accounted for risks associated with delivery of the improvements (including permitting
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43 risk, construction risk, general economic risk) and any special damages associated with
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45 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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47 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the

1 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
2 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
3 the impact of future conditions [through] discounted cash flow analysis.”).
4

5
6 22. Mr. Macaulay acknowledged that appraisers can discount the value of a
7 future condition not in place at the date of valuation and can discount for the time value of
8 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
9 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
10 Discounting would also have been consistent with his approach for analyzing special
11 benefits to vacant land. He testified that the difference between similarly situated vacant
12 sites slated for development and already developed sites was that the labor, capital and risks
13 associated with development had not yet been borne for those vacant sites. Therefore, the
14 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
15 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
16 fully permitted, has not completed environmental review, and has not reached full design is
17 presently worth significantly less.
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30 23. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
31 present value, an appraiser would consider discount rates for land development to account
32 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
33 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
34 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
35 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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42 24. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley’s
43 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
44 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
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1 Ex. A. Notably, this is lower than the City’s proposed \$171,000,000 assessment. Thus,
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3 ignoring momentarily all of the other methodological and other flaws discussed here and in
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5 Taxpayer’s case-in-chief, and assuming that the LID Improvements provide special benefits
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7 as soon as they are complete in 2024, Mr. Macaulay’s hypothetical assessment materially
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9 exceeds special benefits when reduced to present value. Further, to the extent the City is
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11 arguing that because they are permitted to assess 100% of the special benefit, the special
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13 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
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15 is again wrong. After applying proper discounting, the City’s proposed special benefit
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17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
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19 100% of the total estimated special benefit.

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21 25. But even the assumption that the LID improvements would deliver benefits
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23 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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25 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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27 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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29 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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31 indicates that during the construction period, the Greenway district “significantly” lagged in
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33 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
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35 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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37 30-31 (discussing New York City High Line and San Francisco Embarcadero
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39 improvements). Given the lengthy delay, any prediction of future special benefits is
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41 speculative, especially during the construction phase where values are likely to decline. And
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43 assuming the LID Improvements take a similarly long period of time after they are complete
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45 to start producing tangible property value benefits, each additional year of delay results in
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1 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
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3 Closing Stmt., ¶ 19, Ex. A.

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5 26. Applying the same discounting methods described above and in Mr. Gibbons
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7 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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9 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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11 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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13 100% assessment should be no more than \$387,444.60. Anything more would permit the
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15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
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17 place and providing benefit, and ignore the risks, construction disamenity, and time value of
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19 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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21 would counsel that the assessment should be only 39.2% of that assessment cap, or
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23 \$151,878.28.

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25 27. Attachment C includes two Excel spreadsheets applying these discounting
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27 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
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29 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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31 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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33 present value would reduce Taxpayer's assessment to \$552,907, exclusive of any other
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35 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
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37 reductions after taking into account: (1) Taxpayer's experts' estimated "Before" value based
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39 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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41 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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43 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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45 the time it takes for the improvements to capture property value). After such reductions,
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47 Taxpayer's assessment would be just \$457,629 (for the 5-year discount) or \$125,767 (for the

1 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
2 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
3 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
4 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
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9 **Appraisal and Assessment Calculation Methods Are Flawed**

10 28. The "general rule is that each lot, piece, or parcel of land should be assessed
11 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
12 Wn.2d at 97.
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16 29. It is proper to sustain a challenge to an assessment, even without the appraisal
17 testimony from the owner, where the objector's expert establishes that the assessment was
18 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
19 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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23 30. The City's appraiser purports to utilize the income method of valuation but
24 relied on inaccurate revenue and market data, as discussed further below.
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28 31. The City's appraiser purports to utilize the comparable sales method of
29 valuation, but no City witness attempted "to characterize any one, or all of them, as
30 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
31 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
32 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
33 characterize any one, or all of them, as comparable to any particular property within the LID").
34 And no City witness could explain how specific adjustments were made to these sales to
35 account for value increases due to the hypothesized Before and After Improvements. For this
36 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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1 32. Special assessment improperly includes value lift from the Before
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3 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
4 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
5 Improvements, which WSDOT had independently committed to fund. However, Mr.
6
7 Macauley did not calculate the actual market value of LID properties in October 2019, and
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9 did not separately analyze the hypothetical increase to property values attributable to
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11 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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13 current value and then separately calculate a hypothetical "With WSDOT" Before value);
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15 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
16
17 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
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19 3-4. Without any documented basis or support, Mr. Macauley simply "ma[de] a judgment a
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21 call" on what occupancy and rates would have been for the commercial properties assuming
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23 all of the WSDOT Improvements are completed as of 2019. Macauley Depo. at 129:19-
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25 130:11. This outright omission precludes any independent evaluation of the true market
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27 "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
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29 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
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31 must explain how he analyzed that data and other information to come up with the
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33 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
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35 removal of the viaduct, but also other road, pedestrian and landscaping improvements
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37 WSDOT had already committed to make.
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40 33. However, because Mr. Macauley testified that he did include some WSDOT-
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42 related value-lift in the "Before" values, it follows that part of the special assessment
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44 improperly is based on value attributable to the WSDOT Improvements. As shown by
45
46 mathematical formulas in his spreadsheets, Mr. Macauley applies a special benefit
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1 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
2 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
3 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
4 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
5 to properly exclude the value of Before Improvements from the assessments. For these
6 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
7 Sections II.19, II.29, and IV.B.11(a)(ii)

14 34. Special benefits were assigned rather than measured. Mr. Macaulay
15 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
16 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
17 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
18 Macaulay used to analyze the commercial properties, Taxpayer's experts concluded that Mr.
19 Macaulay based adjustments on hypothesized very small increases to property revenue and
20 very small reductions to cap rates to "calculate" an "After" value due to the coming 2024
21 LID Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments
22 were based on "professional judgment" that are neither shown nor replicable.

32 35. For these reasons, Taxpayer appeals the following portions of the Examiner's
33 Recommendation: Sections II.19 and IV.B.11(a)(iii).

36 36. Special benefit falls within margin of error. The Final Special Benefit Study
37 applies an estimated value enhancement of less than 4%, which is generally within the
38 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
39 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
40 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
41 of one another, this difference is considered reasonable as it falls within the standard margin
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1 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9. Because Mr.
2 Macaulay's micro-special benefit percentages fall far below that 5% margin, "there is no
3 way of authenticating" such incremental changes because "[m]arket forces completely
4 obliterate any tiny little noise factor like that." See 3/3/2020 (A. Gibbons) Hrg. Tr. at
5 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too small to
6 measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to measure
7 a difference in cap rates for Taxpayer's property within that margin. Additionally, the fact
8 that "Before" values are also based on a hypothetical that adds some unstated incremental
9 value to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
10 micro-value differences between hypothetical conditions that are so similar (the WSDOT
11 improvements compared to the LID improvements) "verges on being ludicrous." 3/3/2020
12 (A. Gibbons) Hrg. Tr. at 89:4-90:7.

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25 37. Even if it were possible to accurately tease out such a miniscule hypothetical
26 value change due to improvements coming five years later, experts testified that there is no
27 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
28 what he felt the changes (hypothetically) would be. See 3/3/2020 (A. Gibbons) Hrg. Tr. at
29 88:21-88:24 ("you cannot measure one percent difference in a high-rise building for this
30 kind of a medium ... it's simply assigned to a before value"). For these reasons, Taxpayer
31 appeals the following portions of the Examiner's Recommendation: II.27 and IV.B.4.

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39 38. No analysis of value increase attributable to individual components of the
40 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
41 percentage difference between hypothetical Before and After conditions. Throughout his
42 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
43 descriptions in the Addenda even though he testified that he relied on these to calculate
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1 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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3 someone might be able to determine how he attributed value to After conditions described in
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5 the Addenda, he answered that that was “not the scope of the assignment” because he was
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7 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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9 that the six components were not actually a continuous project, that he was viewing them
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11 together because the City asked him to, and that if he were to view them independently,
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13 there was a low probability that properties in the north would specially benefit from
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15 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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17 39. Not only did he fail to analyze benefits from each of these non-contiguous
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19 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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21 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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23 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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25 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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27 objectives that guided regulators’ assessment of architectural plans for buildings along a
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29 “signature street” were so vague that they amounted to ad hoc review based on the
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31 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
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33 even though he used the renderings as “visual aid[s] in appraising the property in the before
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35 and after” to “visually see what the differences would be,” he could not explain what
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37 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,

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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 when shown a rendering of a two-lane road going down to one-lane in the After condition
2 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
3 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
4 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
5 could explain the depiction of the same trees in the After condition nearly twice as tall as in
6 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
7 of the Examiner’s Recommendation: II.27 and IV.B.4.
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15 40. Special assessment is not supported by comparable studies, data or reports.
16 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
17 that the LID Improvements will lead to meaningfully increased real estate values for
18 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
19 comparable sales or information from the “over twenty-five studies and reports” to arrive at
20 very precise special benefit increases for the commercial properties, including Taxpayer’s
21 property. For example, although Mr. Macaulay stated that no single report or study was
22 directly on point due to the unique nature of the LID Improvements (*see, e.g.,* 6/25/2020
23 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
24 parcel-by-parcel analysis other than to say that the studies generally provided “some
25 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
26 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
27 similarities and differences between these improvements and the comparable parks he
28 looked at).
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43 41. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
44 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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46 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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1 research misinterprets his work in critical ways, including because the LID Improvements
2 manifest the characteristics of a parkway (not a park), and his research indicates that most of
3 a *park*'s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
4 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
5 related value increases are in fact smaller; that estimated increases are "best guesses" rather
6 than predictions of property value increases in a particular city; and that percentages do not
7 account for diminishing returns after taking into account water views, which would be the
8 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
9 topography grants most properties in downtown a water view.

10
11 42. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
12 that this was just one source of information that was not entirely relevant because, among
13 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
14 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
15 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
16 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
17 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
18 Crompton concluded that 500 feet via road from "park" improvements is just one or two
19 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
20 significantly beyond that which the park study indicated (even if it was legitimate to use the
21 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
22 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
23 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
24 Taxpayer's property is not within 500 feet from the "park" improvements. *See* Hrg. Exhibit
25 104 (Ellen Kersten Decl.) at Exs. E, F.

1 43. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
2 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
3 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
4 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
5 materials, it was clearly an important—if not *the* most important—source of information for
6 estimating special benefits (especially with respect to the condos).⁷ No City witness
7 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
8 parcel-by-parcel analysis.
9

10 44. The destination parks discussed in the Final Special Benefit Study do not
11 provide reliable, comparable, and valid support for the calculation of special assessments
12 here. *See* Gibbons 5/2/2018 Letter at 4; Hrg. None of the parks cited in the Final Special
13 Benefit Study were funded by a LID. And in virtually all of those cases, the park
14 improvements dramatically restored unimproved or blighted areas, and properties evaluated
15 were within two or three blocks of the park.
16

17 45. ABS’s claimed reliance on three economic studies to support property value
18 increase is also flawed. The HR&A study does not inform what value increases are
19 expected from the LID Improvements because it projects increases to tourism from *all* of the
20 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
21 dissimilar parks in other cities,⁸ making the methodological application to the LID
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23 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
24 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
25 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
26 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
27 park (or streetscape) improvement—other studies estimated premiums for real estate only much
28 closer or cited to Dr. Crompton.

29 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
30 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
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1 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
2 conclusion that there would be *no new net visitors* from downtown residents as a result of
3 the LID Improvements and could not explain how this impacted his condo analysis.
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5
6 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
7 Property Values" primarily focused on whether the benefits accrue to the larger community
8 rather than properties adjacent to the park. And the 2014 New York City Department of
9 Transportation study is not based on real estate transactions and market sales and fails to
10 substantiate any link between increased retail sales and property values. Moreover, this
11 study only looked at impact either directly abutting the streetscape improvement, or a couple
12 hundred feet for plaza-like improvements.
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16 46. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
17 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
18 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
19 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
20 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
21 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
22 asked whether he considered that HR&A's estimated LID impact is six times greater than
23 TPL's assessment of Seattle's entire park system, he surmised that it was because the
24 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
25 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
26 assumptions to account for this difference, which may be partly explained by the fact that
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45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
2 approximately 3.44% of King County tourists visit Seattle primarily because of the city
3 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
4 waterfront improvements.
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8 47. Although proximity to the improvements is a key factor in all of these
9 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
10 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
11 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
12 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
13 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
14 Improvements is approximate 20 acres and it is not a community park.⁹
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17 48. There is no explanation in the Final Study or the supporting materials of how
18 the studies or comparable sales were used to derive values for Taxpayer's property. For
19 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
20 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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23 49. Failure to comply with USPAP. Taxpayer's assessment also rests on a
24 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
25 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
26 recognized) for developing the MAI standards for mass appraisals, testified that the Final
27 Study does not meet mass appraisal standards nor allow for independent assessment of the
28 accuracy of Mr. Macauley's conclusions.
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⁹ *See* https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces connecting Seattle's central waterfront to downtown.").

1 50. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
2
3 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
4 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
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6 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay’s
7
8 testimony suggests that he incorrectly believed that the only difference between direct
9
10 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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12 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
13
14 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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16 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
17
18 Gordon uses in doing his limited restricted report”).
19

20 51. But the difference is not only in reporting—mass appraisal techniques must
21
22 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
23
24 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
25
26 parcel approach:
27

28 The mass appraisal technique is an appraisal method used to evaluate
29 a group of properties that are subject to similar market forces as of a
30 certain date through the use of market data, statistical analysis and
31 testing. As a result, the mass appraisal technique does not require or
32 involve analysis of each individual property’s specific data.
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35 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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38 52. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
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40 universe of properties as a given date using standard methodology, employing common data,
41
42 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
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44 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
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46 model” is “a mathematical expression of how supply and demand factors interact in a
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1 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
2 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
3 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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6 53. Regardless of client direction, Mr. Macaulay is required to comply with
7 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
8 economically feasible because it would have taken “an incredible amount of time and cost”
9 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
10 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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14 54. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
15 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
16 value, fails to calibrate the model structure to determine the contribution of the individual
17 characteristics affecting value, and does not review the mass appraisal results against actual
18 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
19 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
47

1 55. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
9 were hypothetical, it was not possible to identify matched pair sales and no City witness
10 explained how ABS Valuation made adjustments to “comparable” sales in order to check
11 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
12 him to explain his model structure.
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15 56. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
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21 57. Finally, Taxpayer’s property is not appurtenant—or even in close
22 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
24 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
25 property is not even within 500 feet from the core park improvements. And, as described
26 above, the special assessment is overstated because the Final Study makes no attempt to
27 determine general benefits, existing amenities for Taxpayer’s specific property, or special
28 detriments. In addition, it is speculative due to the fact that, as of October 2019,
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1 improvements were not in place—and, in fact, much of the waterfront is a construction
2 zone following removal of the viaduct and now Pier 58 demolition. Under these
3 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
4 Mr. Macaulay at the very least should have discounted the special benefit estimates or
5 waited to perform the Study until the improvements were at least close to complete.
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10 **Erroneous Pre-Improvement Valuation**

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12 58. The proposed final assessment erroneously overstates the pre-improvement
13 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
14 benefit to the Taxpayer's property.
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18 59. The City's Final Study was used to compute the proposed final assessment of
19 Taxpayer's property. The City's Study purportedly uses data from the King County
20 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
21 Study does not accurately reflect this data. For example, the City's Study values Taxpayer's
22 property at \$591,082,000 as of October 1, 2019. However, the King County assessor
23 determined the true and fair value of the property to be \$292,245,000, valued in 2019 for tax
24 year 2020. In other words, the Final Special Benefit Study's valuation is 202% of King
25 County's assessed value. The Final Special Benefit Study does not explain this difference—
26 or any differences—between its pre-improvement valuation and its supposed source for
27 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
28 Recommendation.
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45 ¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 60. Further, the City’s analysis was based on unreliable market data. Mr.
2
3 Macaulay included the value of all three parcels after concluding that two parcels could be
4
5 developed into other income-producing properties, when in fact, the 2+U Building
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7 development precludes such use of those two parcels. *See* 3/11/2020 (B. Scott) Hrg. Tr. at
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9 54:16-55:24. 58:17-59:13. Using accurate market information would have reduced the
10
11 “Before” value by \$31,968,000. *See* B. Scotts’ Supplemental Report for 2+U.

12 61. Thus, aside from multiple other reasons why computation of the special
13
14 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
15
16 improvement values that do not accurately reflect market data. For these reason, Taxpayer
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18 appeals the following portions of the Examiner’s Recommendation: Section III.

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21 **Erroneous Computation of Special Benefit**

22 62. “Special benefit” is “the increase in fair market value attributable to the local
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24 improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property
25
26 may receive by reason of the improvement is not measured alone by the physical character
27
28 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
29
30 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
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32 the particular tract or property benefited by the entire improvement, and is it assessed
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34 proportionately with the other property included within the assessment district?” *Id.* 165–
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36 66.

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38 63. The proposed final assessment erroneously overstates the special benefit of
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40 LID improvements in a number of ways.

41 64. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
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43 the 2+U Building, Mr. Macaulay assumed retail revenues would increase by 2.86% (low)
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45 and 5.71% (high) due to the 2024 LID Improvements. He then uses this hypothetical
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1 increased revenue to calculate a new net operating income and capitalizes that to come up
2 with an “After” valuation.
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5 65. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
6 operating income remains the same as in the hypothetical “Before” condition, but changes
7 the cap rate. For the 2+U Building, the cap rate goes from 4.50% to 4.48% and 4.46%.
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11 66. Mr. Macaulay then averages his four “After” values to arrive at a final special
12 benefit conclusion. For the 2+U Building, this is an increase in property value of 0.70% due
13 to the LID Improvements.
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16
17 67. Mr. Macaulay offered little justification for his micro adjustments to revenue
18 and capitalization rates. When asked precisely what the basis is for his special benefit
19 percentage increases to revenue for each commercial property, he could not point to
20 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
21 is nothing in the report to allow a reader to understand how he came up with these
22 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
23 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
24 the basis for his belief that certain factors—liked increased connectivity—will increase
25 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
26 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
27 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
28 sources equally even though there was no separate analysis done for food and beverage or
29 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
30 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
31 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
32 properties.
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1 68. Mr. Macaulay testified that he used comparable sales as a reasonableness
2 check for commercial properties. But as explained above, no City witness has explained
3 how anyone, or all, of the sales are comparable to any particular commercial property within
4 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
5 in order to make sales “comparable,” he would have had to make adjustments to account for
6 Before and After conditions, but there is no way to understand how adjustments were made
7 because he “didn’t do a separate sales comparison approach where we showed adjustments
8 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
9 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
10 *Id.* at 127:10-128:24.

21 69. It also bears noting that any “internal review” of the special benefit estimates
22 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
23 error. Indeed, given all the same information, he seemed to suggest that it would be
24 perfectly reasonable for another experienced appraiser to come up with special benefit
25 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
26 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
27 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
28 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
29 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
30 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
31 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
32 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
33 special because it is arbitrarily assigned; and it is too small to realistically be supported by
34 appraisal techniques.

1 70. No evidence of special benefit. Meanwhile, there is “no actual evidence from
2
3 any seller or purchaser that the price was higher because of the LID improvements.”
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5 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
6
7 identified any seller or buyer, or any particular property where the existence of the LID
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9 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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11 explained that the property has not increased rental rates or revenue due to the forthcoming
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13 LID Improvements, because, among other reasons (and apart from COVID), the
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15 improvements ABS believes will generate value do not exist, and will not for a number of
16
17 years to come. There are no comparable sales because the LID Improvements are not in
18
19 place, nor will they be until the end of 2024 if completed on schedule.

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21 71. The fair market value of Taxpayer’s property has not changed due to
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23 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
24
25 benefited from installation of new water main and fire hydrant where it was already
26
27 adequately supplied with water and afforded adequate fire protection). And in any event,
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29 any value attributable to removal of the viaduct was to be excluded from the assessment
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31 calculation.

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33 72. There is no special benefit because LID improvements in fact diminish the
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35 value of Taxpayer’s property by drawing visitors away towards improvements that do not
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37 abut the property and increase competition. *See Kuskay*, 85 Wn. App. 493 (testimony of
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39 owners’ expert that LID actually diminished value of property was sufficient to rebut
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41 presumption that assessment was proper).

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43 73. Moreover, the assessment formula is an attempt to distribute costs that do not
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45 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
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47 “merely a mathematical model that distributes costs”).

1 74. The Special Benefit Study fails to address whether the \$346,000,000
2
3 estimated LID project cost takes into account the investment that would have occurred in the
4
5 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
6
7 invested. This is a critical component of estimating which properties receive a direct benefit
8
9 from the improvements, versus more incidental benefits further from the park.

10 75. Mr. Macaulay also included personal property in his valuation of hotels even
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12 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
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14 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
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16 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
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18 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
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20 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
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22 receiving a disproportionately high LID assessment in comparison to other property types,
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24 since hotels were the only property type subject to personal property LID assessments.
25
26 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
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28 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
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30 notice procedures because hotel property owners only received notice that their real estate
31
32 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
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34 76. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
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36 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
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38 a television at the waterfront Marriott is assigned a greater special benefit than the same
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40 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
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42 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
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44 unreasonable to assign a value lift to personal property that is replaceable at the same cost
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46 and may be obsolete before the LID improvements are even completed. Further, personal
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1 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
2 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
3 be redone to correct for this error.
4

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6 77. The proposed final assessment substantially exceeds the special benefit to the
7 property and is grossly disproportionate to similarly situated properties within the LID. For
8 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
9 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).
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12 **State Environmental Policy Act and Other Environmental Permitting**

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14 78. While this appeal is not challenging the City's environmental review and
15 permitting processes, those processes are relevant in determining the legality of the
16 assessments, and to assessing the delivery risk, the present value of the City's plans, and
17 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
18 pursue projects that have not yet undergone environmental review (thus limiting the choice
19 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
20 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
21 is just beginning. Further, the City has segmented environmental review, and still has a
22 gauntlet of federal, state and tribal review processes to complete before it will be clear what
23 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
24 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
25 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
26 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
27 committing to reconstruction of Pier 58 and major street improvements without
28 environmental review, or the City's Final Special Study has improperly included and is
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1 proposing to assess the Taxpayer the costs and special benefits of improvements that may
2 not get built. Either way, it is faulty process.
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5 **Due Process Rights**

6 79. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
7 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
8
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10 Because LID assessments involve a deprivation of property, affected owners have the right
11 to a hearing as to whether the improvement resulted (or will result) in special benefits to
12 their properties and whether their assessments are proportionate, which necessarily includes
13 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
14 555, 569–70, 229 P.3d 761 (2010).
15
16

17 80. The LID statute specifies that cities must mail notices giving the time and
18 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
19 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
20 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
21 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
22 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
23 secure their own appraisal), evaluate proportionality of the proposed assessments, and
24 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
25 for anybody to get an appraisal”).
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27

28 81. The City's Notice of Assessment was sent on December 30, 2019. And the
29 Final Special Benefit Study has only been available for public review since January 7, 2020.
30 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
31 order that would preserve and protect Taxpayer's right to analyze and respond to the Final
32 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
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1 preliminary motions (e.g., with respect to the interplay between SEPA and the City's
2 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
3 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
4 the Examiner's Recommendation: I.B.
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9 **VII. Relief Requested**

10 Taxpayer respectfully requests that the City Council:

- 11
12 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection;
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14 and
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16 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
17 assessment dated December 30, 2019; or
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19 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
20 proposed final assessment to \$0 (zero), or such amount as Taxpayer
21 establishes at the hearing in this matter; or
22
23 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
24 and reduce Taxpayer's assessment using recognized appraisal techniques
25 consistent with USPAP and:
26
27 i. Excluding any property value increase attributable to viaduct removal
28 and other planned WSDOT Improvements;
29
30 ii. Taking into account the effects of the COVID-19 pandemic on the
31 value of Taxpayer's property and other relevant developments since
32 October 2019;
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34 iii. Accounting for and excluding (1) any special benefits from existing
35 or planned improvements that already provide similar benefits to
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1 Taxpayer's property, and (2) any special detriments from construction
2 and other anticipated LID-related disamenities;
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5 iv. Accounting for and including only those actual benefits anticipated to
6 accrue to Taxpayer's property based on its location relative to Pier 58,
7 Overlook Walk, and the Promenade, and specific elements of the LID
8 Improvements;
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11
12 v. Discounting anticipated special benefits to present value, based on
13 reliable estimates regarding when special benefits will start accruing
14 following completion of the LID Improvements; and
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16
17 vi. Accounting for such other issues specific to Taxpayer's property
18 relevant to calculation of such assessment; and
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22 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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4

PERKINS COIE LLP

By: 

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Attorneys for 2ND AVENUE REAL ESTATE
INVESTMENTS

3:44 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0422
Date: Tuesday, September 22, 2020 2:56:15 PM
Attachments: [CWF-0422 Appeal Notice for 4th and Pike.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0422.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF- 0422
A – Master List of Evidence
B – E-081 4th and Pike
C – Discounting for CWF-0422
CWF-0422 Appeal Notice for 4th and Pike

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

FOURTH & PIKE BUILDING									
Map No.	E-081		Historic:	Yes					
Tax Parcel Nos.	197570-0235		Stories:	10					
Address:	1424 4TH AVE		Current Rent:	-					
Zoning:	DRC 85-170		NOTE:						
Property rights:	Fee Simple								
Proximity to project:	Approx. 5-6 blocks to Waterfront								
Previous sale:	-								
Ownership:	FOURTH & PIKE (DE) LLC								
INCOME ANALYSIS WITHOUT "Before"			Year Built	1926					
			Parking	0					
Potential Gross Income									
Office	GBA	NRA	SF NRA @	\$25.00	per SF =	\$1,812,275			
	104,911	72,491							
Retail	12,000	8,551	SF NRA @	\$50.00	per SF =	\$427,550			
Restaurant space	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Subtotals	116,911	81,042		\$50.00		\$427,550			
Parking Area/Stalls	0	0	0 stalls @	\$0.00	/month	\$0			
Basement-storage	15,415	12,000	SF NRA @	\$15.00	per SF =	\$180,000			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other			0.0% of GRI			\$0			
Total Bldg Area & Gross Income			132,326	93,042	SF NRA @ \$26.01 /SF =	\$2,419,825			
Less: Vacancy/credit allowance @			0.0%			\$0			
			5.0%			(\$120,991)			
Total vacancy/credit allowance						(\$120,991)			
Effective gross income						\$2,298,834			
Less: Operating expenses									
Management fee @			5.0%	of total EGI		(\$114,942)			
Parking operating expenses @			0.0%	of parking EGI		\$0			
Structural maintenance/reserve			\$0.20	per SF of EGI		(\$18,608)			
Total operating expenses						(\$133,550)			
Net operating income							\$2,165,284		
Indicated Value									
					Capitalized @	5.25%			
					Indicated value		\$41,243,498		
					(R)		\$41,243,000		
					Per SF NRA		\$443.27		
					Per SF GBA		\$311.68		
Land Value									
			12,210	SF @	\$1,600.00	per SF =	\$19,536,000		
Residual Improvements									
			93,042	SF NRA @	\$233.30	per SF =	\$21,707,000		
			132,326	SF GBA @	\$164.04				

Special Benefit Summary							
	Land		Improved	% Change	Total Estimated Value	Special Benefit	% Change
	Per SF	Total					
Without LID	\$1,600.00	\$19,536,000	\$21,707,000	N/A	\$41,243,000	N/A	N/A
With LID							
Scenario A1	\$1,632.00	\$19,927,000	\$21,757,000	0.23%	\$41,684,000	\$441,000	1.07%
Scenario A2	\$1,632.00	\$19,927,000	\$22,033,000	1.50%	\$41,960,000	\$717,000	1.74%
Scenario B1	\$1,632.00	\$19,927,000	\$21,713,000	0.03%	\$41,640,000	\$397,000	0.96%
Scenario B2	\$1,632.00	\$19,927,000	\$22,117,000	1.89%	\$42,044,000	\$801,000	1.94%
Summary							
Without LID	\$1,600	\$19,536,000	\$21,707,000	N/A	\$41,243,000	N/A	
With LID	\$1,632.00	\$19,927,000	\$22,060,000	1.63%	\$41,987,000	\$744,000	1.80%
Percent change in land value							
2.00%							

FOURTH & PIKE BUILDING									
Scenario A: Rental and Vacancy Rate Changes									
INCOME ANALYSIS WITH "After"					Year Built	1926			
Potential Gross Income									
		GBA	NRA		Per SF	Per SF	Low	High	
Office		104,911	72,491	SF NRA @	\$25.20	\$25.25	\$1,826,773	\$1,830,398	
Retail	12,000	8,551	SF NRA @	\$51.00	\$52.00	\$436,101	\$444,652		
Restaurant space	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Subtotals	116,911	81,042		\$51.00	\$52.00	\$436,101	\$444,652		
				Per Month	Per Month				
Parking Area/Stalls	0	0	0 stalls @	\$0.00	\$0.00	\$0	\$0		
				Per SF	Per SF				
Basement-storage	15,415	12,000	SF NRA @	\$15.00	\$15.00	\$180,000	\$180,000		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other			0.0% of GRI			\$0	\$0		
Total Bldg Area & Gross Income		132,326	93,042	SF NRA @	\$26.26	\$26.39	\$2,442,874	\$2,455,050	
Less: Vacancy/credit allowance							0.0%	0.0%	
Total vacancy/credit allowance							4.90%	4.75%	
Effective gross income							(\$119,701)	(\$116,619)	
Less: Operating expenses							\$2,323,173	\$2,338,435	
Management fee @		5.0%	of total EGI			(\$116,159)	(\$116,922)		
Parking operating expenses @		0.0%	of parking EGI			\$0	\$0		
Structural maintenance/reserve		\$0.20	per SF of NRA			(\$18,608)	(\$18,608)		
Total operating expenses							(\$134,767)	(\$135,530)	
Net operating income							\$2,188,406	\$2,202,905	
Indicated Value									
					Capitalized @	5.25%	5.25%		
						\$41,683,929	\$41,960,090		
					(R)	\$41,684,000	\$41,960,000		
					Per SF NRA	\$448.01	\$450.98		
					% change	1.07%	1.74%		
Land Value									
					12,210	SF @	\$1,632.00	per SF =	\$19,927,000
Residual Improvements									
							\$21,757,000	\$22,033,000	
						Per SF NRA	\$233.84	\$236.81	
Special Benefit Summary									
							\$441,000	\$717,000	

FOURTH & PIKE BUILDING									
Scenario B: Overall Capitalization Rates Changes									
INCOME ANALYSIS WITH "After"			Year Built	1926					
Potential Gross Income									
Office	GBA	NRA	SF NRA @	\$25.00	per SF =	\$1,812,275			
	104,911	72,491							
Retail	12,000	8,551	SF NRA @	\$50.00	per SF =	\$427,550			
Restaurant space	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Subtotals	116,911	81,042				\$427,550			
Parking Area/Stalls	0	0	0 stalls @	\$0.00	/month	\$0			
Basement-storage	15,415	12,000	SF NRA @	\$15.00	per SF =	\$180,000			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other			0.0% of GRI			\$0			
Total Bldg Area & Gross Income			132,326	93,042	SF NRA @ \$26.01 /SF =	\$2,419,825			
Less: Vacancy/credit allowance @			0.0%			\$0			
Total vacancy/credit allowance			5.0%			(\$120,991)			
Effective gross income						(\$120,991)			
Less: Operating expenses						\$2,298,834			
Management fee @			5.0%	of total EGI		(\$114,942)			
Parking operating expenses @			0.0%	of parking EGI		\$0			
Structural maintenance/reserve			\$0.20	per SF of NRA		(\$18,608)			
Total operating expenses						(\$133,550)			
Net operating income						\$2,165,284			
Indicated Value									
					Capitalized @	Low 5.20%	High 5.15%		
					Indicated Value	\$41,640,070	\$42,044,343		
					(R)	\$41,640,000	\$42,044,000		
					Per SF	\$447.54	\$451.88		
					% change	0.96%	1.94%		
Land Value									
			12,210	SF @	\$1,632.00	per SF =	\$19,927,000	\$19,927,000	
Residual Improvements									
							\$21,713,000	\$22,117,000	
						per SF NRA	\$233.37	\$237.71	
							\$397,000	\$801,000	
Special Benefit Summary									

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0422	4th & Pike	1424 4th Avenue	1975700235

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$744,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$100,015

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0422	4th & Pike	1424 4th Avenue	1975700235

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$41,243,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C)			\$36,087,625

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$744,000		
H/A	As Percentage of Final City Before Value	1.804%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$651,000		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$223,249	\$61,341
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$87,513	\$24,046

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0422

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON LBA RVI-
COMPANY XLI, LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1975700235

33
34 LBA RVI-Company XLI, LLC (“Taxpayer”) files this appeal pursuant to RCW
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
36 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”).
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44 **I. Taxpayer / Appellant**

45 The Taxpayer filing this appeal is:
46
47

1 LBA RVI-Company XLI, LLC¹
2 3347 Michelson Drive
3 Attn: Principal-Operations
4 Irvine, CA 92616
5 Ross Beckley
6 206-812-1000
7 rbeckley@lbarealty.com
8

9
10 **II. Taxpayer's Representatives**

11 Taxpayer's representatives in this matter are:

12
13
14 R. Gerard Lutz, WSBA No. 17692
15 JLutz@perkinscoie.com
16 Megan Lin, WSBA No. 53716
17 MLin@perkinscoie.com
18 Perkins Coie LLP
19 10885 N.E. Fourth Street, Suite 700
20 Bellevue, Washington 98004
21 Telephone: 425.635.1400
22 Facsimile: 425.635.2400
23
24

25 Robert L. Mahon, WSBA No. 26523
26 RMahon@perkinscoie.com
27 1201 Third Avenue, Suite 4900
28 Seattle, Washington 98101
29 Telephone: 206.359.8000
30 Facsimile: 206.359.9000
31
32

33 **III. Statement of Taxpayer's Interest**

34
35 LBA RVI-Company XLI, LLC owns the property that is subject to the proposed
36 final assessment described in Section IV. The property is located at 1424 4th Ave., Seattle,
37 WA 98101. The building's tenants include three sidewalk-accessible ground level retail
38 businesses and nine additional floors of office and retail tenants.
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45 ¹ The December 30, 2019 Assessment Notice (attached as EXHIBIT 1) is addressed to
46 Fourth & Pike (de) LLC. However, effective November 22, 2019, LBA RVI-Company XLI, LLC
47 purchased 4th & Pike, 1424 4th Avenue Seattle, WA 98101.

1 The basis of the proposed assessment is a Final Special Benefit/Proportionate
2
3 Assessment Study for Waterfront Seattle Local Improvement District (“Final Study”), dated
4
5 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City’s
6
7 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
8
9 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
10
11 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
12
13 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
14
15 to exclude charges for other improvement projects in the Central Waterfront, and
16
17 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
18
19 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
20
21 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
22
23 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
24
25 because construction was not complete on the LID Improvements or the WSDOT
26
27 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
28
29 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
30
31 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
32
33 was based on the Final Study.

34 35 **IV. Matter Under Appeal**

36 Taxpayer appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
37
38 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
39
40 final assessment dated December 30, 2019 against the following property:
41

42 King County Parcel No. 1975700235
43 Site Address: 1424 4th Ave., Seattle, Washington 98101
44 Proposed Final LID Assessment for Parcel: \$291,515.57
45
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1 See Examiner's Recommendation at 61-62, 105. To avoid repetition, Taxpayer incorporates
2 the evidence and arguments raised before the Hearing Examiner into this appeal. In
3 particular, Taxpayer points the City Council to Taxpayer's initial Appeal Petition, *Frye*
4 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
5 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
6 7/7/2020).²

7
8 As discussed more fully below, Taxpayer specifically appeals the following Findings
9 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
10 Pages 61-62, 105, Sections II.6, II.7, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24, II.25,
11 II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
12 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
13 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
14 IV.C.12, IV.C.14, and IV.C.18.

15 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
16 recommendations on material issues raised during Taxpayer's appeal that were supported by
17 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
18 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
19 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
20 recommended anything other than denial of objectors' appeals were where the City's

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² Because the City has not provided "metered index numbers," our appeals cannot reference them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated, citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors retained by Perkins Coie are part of this case file.

1 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
2 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
3 special assessments based on "fundamentally wrong methods."
4

5
6 The special benefit for which special taxes are assessed must be "actual, physical and
7 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
8 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
9 with the law, the assessments may not materially exceed the actual special benefit conferred
10 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
11 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
12 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
13 assessment. In this case, the proposed assessment fails each of the legal requirements for
14 special assessments and must be annulled as arbitrary or capricious, or founded on
15 fundamentally wrong methods.
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28 **Legal Requirement:** Actual, non-speculative special benefit

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30 **ABS Study:** Estimates a hypothetical benefit based on "Before" values that increase
31 "actual 2019" values (unstated) assuming the WSDOT Improvements were in place in
32 October 2019 (they were not), and an "After" value purporting to assess the value of
33 properties with the LID improvements in place at least five years before anticipated
34 completion.
35
36

37 **Legal Requirement:** Cannot materially exceed the special benefit

38
39 **ABS Study:** ABS calculates a special benefit of \$744,000 assuming the LID
40 Improvements were in place and providing benefit in October 2019. However, the LID
41 Improvements will not be completed until the end of 2024 if the City meets its current
42 schedule, and many of WSDOT's alternative improvements will not be built. The present
43 value of future improvements deliverable in five years is significantly lower than the
44 current value of improvements that already exist. Further, ABS's own materials show that
45 benefits may not accrue for at least five years after they are completed, in 2029. If the
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1 hypothesized special benefits are discounted to present value, the assessments materially
2 exceed the hypothesized special benefits.
3

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5 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID

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7 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
8 prepared his Final Study in October 2019, and the City issued its preliminary roll in
9 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
10 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
11 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
12 and must be based on actual special benefits. While that does not mean ABS’s appraisal
13 was wrong when completed, values and benefits need to be reanalyzed before assessments
14 are finalized in light of the unprecedented changes to the downtown real property market.
15
16

17 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
18 Assessment cannot include value attributable to future WSDOT Improvements.
19

20
21 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
22 on the value of WSDOT’s planned improvements.” *See* Final Study at 3. However, the
23 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
24 the City’s appraiser increased 2019 property market values as though WSDOT had
25 completed its work by 2019. The proposed assessment is against this hypothetical
26 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
27 higher than actual 2019 market values. The City is collecting an assessment against both
28 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
29 contravention of law and the City’s promise not to impose an assessment based on the
30 value of viaduct demolition and the other components of WSDOT’s planned work.
31
32

33 **Legal Requirement:** Benefits must be special, not general

34
35 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
36 due to the LID Improvements. However, the far-reaching and public nature of the
37 improvements make any benefit arising from them general—not special.
38
39

40 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
41 or conjectural”
42

43
44 **ABS Study:** Not only are the improvements not yet “physical or material,” but
45 environmental review and permitting for the City’s proposed LID Improvements is not
46 complete, and the LID improvements are not anticipated to be complete until the end of
47 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in

1 a manner consistent the City's then-current proposals, which were in many respects merely
2 conceptual designs.
3

4 **Legal Requirement:** Must comply with appraisal standards
5

6 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
7 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
8 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
9 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
10 Final Study fails to meet basic standards for admissibility and must be remanded.
11
12

13 **Legal Requirement:** Actual and measurable special benefit
14

15 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
16 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
17 on a host of "micro-judgments" that are not supported by any documentation, nor capable
18 of replication or quality assurance/quality control. The assessments are undocumented,
19 unreliable, and not supported by empirical studies, data, or reports.
20
21
22

23 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
24 supported by empirical evidence
25

26 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
27 value of parks and other public amenities and on whom ABS purported to rely, testified
28 that ABS had completely misapplied his work and dramatically overstated both the
29 distance to which economic benefits might extend from the LID Improvements and the
30 extent of any anticipated benefit within the potentially benefited area.
31
32

33 **Legal Requirement:** Actual special benefit—Must take into account potential
34 disamenities
35

36 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
37 construction, as well as other potential disamenities associated with public places.
38
39

40 **Legal Requirement:** Cannot prematurely commit to build
41

42 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
43 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
44 are being imposed. But finalizing the roll is a commitment by the City to build the
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1 improvements, which is a violation of legal process and commits the City to build things it
2 may not secure permission to build.
3

4
5 In addition to these general objections, there are property-specific issues raised by
6 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
7 statement below.
8
9

10 11 **V. Standard of Review**

12
13 “When considering the assessment roll, the city council sits ‘as a board of
14 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
15 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
16 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
17 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
18
19

20
21 The proposed assessments are presumed correct, “unless overcome by clear, cogent
22 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
23 than the heightened presumption of correctness on judicial appeal because “applying these
24 elevated standards at the municipal hearing would afford unwarranted deference to a report
25 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
26 presumption is not evidence and its efficacy is lost when the other party adduces credible
27 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
28 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
29 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
30 presented credible evidence showing that the City’s proposed assessment is arbitrary,
31 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
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1 to the City to prove the assessments are actual, measurable, special, non-speculative and
2 proportionate. The City failed that burden.
3

4 **VI. Grounds for Appeal**

5
6 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
7 following grounds.
8
9

10 **Taxpayer Not Required to Provide A Special Benefit Study**

11
12 1. Contrary to the Examiner's findings and recommendations, there is no
13 requirement that experts or property owners provide an alternative special benefit
14 calculation under these circumstances—to do so would also require the same improper
15 speculation the City's expert engaged in, given the timing and information provided. *See,*
16 *e.g., Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020).* A Washington
17 court has explained: "[W]e have explicitly rejected an argument that, because certain
18 protestors 'failed to offer expert testimony at the city council hearing[,] the presumptions [in
19 favor of the assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at
20 946 (quoting *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of*
21 *Goldendale*, 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an
22 appraisal, he provided expert opinion showing that improvements actually diminished value
23 of the property). In fact, no independent evidence is required at all if, for example, objectors
24 show that the assessment was grounded on a fundamentally wrong basis due to an error in
25 the City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
26 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
27 a property owner could simply point out that the square footage assumed in the City's
28 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
29 Examiner's Recommendation: Sections II.14, IV.A, IV.B.11(a), IV.C.8, and IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
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4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
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7 upon all the property in accordance with the special benefits conferred thereon.” RCW
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9 35.44.010.
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11 3. No analysis of general benefits. Special assessments have been “held valid
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13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14
15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
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17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
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19 they are for the construction of local improvements that are appurtenant to specific land and
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21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
22

23 4. Taxpayer’s property is not specially benefited by the LID Improvements.
24
25 The primary purpose and effect of the LID Improvements are to benefit “members of the
26
27 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
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29 library is for the benefit of the members of the whole community individually and
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31 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
32
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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35 (Hrg. Exhibit 117 (LID Manual) at 58³) and he admits that “general benefits probably accrue
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37 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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43 ³ “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 that if an appraiser “identifies both general and special benefits, these benefits should be
2 clearly distinguished and explained, and only special benefits should be included in the
3 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
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5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that Mr. Macaulay did not
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7 analyze or measure general benefits, including those arising from construction necessary to
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9 meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration
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11 may also be given to those construction costs related to meeting design standards which may
12
13 be general benefits as distinct from construction costs emanating from requirements of the
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15 LID project”). To the extent Taxpayer’s property may benefit from the LID improvements,
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17 the benefit is general and incidental, and failure to consider general benefits was a fatal flaw
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19 in the City’s methodology. For these reasons, Taxpayer appeals the following portions of
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21 the Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and
22
23 IV.C.4.
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27 5. LID Improvements not necessary. Unlike typical LID projects, the
28
29 Waterfront LID improvements are largely unnecessary to the functionality of any particular
30
31 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
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33 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
34
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
36
37 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
38
39 intersection for new water main for hydrant held invalid because land was already afforded
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41 functional hydrant at nearby street). Specifically, Ross Beckley, representative for
42
43 Taxpayer, testified that the proposed LID Improvements are not necessary to the use of this
44
45 property as an office and retail space. Hrg. Exhibit 112 (Decl. of R. Beckley) at ¶ 16.
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1 6. The fact that there is no case law differentiating between binary
2
3 improvements and parks does not change the law prohibiting assessments on properties
4 already adequately served by existing amenities. *See* Examiner’s Recommendation at
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6 IV.C.3 (reasoning that “no case law is provided to support the differentiation between a
7
8 hardscape benefit and the more ephemeral benefits of park”). Nor does the Examiner’s
9
10 reasoning excuse the City’s failure to account for existing amenities as part of the special
11
12 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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14 the incremental effect of new park improvements on the value of properties, much like
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16 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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18 (Crompton’s Report) at 12-13.
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20 7. To the extent benefits can be considered “special” as opposed to general, they
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22 are nominal or nonexistent for many properties even in the Central Waterfront, which
23
24 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
25
26 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties’ fair market value did not
27
28 change due to expansion of sewer service *near* owners’ parcel which were already
29
30 connected). Even if the City could assess for a view change (and it has promised not to
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32 assess for viaduct removal), the fair market value of Taxpayer’s property has not changed
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34 because the LID Improvements have not improved the property’s waterfront view or access
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36 to the waterfront, nor will they when the City anticipates completion in 2024. For these
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38 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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40 Sections IV.C.3, IV.B.9, and IV.C.3.
41

42 8. No analysis of special detriments. The Final Study fails to properly account
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44 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
45
46 owners for removal and cleanup of underground storage tanks discovered during the
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1 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
2 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
3 of how lost parking might be a detriment, and no property-specific parking analysis in any
4 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
5 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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10 9. Likewise, there was no analysis of the risks associated with disamenities such
11 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
12 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
13 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
14 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
15 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
16 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.⁴ And if
17 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
18 the maintenance agreement. *Id.* at 13:4-14:2.
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28 10. There was also no consideration of negative impacts from another four-plus
29 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
30 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
31 law allowing him to dismiss these actual, non-speculative impacts. Because future special
32 benefits calculations are inherently speculative, Washington's eminent domain statute
33 specifically allows condemnees to postpone special benefits assessments until improvements
34 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
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45 ⁴ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
2 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
3 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
4 Greenway, the Greenway district “significantly” lagged in value).
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8 11. Meanwhile, Mr. Beckley testified that the proposed LID assessment of
9 \$291,516 is a substantial additional cost to the 4th and Pike building, which will decrease
10 the fair market value of the property. Hrg. Exhibit 112 (Decl. of R. Beckley) at ¶ 16. No
11 rational office and retail building owner would invest \$291,516 today in a project that will
12 have no return for either the five years of planning and construction or the period afterward.
13 *Id.* In his professional opinion, the 4th and Pike building will receive no special benefit
14 from the proposed LID Improvements. *Id.* at ¶ 18. Further, the revenue and demand
15 increases that the 4th and Pike building would need to generate to recover the LID
16 assessments are unrealistic given the downtown Seattle commercial real estate market
17 conditions, which have been severely impacted by the COVID-19 outbreak. *Id.* at ¶ 19.
18

19 12. For these reasons, Taxpayer appeals the following portions of the Examiner’s
20 Recommendation: Sections II.25, IV.B.8, and IV.B.9.
21

22 13. Special benefit estimate is speculative. When calculating a special benefit,
23 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
24 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
25 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
26 P.2d 1078 (1958)).
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28 14. Assuming without conceding that one day, the City’s planned LID
29 Improvements might increase the value of neighboring properties to some extent, that
30 potential benefit is many years away and speculative. While appraisers tolerate some degree
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1 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
2 far too speculative to satisfy industry practices and standards.
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4 15. Although LIDs are sometimes finalized prior to completion of improvements,
5 this is typically just six month or a year prior, and the assessments are otherwise supported
6 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
7 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
8 will not be realized for four or five years. In the meantime, there is permitting risk,
9 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
10 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
11 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
12 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
13 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
14 testified: "I just don't know what the market value would be as of the date the project would
15 be finally constructed" because "[t]here could be a lot of elements in the market that did
16 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
17 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
18 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 16. The record is clear that while no one can know what "special benefit" might
22 accrue to these properties in four years (if any), we do know that there are no actual benefits
23 now. The LID improvements provide no immediate special benefit to property owners
24 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
25 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
26 sewer system for future users). For example, notwithstanding the questionable hypothesis
27 that retail may benefit from an expected increase in tourism when the improvements are
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1 complete, it is undisputed that tourists are not coming in larger numbers and paying higher
2 room rates now because of something happening five years down the road.

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4 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
5 for the LID Improvements, and it is unlawful to move to final assessments without such
6 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
7 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
8 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
9 dollars on projects still early in the design process. *See* Washington Attorney General
10 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
11 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
12 of programs and included “only so much of the overall costs” that took place within and
13 benefitted the assessed properties).

14
15 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
16 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
17 anticipated to be delivered five years later. Even before COVID, it was speculative to
18 assume that market highs experienced in October 2019¹ would be sustained through 2024,
19 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
20 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
21 my analysis in October 2019, who would have thought that this COVID issue would
22 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
23 process was that the market was going to continue to go up.” *Id.* There is no basis for
24 assuming that values hypothesized in October 2019 will remain relevant; they are already
25 irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although
26 COVID does not change actual values as of October 2019 (*see* Examiner’s
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1 Recommendation at 109), the pandemic has impacted *current* values and rendered the
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3 hypothetical October 2019 Final Study valuations outdated.

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5 19. As another example of how future events could affect the accuracy and
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7 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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9 Examiner re-open the record to allow the City to explain whether the assessments against
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11 property owners within the LID are, in fact, being used by the City to fund the emergency
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13 dismantling and reconstruction of Pier 58.⁵ It has been reported that the City plans to use
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15 LID funding to pay for the expedited, emergency repairs and replacement.⁶ If true, the City
16
17 would be improperly imposing costs on property owners within the LID for improvements
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19 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
20
21 habitat and City infrastructure—this does not provide any special benefit to LID property
22
23 owners.

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25 20. There is also no certainty the improvements will be delivered on time. Mr.
26
27 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
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29 delay in construction schedule would not constitute a “material change” under the City
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31 Council’s ordinance authorizing the improvements. In other words, the City cannot
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34 ⁵ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxHp3XqI8020u5QdaIfpJXX0C+FjKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

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47 ⁶ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8, 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.

1 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
2 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
3
4 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
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6 potential delays and project changes inherent in those processes, that call into question the
7
8 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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10 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
11
12 Decl., dated 4/15/2020).
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14 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
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16 he could not point to a single one where the assessment roll was finalized five years in
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18 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
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20 he has never recommended final special assessments based on designs less than 30 percent
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22 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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24 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
25
26 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
27
28 at 66:17-25. He performed no independent due diligence to determine the reliability of the
29
30 City’s estimates for completion of the LID Improvements, or to ensure that proposed
31
32 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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34 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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36 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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38 68:11-18.
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40 22. The City has cited no authority—and Taxpayer is aware of none—that
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42 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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44 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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46 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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1 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
2 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
3 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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5 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
6
7 IV.C.14, and IV.C.18.
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10 23. Failure to discount special benefit estimates to account for risks and present
11 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
12 have accounted for risks associated with delivery of the improvements (including permitting
13 risk, construction risk, general economic risk) and any special damages associated with
14 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
15 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
16 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
17 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
18 the impact of future conditions [through] discounted cash flow analysis.”).
19
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21 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
22 future condition not in place at the date of valuation and can discount for the time value of
23 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
24 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
25 Discounting would also have been consistent with his approach for analyzing special
26 benefits to vacant land. He testified that the difference between similarly situated vacant
27 sites slated for development and already developed sites was that the labor, capital and risks
28 associated with development had not yet been borne for those vacant sites. Therefore, the
29 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
30 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
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1 fully permitted, has not completed environmental review, and has not reached full design is
2 presently worth significantly less.
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4 25. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
5 present value, an appraiser would consider discount rates for land development to account
6 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
7 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
8 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
9 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
10

11 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
12 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
13 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
14 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
15 ignoring momentarily all of the other methodological and other flaws discussed here and in
16 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
17 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
18 exceeds special benefits when reduced to present value. Further, to the extent the City is
19 arguing that because they are permitted to assess 100% of the special benefit, the special
20 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
21 is again wrong. After applying proper discounting, the City's proposed special benefit
22 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
23 100% of the total estimated special benefit.
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25 27. But even the assumption that the LID improvements would deliver benefits
26 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
27 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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1 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
2 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
3 indicates that during the construction period, the Greenway district “significantly” lagged in
4 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
5 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
6 30-31 (discussing New York City High Line and San Francisco Embarcadero
7 improvements). Given the lengthy delay, any prediction of future special benefits is
8 speculative, especially during the construction phase where values are likely to decline. And
9 assuming the LID Improvements take a similarly long period of time after they are complete
10 to start producing tangible property value benefits, each additional year of delay results in
11 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
12 Closing Stmt., ¶ 19, Ex. A.

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15 28. Applying the same discounting methods described above and in Mr. Gibbons
16 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
17 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
18 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
19 100% assessment should be no more than \$70,084. Anything more would permit the City to
20 assess Taxpayer based on a hypothetical assumption that these improvements are in place
21 and providing benefit, and ignore the risks, construction disamenity, and time value of
22 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
23 would counsel that the assessment should be only 39.2% of that assessment cap, or \$27,473.

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25 29. Attachment C includes two Excel spreadsheets applying these discounting
26 methods to Taxpayer’s assessment. It is undisputed that special benefits will not actually
27 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet

1 demonstrates that discounting the City’s hypothetical October 2019 special benefits to
2 present value would reduce Taxpayer’s assessment to \$100,015, exclusive of any other
3 flaws in the City’s proposed assessment. The second spreadsheet shows even more drastic
4 reductions after taking into account: (1) a rough discount for property value loss due to
5 COVID-19; and (2) discounting to present value for 5 years (*i.e.*, from 2024 when the City
6 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
7 the time it takes for the improvements to capture property value). After such reductions,
8 Taxpayer’s assessment would be just \$87,513 (for the 5-year discount) or \$24,046 (for the
9 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer’s
10 appeal, but are intended to help demonstrate how unfair and inflated the City’s proposed
11 hypothetical assessment is. The Hearing Examiner’s Recommendation simply dismisses
12 Taxpayer’s discounting argument without legal or factual analysis; that failure is error.
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25 **Appraisal and Assessment Calculation Methods Are Flawed**

26 30. The “general rule is that each lot, piece, or parcel of land should be assessed
27 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
28 Wn.2d at 97.
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32 31. It is proper to sustain a challenge to an assessment, even without the appraisal
33 testimony from the owner, where the objector’s expert establishes that the assessment was
34 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
35 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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40 32. The City’s appraiser purports to utilize the income method of valuation but
41 relied on inaccurate revenue and market data, as discussed further below.
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45 33. The City’s appraiser purports to utilize the comparable sales method of
46 valuation, but no City witness attempted “to characterize any one, or all of them, as
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1 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
2 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
3 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
4 characterize any one, or all of them, as comparable to any particular property within the LID").
5 And no City witness could explain how specific adjustments were made to these sales to
6 account for value increases due to the hypothesized Before and After Improvements. For this
7 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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15 34. Special assessment improperly includes value lift from the Before
16 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
17 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
18 Improvements, which WSDOT had independently committed to fund. However, Mr.
19 Macaulay did not calculate the actual market value of LID properties in October 2019, and
20 did not separately analyze the hypothetical increase to property values attributable to
21 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
22 current value and then separately calculate a hypothetical "With WSDOT" Before value);
23 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
24 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
25 3-4. Without any documented basis or support, Mr. Macaulay simply "ma[de] a judgment a
26 call" on what occupancy and rates would have been for the commercial properties assuming
27 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
28 130:11. This outright omission precludes any independent evaluation of the true market
29 "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
30 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
31 must explain how he analyzed that data and other information to come up with the
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1 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
2 removal of the viaduct, but also other road, pedestrian and landscaping improvements
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4 WSDOT had already committed to make.
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7 35. However, because Mr. Macaulay testified that he did include some WSDOT-
8 related value-lift in the “Before” values, it follows that part of the special assessment
9 improperly is based on value attributable to the WSDOT Improvements. As shown by
10 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
11 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
12 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
13 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
14 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
15 to properly exclude the value of Before Improvements from the assessments. For these
16 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
17 Sections II.19, II.29, and IV.B.11(a)(ii)
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21 36. Special benefits were assigned rather than measured. Mr. Macaulay
22 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
23 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
24 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
25 Macaulay used to analyze the commercial properties, Taxpayer’s experts concluded that Mr.
26 Macaulay based adjustments on hypothesized very small increases to property revenue and
27 very small reductions to cap rates to “calculate” an “After” value due to the coming 2024
28 LID Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments
29 were based on “professional judgment” that are neither shown nor replicable.
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1 37. For these reasons, Taxpayer appeals the following portions of the Examiner's
2 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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4 38. Special benefit falls within margin of error. The Final Special Benefit Study
5 applies an estimated value enhancement of less than 4%, which is generally within the
6 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
7 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
8 Taxpayer's expert explained that if two appraisers independently arrive at values within 5%
9 of one another, this difference is considered reasonable as it falls within the standard margin
10 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9. Because Mr.
11 Macaulay's micro-special benefit percentages fall far below that 5% margin, "there is no
12 way of authenticating" such incremental changes because "[m]arket forces completely
13 obliterate any tiny little noise factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
14 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too small to
15 measure. Macaulay Depo. at 25:17-25. Additionally, the fact that "Before" values are also
16 based on a hypothetical that adds some unstated incremental value to actual 2019 values
17 exacerbates this issue—the ability for an appraiser to discern the micro-value differences
18 between hypothetical conditions that are so similar (the WSDOT improvements compared to
19 the LID improvements) "verges on being ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at
20 89:4-90:7.
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38 39. Even if it were possible to accurately tease out such a miniscule hypothetical
39 value change due to improvements coming five years later, experts testified that there is no
40 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
41 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
42 88:21-88:24 ("you cannot measure one percent difference in a high-rise building for this
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1 kind of a medium ... it's simply assigned to a before value"). For these reasons, Taxpayer
2
3 appeals the following portions of the Examiner's Recommendation: II.27 and IV.B.4.
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5 40. No analysis of value increase attributable to individual components of the
6 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
7
8 percentage difference between hypothetical Before and After conditions. Throughout his
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10 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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12 descriptions in the Addenda even though he testified that he relied on these to calculate
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14 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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16 someone might be able to determine how he attributed value to After conditions described in
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18 the Addenda, he answered that that was "not the scope of the assignment" because he was
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20 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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22 that the six components were not actually a continuous project, that he was viewing them
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24 together because the City asked him to, and that if he were to view them independently,
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26 there was a low probability that properties in the north would specially benefit from
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28 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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30 41. Not only did he fail to analyze benefits from each of these non-contiguous
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32 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
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34 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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36 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
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38 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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40 objectives that guided regulators' assessment of architectural plans for buildings along a
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42 "signature street" were so vague that they amounted to ad hoc review based on the
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1 regulators' subjective impressions and feelings).⁷ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.
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23 42. Special assessment is not supported by comparable studies, data or reports.

24 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
25 that the LID Improvements will lead to meaningfully increased real estate values for
26 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
27 comparable sales or information from the "over twenty-five studies and reports" to arrive at
28 very precise special benefit increases for the commercial properties, including Taxpayer's
29 property. For example, although Mr. Macaulay stated that no single report or study was
30 directly on point due to the unique nature of the LID Improvements (*see, e.g.,* 6/25/2020
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41 ⁷ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
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3 parcel-by-parcel analysis other than to say that the studies generally provided “some
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5 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
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7 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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9 similarities and differences between these improvements and the comparable parks he
10
11 looked at).

12 43. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
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14 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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16 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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18 research misinterprets his work in critical ways, including because the LID Improvements
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20 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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22 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
23
24 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
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26 related value increases are in fact smaller; that estimated increases are “best guesses” rather
27
28 than predictions of property value increases in a particular city; and that percentages do not
29
30 account for diminishing returns after taking into account water views, which would be the
31
32 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
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34 topography grants most properties in downtown a water view.
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36 44. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
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38 that this was just one source of information that was not entirely relevant because, among
39
40 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
41
42 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
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44 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
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46 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
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1 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
2
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
4
5 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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7 significantly beyond that which the park study indicated (even if it was legitimate to use the
8
9 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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11 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
12
13 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
14
15 Taxpayer’s property is not within 500 road network feet from the “park” improvements. *See*
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17 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.

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19 45. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
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21 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
22
23 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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25 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
26
27 materials, it was clearly an important—if not *the* most important—source of information for
28
29 estimating special benefits (especially with respect to the condos).⁸ No City witness
30
31 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
32
33 parcel-by-parcel analysis.

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35 46. The destination parks discussed in the Final Special Benefit Study do not
36
37 provide reliable, comparable, and valid support for the calculation of special assessments
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39 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
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42 ⁸ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 Study were funded by a LID. And in virtually all of those cases, the park improvements
2 dramatically restored unimproved or blighted areas, and properties evaluated were within
3 two or three blocks of the park.
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6 47. ABS's claimed reliance on three economic studies to support property value
7 increase is also flawed. The HR&A study does not inform what value increases are
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
10 dissimilar parks in other cities,⁹ making the methodological application to the LID
11 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
12 conclusion that there would be *no new net visitors* from downtown residents as a result of
13 the LID Improvements and could not explain how this impacted his condo analysis.
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16 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
17 Property Values" primarily focused on whether the benefits accrue to the larger community
18 rather than properties adjacent to the park. And the 2014 New York City Department of
19 Transportation study is not based on real estate transactions and market sales and fails to
20 substantiate any link between increased retail sales and property values. Moreover, this
21 study only looked at impact either directly abutting the streetscape improvement, or a couple
22 hundred feet for plaza-like improvements.
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25 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
26 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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43 ⁹ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
2 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
3 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
4 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
5 asked whether he considered that HR&A’s estimated LID impact is six times greater than
6 TPL’s assessment of Seattle’s entire park system, his surmised that it was because the
7 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
8 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
9 assumptions to account for this difference, which may be partly explained by the fact that
10 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
11 approximately 3.44% of King County tourists visit Seattle primarily because of the city
12 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
13 waterfront improvements.

26 49. Although proximity to the improvements is a key factor in all of these
27 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
28 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
29 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
30 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
31 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
32 Improvements is approximate 20 acres and it is not a community park.¹⁰

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44 ¹⁰ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 50. There is no explanation in the Final Study or the supporting materials of how
2 the studies or comparable sales were used to derive values for Taxpayer's property. For
3 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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5 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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8 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
9 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
10 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12 Study does not meet mass appraisal standards nor allow for independent assessment of the
13 accuracy of Mr. Macauley's conclusions.
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16 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
17 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
18 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
19 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
20 testimony suggests that he incorrectly believed that the only difference between direct
21 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
22 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
23 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
24 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
25 Gordon uses in doing his limited restricted report").
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28 53. But the difference is not only in reporting—mass appraisal techniques must
29 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
30 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
31 parcel approach:
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1 The mass appraisal technique is an appraisal method used to evaluate
2 a group of properties that are subject to similar market forces as of a
3 certain date through the use of market data, statistical analysis and
4 testing. As a result, the mass appraisal technique does not require or
5 involve analysis of each individual property's specific data.
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8 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

9
10 54. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
11 universe of properties as a given date using standard methodology, employing common data,
12 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
13 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
14 model" is "a mathematical expression of how supply and demand factors interact in a
15 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
16 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
17 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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26 55. Regardless of client direction, Mr. Macaulay is required to comply with
27 USPAP. So if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
28 economically feasible because it would have taken "an incredible amount of time and cost"
29 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
30 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
31 individual appraisal of each [condo] parcel would have been cost and time prohibitive").
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38 56. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
39 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
40 value, fails to calibrate the model structure to determine the contribution of the individual
41 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
2 217:1;¹¹ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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5 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6 proximity to the elements, the increase in market rent, market vacancy changes,
7 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
8 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
9 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
10 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
11 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
12 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
13 values were hypothetical, it was not possible to identify matched pair sales and no City
14 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
15 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
16 requires him to explain his model structure.
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28 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
29 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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34 ¹¹ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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3 and appeals the Examiner’s denial of that motion.
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5 59. Finally, Taxpayer’s property is not appurtenant—or even in close
6
7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
8
9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
10
11 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
12
13 property is not within 500 road network feet from the core “park” improvements. And, as
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15 described above, the special assessment is overstated because the Final Study makes no
16
17 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
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19 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
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21 improvements were not in in place—and, in fact, much of the waterfront is a construction
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23 zone following removal of the viaduct and now Pier 58 demolition. Under these
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25 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
26
27 Mr. Macaulay at the very least should have discounted the special benefit estimates or
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29 waited to perform the Study until the improvements were at least close to complete.
30

31 **Erroneous Pre-Improvement Valuation**

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33 60. The proposed final assessment erroneously overstates the pre-improvement
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35 value of Taxpayer’s property as of October 1, 2019 and, as a result, overstates the special
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37 benefit to the Taxpayer’s property.
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39 61. The City’s Final Study was used to compute the proposed final assessment of
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41 Taxpayer’s property. The City’s Study purportedly uses data from the King County
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1 Department of Assessments,¹² but the pre-improvement valuation information in the Final
2 Study does not accurately reflect this data. For example, the City’s Study values Taxpayer’s
3 property at \$41,243,000 as of October 1, 2019. However, the King County assessor
4 determined the true and fair value of the property to be \$40,574,200, valued in 2019 for tax
5 year 2020. The Final Special Benefit Study does not explain this difference—or any
6 differences—between its pre-improvement valuation and its supposed source for market
7 data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner’s
8 Recommendation.
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17 62. Thus, aside from multiple other reasons why computation of the special
18 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
19 improvement values that do not accurately reflect market data. For these reason, Taxpayer
20 appeals the Examiner’s recommended denial on page 105 of the Examiner’s
21 Recommendation.
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25

26 27 **Erroneous Computation of Special Benefit**

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29 63. “Special benefit” is “the increase in fair market value attributable to the local
30 improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property
31 may receive by reason of the improvement is not measured alone by the physical character
32 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
33 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
34 the particular tract or property benefited by the entire improvement, and is it assessed
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45 ¹² See, e.g., Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment’s online “eReal
47 Property” search tool).

1 proportionately with the other property included within the assessment district?” *Id.* 165–
2
3 66.

4
5 64. The proposed final assessment erroneously overstates the special benefit of
6
7 LID improvements in a number of ways.

8
9 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
10
11 the 4th and Pike building, Mr. Macaulay assumed office rental rates would increase by
12
13 0.80% (low) and 1.00% (high) due to the 2024 LID Improvements. But it is not possible to
14
15 accurately conclude that the reason for this level of percentage increase would be due to the
16
17 LID Improvements, and there appears to be no support for assignment of these percentages.
18
19 Based on formulas in the spreadsheets, Mr. Macaulay then uses these same percentages
20
21 (0.80% and 1.00%) to increase retail rental space. He then uses this hypothesized increased
22
23 revenue to calculate a new net operating income for the commercial properties and
24
25 capitalizes that to come up with an “After” valuation.

26
27 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
28
29 operating income remains the same as in the hypothetical “Before” condition, but changes
30
31 the cap rate. For the 4th and Pike building, the cap rate goes from 5.25% to 5.20% (low
32
33 scenario, creating a bigger value increase) and 5.15% (high scenario, creating a lower value
34
35 increase). But cap rate changes of 0.05% or 0.10% are not typically measurable, and there
36
37 appears to be no support for these changes in the Final Study or any of its supporting
38
39 materials.

40
41 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
42
43 benefit conclusion. For the 4th and Pike building, this is an increase in property value of
44
45 1.80% due to the LID Improvements.
46
47

1 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
2 and capitalization rates. When asked precisely what the basis is for his special benefit
3 percentage increases to revenue for each commercial property, he could not point to
4 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
5 is nothing in the report to allow a reader to understand how he came up with these
6 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
7 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
8 the basis for his belief that certain factors—liked increased connectivity—will increase
9 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
10 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12 sources equally even though there was no separate analysis done for food and beverage or
13 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
14 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
15 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
16 properties.
17

18 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
19 check for commercial properties. But as explained above, no City witness has explained
20 how anyone, or all, of the sales are comparable to any particular commercial property within
21 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
22 in order to make sales “comparable,” he would have had to make adjustments to account for
23 Before and After conditions, but there is no way to understand how adjustments were made
24 because he “didn’t do a separate sales comparison approach where we showed adjustments
25 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
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1 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
2
3 *Id.* at 127:10-128:24.

4
5 70. It also bears noting that any “internal review” of the special benefit estimates
6
7 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
8
9 error. Indeed, given all the same information, he seemed to suggest that it would be
10
11 perfectly reasonable for another experienced appraiser to come up with special benefit
12
13 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
14
15 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
16
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18
19 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
20
21 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
22
23 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
24
25 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
26
27 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
28
29 special because it is arbitrarily assigned; and it is too small to realistically be supported by
30
31 appraisal techniques.

32
33 71. No evidence of special benefit. Meanwhile, there is “no actual evidence from
34
35 any seller or purchaser that the price was higher because of the LID improvements.”
36
37 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
38
39 identified any seller or buyer, or any particular property where the existence of the LID
40
41 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
42
43 explained that the property has not increased rental rates or revenue due to the forthcoming
44
45 LID Improvements, because, among other reasons (and apart from COVID), the
46
47 improvements ABS believes will generate value do not exist, and will not for a number of

1 years to come. There are no comparable sales because the LID Improvements are not in
2 place, nor will they be until the end of 2024 if completed on schedule.
3

4
5 72. The fair market value of Taxpayer's property has not changed due to
6 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
7 benefited from installation of new water main and fire hydrant where it was already
8 adequately supplied with water and afforded adequate fire protection). And in any event,
9 any value attributable to removal of the viaduct was to be excluded from the assessment
10 calculation.
11

12
13 73. There is no special benefit because LID improvements in fact diminish the
14 value of Taxpayer's property by, for example, imposing an immediate tax on the property
15 while providing no immediate benefits or drawing visitors away towards improvements that
16 do not abut the property. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert that
17 LID actually diminished value of property was sufficient to rebut presumption that
18 assessment was proper).
19

20
21 74. Moreover, the assessment formula is an attempt to distribute costs that do not
22 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
23 "merely a mathematical model that distributes costs").
24

25
26 75. The Special Benefit Study fails to address whether the \$346,000,000
27 estimated LID project cost takes into account the investment that would have occurred in the
28 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
29 invested. This is a critical component of estimating which properties receive a direct benefit
30 from the improvements, versus more incidental benefits further from the park.
31

32
33 76. The proposed final assessment substantially exceeds the special benefit to the
34 property and is grossly disproportionate to similarly situated properties within the LID. The
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1 City has not addressed any of these specific issues and offers only general responses which
2 have already been rebutted by Objectors in their case-in-chief and cross-examination. *See*
3
4 Second Decl. of Macaulay, ¶¶2, 70-73 (date 6/26/2020). For these reasons, Taxpayer
5
6 appeals the following portions of the Examiner's Recommendation: Sections II.22, II.23,
7
8 II.27, IV.B.4, IV.B.11(a)(iii) and page 105.
9

10 **State Environmental Policy Act and Other Environmental Permitting**

11
12 77. While this appeal is not challenging the City's environmental review and
13
14 permitting processes, those processes are relevant in determining the legality of the
15
16 assessments, and to assessing the delivery risk, the present value of the City's plans, and
17
18 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
19
20 pursue projects that have not yet undergone environmental review (thus limiting the choice
21
22 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
23
24 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
25
26 is just beginning. Further, the City has segmented environmental review, and still has a
27
28 gauntlet of federal, state and tribal review processes to complete before it will be clear what
29
30 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
31
32 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
33
34 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
35
36 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
37
38 committing to reconstruction of Pier 58 and major street improvements without
39
40 environmental review, or the City's Final Special Study has improperly included and is
41
42 proposing to assess the Taxpayer the costs and special benefits of improvements that may
43
44 not get built. Either way, it is faulty process.
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Due Process Rights

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3 78. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
4 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
5
6 Because LID assessments involve a deprivation of property, affected owners have the right
7 to a hearing as to whether the improvement resulted (or will result) in special benefits to
8 their properties and whether their assessments are proportionate, which necessarily includes
9 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
10 555, 569–70, 229 P.3d 761 (2010).
11
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16 79. The LID statute specifies that cities must mail notices giving the time and
17 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
18 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
19 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
20 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
21 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
22 secure their own appraisal), evaluate proportionality of the proposed assessments, and
23 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
24 for anybody to get an appraisal”).
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34 80. The City’s Notice of Assessment was sent on December 30, 2019. And the
35 Final Special Benefit Study has only been available for public review since January 7, 2020.
36 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
37 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
38 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
39 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
40 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
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1 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
2
3 the Examiner's Recommendation: I.B.
4

5 **VII. Relief Requested**
6

7 Taxpayer respectfully requests that the City Council:
8

- 9 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
10
11 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
12 assessment dated December 30, 2019; or
13
14 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
15 proposed final assessment to \$0 (zero), or such amount as Taxpayer
16 establishes at the hearing in this matter; or
17
18 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
19 and reduce Taxpayer's assessment using recognized appraisal techniques
20 consistent with USPAP and:
21
22 i. Excluding any property value increase attributable to viaduct removal
23 and other planned WSDOT Improvements;
24
25 ii. Taking into account the effects of the COVID-19 pandemic on the
26 value of Taxpayer's property and other relevant developments since
27 October 2019;
28
29 iii. Accounting for and excluding (1) any special benefits from existing
30 or planned improvements that already provide similar benefits to
31 Taxpayer's property, and (2) any special detriments from construction
32 and other anticipated LID-related disamenities;
33
34 iv. Accounting for and including only those actual benefits anticipated to
35 accrue to Taxpayer's property based on its location relative to Pier 58,
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1 Overlook Walk, and the Promenade, and specific elements of the LID
2 Improvements;

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4
5 v. Discounting anticipated special benefits to present value, based on
6 reliable estimates regarding when special benefits will start accruing
7 following completion of the LID Improvements; and
8

9
10 vi. Accounting for such other issues specific to Taxpayer's property
11 relevant to calculation of such assessment; and
12

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14
15 2. Grant such further relief as the City Council deems just and proper.
16

17 DATED: September 22, 2020

PERKINS COIE LLP

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21
22
23 By: 

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Attorneys for LBA RVI-Company XLI, LLC

FILED

4:12 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0422
Date: Tuesday, February 16, 2021 3:46:17 PM
Attachments: [4th and Pike Amended LID Appeal before City Council CWF 422.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

4th and Pike Amended LID Appeal before City Council CWF 422.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
18

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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0422

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON LBA RVI-
COMPANY XLI, LLC OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1975700235

32
33 LBA RVI-Company XLI, LLC (“Taxpayer”) files this amended appeal pursuant to
34 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
35 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
36
37 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
38
39 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
40
41 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
42
43 Recommendation issued February 1, 2021.
44
45
46
47

1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 LBA RVI-Company XLI, LLC¹
6 3347 Michelson Drive
7 Attn: Principal-Operations
8 Irvine, CA 92616
9

10
11 **II. Taxpayer's Representatives**

12 LBA RV Company XXVIII, LP representatives in this matter are:

13
14
15
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17 JLutz@perkinscoie.com
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24
25 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

26 LBA RVI-Company XLI, LLC owns the property that is subject to the proposed
27
28 final assessment described in Section IV.
29

30 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
31
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34
35 objection to the assessment, which was based on the Final Study. Taxpayer further timely
36
37 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
38
39 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
40
41 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
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46 ¹ See Taxpayer's September 22, 2020 Appeal to City Council, FN for explanation regarding
47 Ownership.

1 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
2 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
3 as authorized by the Hearing Examiner, including without limitation all records pertaining to
4 the November 2020 through February 2021 remand hearing ordered by Council.
5
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7

8
9 **IV. Amended Arguments on Appeal**

10 LBA RVI-Company XLI, LLC supplements its appeal of the Hearing Examiner's
11 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
12 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
13 the following property:
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18 King County Parcel No. 1975700235
19 Site Address: 1424 4th Ave., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$ 291,515.57
21
22

23 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
24 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
25 amended appeal.
26
27

28
29 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
30 **Discounted to Present Value and Assessments Adjusted as Appropriate**
31

32 On remand, the City's appraiser acknowledged that special benefits to parcels can be
33 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
34 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
35 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
36 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
37 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
38 accepted that recommendation. The City's appraiser further acknowledged that benefit
39 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
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1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
13
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefits are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
9

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17 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
18 **Downtown Property Owners and other Material Changes Since October**
19 **2019, the LID Should be Cancelled, or at Least Assessments**
20 **Recalculated, to take Into Account Property Value Reductions**
21

22 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
23 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
24 other relevant developments since October 2019." When Washington's first COVID
25 restrictions were imposed in March and April 2020, there was an assumption that they
26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
27 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
28 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
29 gotten much worse. The City has already imposed higher minimum wages and taxes on
30 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
31 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
32 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
33 years from completion, as a best case. In current circumstances, a downtown tax to fund
34 new, non-essential park improvements against financially strapped taxpayers, and likely
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1 passed through to financially strapped tenants and customers would be unfair to taxpayers
2 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
3 rethinks its budget priorities for the next few years, and its potentially funding sources,
4
5 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
6
7 property owners) have a chance to recover, and that any assessment take into account the
8
9 changed circumstances since this appeal process started on February 4, 2020 to avoid
10
11 unnecessarily and perhaps permanently killing downtown properties and businesses in the
12
13 name of bettering them.
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17 **V. Relief Requested**

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19 Particularly in light of the Committee's decision not to take further comment from
20
21 appellants, Taxpayer respectfully request that each Committee member carefully review the
22
23 full record transmitted to Council before voting on Taxpayer's appeal.
24

25 LBA RVI-Company XLI, LLC respectfully reiterates its request from the September
26
27 22, 2020 appeal that the City Council:

- 28
29 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
30
31 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
32
33 final assessment dated December 30, 2019; or
34
35 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
36
37 proposed final assessment to \$0 (zero), or such amount as Taxpayer
38
39 establishes at the hearing in this matter; or
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41 c. Remand the matter to the Hearing Examiner or City appraiser to
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43 recalculate and reduce Taxpayer's assessment using recognized appraisal
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45 techniques consistent with USPAP and:
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- i. Excluding any property value increase attributable to viaduct removal and other planned WSDOT Improvements;
 - ii. Taking into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019;
 - iii. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to Taxpayer's property, and (2) any special detriments from construction and other anticipated LID-related disamenities;
 - iv. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - v. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vi. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and

2. Grant such further relief as the City Council deems just and proper.

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2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

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3:03 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0423
Date: Tuesday, September 22, 2020 2:43:42 PM
Attachments: [CWF-0423.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0423.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0423
A – Master List of Evidence
B – E-061 Century Square Retail
C – Discounting for CWF-0423
CWF-0423 Appeal Notice for Century Square Retail

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> ○ (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> ○ John Gordon property-specific direct ○ (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> ○ John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

CENTURY SQUARE RETAIL									
Map No.	E-061		Historic:		No				
Tax Parcel Nos.	197570-0365		Stories:		2				
Address:	1525 4TH AVE		Current Rent -						
Zoning:	DRC 85-170		NOTE:						
Property rights:	Fee Simple								
Proximity to project:	Approx. 5 blocks to Waterfront								
Previous sale:	-								
Ownership:	FOURTH AVENUE ASSOCIATES								
INCOME ANALYSIS WITHOUT "Before"			Year Built	1920					
			Parking	0					
Potential Gross Income									
Office	GBA	NRA	SF NRA @	\$0.00	per SF =	\$0			
	0	0							
Retail	37,268	37,268	SF NRA @	\$45.00	per SF =	\$1,677,060			
Restaurant space	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Subtotals	37,268	37,268		\$0.00	per SF =	\$0			
				\$45.00		\$1,677,060			
Parking Area/Stalls	0	0	0 stalls @	\$0.00	/month	\$0			
Basement	20,160	0	SF GBA @	\$10.00	per SF =	\$201,600			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	0.0% of GRI			\$0			
Total Bldg Area & Gross Income	57,428	37,268	SF NRA @	\$50.41	/SF =	\$1,878,660			
Less: Vacancy/credit allowance @	0.0%						\$0		
	5.0%						(\$93,933)		
Total vacancy/credit allowance							(\$93,933)		
Effective gross income							\$1,784,727		
Less: Operating expenses									
Management fee @	5.0%	of total EGI			(\$89,236)				
Parking operating expenses @	0.0%	of parking EGI			\$0				
Structural maintenance/reserve	\$0.20	per SF of NRA			(\$7,454)				
Total operating expenses					(\$96,690)				
Net operating income							\$1,688,037		
Indicated Value							Capitalized @	4.75%	
							Indicated value	(R)	\$35,537,622
							Per SF NRA		\$953.58
							Per SF GBA		618,827,053
Land Value			20,068	SF @	\$1,600.00	per SF =	\$32,109,000		
Residual Improvements			37,268	SF NRA @	\$92.01	per SF =	\$3,429,000		
			57,428	SF GRA @	\$59.71				

Special Benefit Summary							
	Land		Improved	% Change	Total Estimated Value	Special Benefit	% Change
	Per SF	Total					
Without LID	\$1,600.00	\$32,109,000	\$3,429,000	N/A	\$35,538,000	N/A	N/A
With LID							
Scenario A1	\$1,632.00	\$32,751,000	\$3,318,000	-3.24%	\$36,069,000	\$531,000	1.49%
Scenario A2	\$1,632.00	\$32,751,000	\$3,495,000	1.92%	\$36,246,000	\$708,000	1.99%
Scenario B1	\$1,632.00	\$32,751,000	\$3,551,000	3.56%	\$36,302,000	\$764,000	2.15%
Scenario B2	\$1,632.00	\$32,751,000	\$3,708,000	8.14%	\$36,459,000	\$921,000	2.59%
Summary							
Without LID	\$1,600	\$32,109,000	\$3,429,000	N/A	\$35,538,000	N/A	
With LID	\$1,632.00	\$32,751,000	\$3,498,000	2.01%	\$36,249,000	\$711,000	2.00%
Percent change in land value	2.00%						

CENTURY SQUARE RETAIL									
Scenario A: Rental and Vacancy Rate Changes									
INCOME ANALYSIS WITH "After"									
Year Built		1920							
Potential Gross Income									
	GBA	NRA		Per SF	Per SE	Low	High		
Office	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
						0.00%	0.00%		
Retail	37,268	37,268	SF NRA @	\$45.75	\$46.00	\$1,705,011	\$1,714,328		
Restaurant space	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Subtotals	37,268	37,268		\$45.75	\$46.50	\$1,705,011	\$1,714,328		
				Per Month	Per Month	0.00%	0.00%		
Parking Area/Stalls	0	0	0 stalls @	\$0.00	\$0.00	\$0	\$0		
				Per SF	Per SF	0.00%	0.00%		
Basement	20,160	0	SF GBA @	\$10.00	\$10.00	\$201,600	\$201,600		
Other	0	0	SF NRA @	\$0.00	\$0.00	\$0	\$0		
Other			0.0%	of GRI		\$0	\$0		
Total Bldg Area & Gross Income	57,428	37,268	SF NRA @	\$51.16	\$51.41	\$1,906,611	\$1,915,928		
Less: Vacancy/credit allowance						0.0%	0.0%		
						5.00%	5.00%		
Total vacancy/credit allowance						(\$95,331)	(\$95,796)		
Effective gross income						\$1,811,280	\$1,820,132		
Less: Operating expenses									
Management fee @		5.0%	of total EGI			(\$90,564)	(\$91,007)		
Parking operating expenses @		0.0%	of parking EGI			\$0	\$0		
Structural maintenance/reserve		\$0.20	per SF of NRA			(\$7,454)	(\$7,454)		
Total operating expenses						(\$98,018)	(\$98,460)		
Net operating income						\$1,713,263	\$1,721,671		
Indicated Value									
						Capitalized @	4.75%	4.75%	
							\$36,068,691	\$36,245,714	
						(R)	\$36,069,000	\$36,246,000	
						Per SF NRA	\$967.83	\$972.58	
						% change	1.49%	1.99%	
Land Value									
		20,068	SF @	\$1,632.00	per SF =	\$32,751,000	\$32,751,000		
Residual Improvements									
						\$3,318,000	\$3,495,000		
						Per SF NRA	\$89.03	\$93.78	
Special Benefit Summary									
						\$531,000	\$708,000		

CENTURY SQUARE RETAIL									
Scenario B: Overall Capitalization Rates Changes									
INCOME ANALYSIS WITH "After"									
Year Built		1920							
Potential Gross Income									
Office	GBA	NRA	SF NRA @	\$0.00	per SF =	\$0			
	0	0							
Retail	37,268	37,268	SF NRA @	\$45.00	per SF =	\$1,677,060			
Restaurant space	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Subtotals	37,268	37,268				\$1,677,060			
Parking Area/Stalls	0	0	0 stalls @	\$0.00	/month	\$0			
Basement	20,160	0	SF GBA @	\$10.00	per SF =	\$201,600			
Other	0	0	SF NRA @	\$0.00	per SF =	\$0			
Other			0.0% of GRI			\$0			
Total Bldg Area & Gross Income	57,428	37,268	SF NRA @	\$50.41	/SF	\$1,878,660			
Less: Vacancy/credit allowance @	0.0%						\$0		
	5.0%						(\$93,933)		
Total vacancy/credit allowance							(\$93,933)		
Effective gross income							\$1,784,727		
Less: Operating expenses									
Management fee @	5.0%	of total EGI			(\$89,236)				
Parking operating expenses @	0.0%	of parking EGI							
Structural maintenance/reserve	\$0.20	per SF of NRA			(\$7,454)				
Total operating expenses							(\$96,690)		
Net operating income							\$1,688,037		
Indicated Value									
					Capitalized @	Low	High		
					Indicated Value	4.65%	4.63%		
					(R)	\$36,301,872	\$36,458,684		
					Per SF	\$36,302,000	\$36,459,000		
					% change	\$974.08	\$978.29		
						2.15%	2.59%		
Land Value									
		20,068	SF @	\$1,632.00	per SF =	\$32,751,000	\$32,751,000		
Residual Improvements									
						\$3,551,000	\$3,708,000		
						\$95.28	\$99.50		
					per SF NRA				
Special Benefit Summary									
						\$764,000	\$921,000		

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0423	Century Square Retail	1525 4th Avenue	1975700365

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$412,000	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$55,385

Model Input					
Appeal #	Property	Address	Assessor's #		
CWF-0423	Century Square Retail	1525 4th Avenue	1975700365		
	BEFORE	Appraiser	Value		
A	Final City Before Value	City	\$35,538,000		
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)		
C	COVID 19 Discount and value		-12.5%		
D					
(B*(1+C) unless no value for Corrected FMV for Assessment B, then A*(1+C))			\$31,095,750		
	SPECIAL BENEFIT		5-yr delay	10-yr delay	
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577	
G	Discount to present value (percentage of total)		34.29%	9.42%	
	CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$412,000		
H/A	As Percentage of Final City Before Value		1.159%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$360,500		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$123,627	\$33,968
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$48,462	\$13,316
	DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade		No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0423

NOTICE OF ACCEPTANCE OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON FOURTH
AVENUE ASSOCIATES’ OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1975700365

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34 FOURTH AVENUE ASSOCIATES hereby gives notice under ER 408 that it
35
36 accepts the Hearing Examiner’s revised recommendation to reduce the Waterfront LID No.
37
38 6751 final assessment on the subject property to \$158,760, as established in the Hearing
39
40 Examiner’s February 1, 2021 Final Findings and Recommendation, pages 108-109, and will
41
42 forego further appeal, and request that the Council accept this revised recommendation.
43
44 Should the Council reject that Examiner recommendation, Taxpayer incorporates all
45
46
47

1 additional information submitted into the record in the remand hearing ordered by the
2
3 Council and reserves all rights and remedies, including without limitation further appeal.
4

5 DATED: February 16, 2021

PERKINS COIE LLP

6
7
8 By:

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10 JLutz@perkinscoie.com
11 Perkins Coie LLP
12 10885 N.E. Fourth Street, Suite 700
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26 Attorneys for FOURTH AVENUE
27 ASSOCIATES
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FILED

3:18 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0423
Date: Tuesday, February 16, 2021 3:12:50 PM
Attachments: [Century Square Retail Amended LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Century Square Retail Amended LID Appeal before City Council.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0423

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON FOURTH
AVENUE ASSOCIATES’ OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1975700365

32
33 TAXPAYER (“FOURTH AVENUE ASSOCIATE”) files this appeal pursuant to
34 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the
35 notice of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
40
41
42

43
44 **I. Fourth Avenue Associate / Appellant**

45 The taxpayer filing this appeal is:
46
47

1 FOURTH AVENUE ASSOCIATE
2 1434 Broadmoor Drive E
3 Seattle, WA 98112
4 (206) 861-5191
5 Garycarpenter911@gmail.com
6

7 **II. Fourth Avenue Associates' Representatives**

8
9 FOURTH AVENUE ASSOCIATES' representatives in this matter are:

10
11
12 R. Gerard Lutz, WSBA No. 17692
13 JLutz@perkinscoie.com
14 Megan Lin, WSBA No. 53716
15 Perkins Coie LLP
16 10885 N.E. Fourth Street, Suite 700
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18 Telephone: 425.635.1400
19 Facsimile: 425.635.2400
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22 Robert L. Mahon, WSBA No. 26523
23 RMahon@perkinscoie.com
24 1201 Third Avenue, Suite 4900
25 Seattle, Washington 98101
26 Telephone: 206.359.8000
27 Facsimile: 206.359.9000
28
29

30 **III. Statement of Fourth Avenue Associates' Interest**

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32 FOURTH AVENUE ASSOCIATES leases, with the right to challenge the
33
34 assessment, the property that is subject to the proposed final assessment described in Section
35
36 IV. The property, the Century Square Retail building, is a two story building for retail use
37
38 that is encumbered by development restrictions on building height and the ability to
39
40 redevelop the ground floor due to the presence of a light rail link station.

41
42 The basis of the proposed assessment is a Final Special Benefit/Proportionate
43
44 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
45
46 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
47

1 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
2 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
3 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
4 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
5 to exclude charges for other improvement projects in the Central Waterfront, and
6 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
7 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
8 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
9 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
10 because construction was not complete on the LID Improvements or the WSDOT
11 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
12 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
13 facts. On February 4, 2020, Fourth Avenue Associate timely filed an objection to the
14 assessment, which was based on the Final Study.

28 **IV. Matter Under Appeal**

29 FOURTH AVENUE ASSOCIATES appeals the Hearing Examiner’s
30 recommendation to remand Fourth Avenue Associates’ objection to the City of Seattle’s
31 Waterfront Local Improvement District No. 6751 proposed final assessment dated
32 December 30, 2019 against the following property:

33 King County Parcel No. 19675700365
34 Site Address: 1525 4th Ave., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$161,504¹

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¹ This is a revised final proposed assessment. The City’s original final proposed assessment of Century Square Retail was \$278,585, but the City conceded that ABS overvalued the building by failing to consider certain development restrictions. This failure is the basis for the Hearing Examiner’s recommendation to remand rather than deny the petition. *See* Examiner’s Recommendation at 105.

1 See Examiner's Recommendation at 61-62, 105. To avoid repetition, Fourth Avenue
2 Associates incorporates the evidence and arguments raised before the Hearing Examiner into
3 this appeal. In particular, Fourth Avenue Associates points the City Council to Fourth
4 Avenue Associates' initial Appeal Petition, *Frye* motion, Closing Brief submitted at the
5 close of its case-in-chief (dated 4/16/2020), and supplemental Closing Statement submitted
6 at the close of the City's case-in-chief (dated 7/7/2020).²
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12 As discussed more fully below, Fourth Avenue Associate specifically appeals the
13 following Findings and Recommendations in the Hearing Examiner's September 8, 2020
14 Recommendation: Pages 61-62, 105, Sections II.6, II.7, II.14, II.15, II.18, II.19, II.20, II.21,
15 II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1,
16 IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
17 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.8,
18 IV.C.9, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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26 Fourth Avenue Associate also appeals the Hearing Examiner's failure to make
27 findings of fact or recommendations on material issues raised during Fourth Avenue
28 Associates' appeal that were supported by law, expert testimony, and fact. The Final Study
29 fails in numerous ways to satisfy the basic requirements of a LID assessment study, and the
30 Examiner's Recommendation ignores the many deficiencies in the Final Study. In fact, the
31 only instances in which the Examiner recommended anything other than denial of objectors'
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39 ² Because the City has not provided "metered index numbers," our appeals cannot reference
40 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
41 Public Works committee secure and provide appellants with such a record, so that the appeals can
42 then be supplemented with that additional information, so as to make the Committee's consideration
43 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
44 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
45 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
46 retained by Perkins Coie are part of this case file.
47

1 appeals were where the City's appraiser confessed error. The appraiser's proposed
2 assessments, and the Examiner's Recommendations, would have the City impose arbitrary
3 and capricious Waterfront LID special assessments based on "fundamentally wrong
4 methods."
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8 The special benefit for which special taxes are assessed must be "actual, physical and
9 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
10 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
11 with the law, the assessments may not materially exceed the actual special benefit conferred
12 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
13 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
14 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
15 assessment. In this case, the proposed assessment fails each of the legal requirements for
16 special assessments and must be annulled as arbitrary or capricious, or founded on
17 fundamentally wrong methods.
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30 **Legal Requirement:** Actual, non-speculative special benefit

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32 **ABS Study:** Estimates a hypothetical benefit based on "Before" values that increase
33 "actual 2019" values (unstated) assuming the WSDOT Improvements were in place in
34 October 2019 (they were not), and an "After" value purporting to assess the value of
35 properties with the LID improvements in place at least five years before anticipated
36 completion.
37
38

39 **Legal Requirement:** Cannot materially exceed the special benefit

40
41 **ABS Study:** ABS calculates a special benefit of \$412,000³ assuming the LID
42 Improvements were in place and providing benefit in October 2019. However, the LID
43
44
45

46 ³ This is a revised special benefit. The original special benefit was estimated to be \$711,000,
47 but the City reduced the amount based on the ABS error discussed in footnote 1.

Improvements will not be completed until the end of 2024 if the City meets its current schedule, and many of WSDOT's alternative improvements will not be built. The present value of future improvements deliverable in five years is significantly lower than the current value of improvements that already exist. Further, ABS's own materials show that benefits may not accrue for at least five years after they are completed, in 2029. If the hypothesized special benefits are discounted to present value, the assessments materially exceed the hypothesized special benefits.

Legal Requirement: Actual, non-speculative special benefit—Date of valuation/COVID

ABS Study: The City has not finalized the assessment roll. After the City's appraiser prepared his Final Study in October 2019, and the City issued its preliminary roll in December 2019, COVID devastated downtown hotel and retail properties. The Hearing Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and the City's preliminary roll. On the contrary, the City's assessments have yet to be made and must be based on actual special benefits. While that does not mean ABS's appraisal was wrong when completed, values and benefits need to be reanalyzed before assessments are finalized in light of the unprecedented changes to the downtown real property market.

Legal Requirement: Actual benefit that cannot materially exceed special benefit—Assessment cannot include value attributable to future WSDOT Improvements.

ABS Study: The City's appraiser asserts that the City is not collecting assessments "based on the value of WSDOT's planned improvements." See Final Study at 3. However, the City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition, the City's appraiser increased 2019 property market values as though WSDOT had completed its work by 2019. The proposed assessment is against this hypothetical WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent) higher than actual 2019 market values. The City is collecting an assessment against both the 2019 current values and the phantom 2019 WSDOT market value lift, in direct contravention of law and the City's promise not to impose an assessment based on the value of viaduct demolition and the other components of WSDOT's planned work.

Legal Requirement: Benefits must be special, not general

ABS Study: The City's appraiser fails to determine or explain what general benefits arise due to the LID Improvements. However, the far-reaching and public nature of the improvements make any benefit arising from them general—not special.

Legal Requirement: Must comply with appraisal standards

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

7
8 **Legal Requirement:** Actual and measurable special benefit
9

10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
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34 **Legal Requirement:** Cannot prematurely commit to build
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36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
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3 Fourth Avenue Associate as to which the Examiner also erred, discussed in the course of the
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5 appeal statement below.
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7 **V. Standard of Review**
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9 “When considering the assessment roll, the city council sits ‘as a board of
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11 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
12
13 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
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15 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
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17 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
18

19 The proposed assessments are presumed correct, “unless overcome by clear, cogent
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21 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
22
23 than the heightened presumption of correctness on judicial appeal because “applying these
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25 elevated standards at the municipal hearing would afford unwarranted deference to a report
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27 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
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29 presumption is not evidence and its efficacy is lost when the other party adduces credible
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31 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
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33 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
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35 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
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37 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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39 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
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41 to the City to prove the assessments are actual, measurable, special, non-speculative and
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43 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 FOURTH AVENUE ASSOCIATES appeals the Hearing Examiner's Findings and
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4 Recommendations on the following grounds.
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6 **Fourth Avenue Associate Not Required to Provide A Special Benefit Study**

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8 1. Contrary to the Examiner's findings and recommendations, there is no
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10 requirement that experts or property owners provide an alternative special benefit
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12 calculation under these circumstances—to do so would also require the same improper
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14 speculation the City's expert engaged in, given the timing and information provided. *See,*
15
16 *e.g.*, Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
17
18 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained:
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20 "[W]e have explicitly rejected an argument that, because certain protestors 'failed to offer
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22 expert testimony at the city council hearing[,], the presumptions [in favor of the assessment]
23
24 were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian*
25
26 *Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App.
27
28 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided
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30 expert opinion showing that improvements actually diminished value of the property). Here,
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32 Ben Scott testified that he is an expert in reviewing mass appraisal reports and analyzing
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34 their impact on individual properties - precisely the matter at issue in this appeal. *See*
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36 3/5/2020 Hrg. Tr. at 13:1-4 (laying foundation as expert witness). In fact, no independent
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38 evidence is required at all if, for example, objectors show that the assessment was grounded
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40 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
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42 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
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44 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
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46 that the square footage assumed in the City's appraisal was incorrect. For these reasons,
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1 Fourth Avenue Associate appeals the following portions of the Examiner's

2 Recommendation: Sections II.14, II.15, IV.A, IV.B.11(a), IV.C.8, IV.C.9, and IV.C.11.

3
4
5 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

6 2. RCW 35.43.040 provides cities and towns authority for ordering local
7 improvements and for levying and collecting special assessments "on property specially
8 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
9 upon all the property in accordance with the special benefits conferred thereon." RCW
10 35.44.010.
11

12 3. No analysis of general benefits. Special assessments have been "held valid
13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
15 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
16 they are for the construction of local improvements that are appurtenant to specific land and
17 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
18

19 4. Fourth Avenue Associates' property is not specially benefited by the LID
20 Improvements. The primary purpose and effect of the LID Improvements are to benefit
21 "members of the whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain
22 that a public library is for the benefit of the members of the whole community individually
23 and collectively who may be served by it"). Mr. Macaulay's own chapter of the LID
24 Manual states clearly that appraisers should "[c]onsider general benefits as well as special
25 benefits" (Hrg. Exhibit 117 (LID Manual) at 58⁴) and he admits that "general benefits
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44 ⁴ "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
45 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
46 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
47 days of cross-examination of the City's witnesses (June 23, 25 and 26, 2020). For ease of reference,

1 probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Fourth
2
3 Avenue Associates’ expert confirmed that if an appraiser “identifies both general and special
4
5 benefits, these benefits should be clearly distinguished and explained, and only special
6
7 benefits should be included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4
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9 (dated 7/7/2020); *see also* 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4. It is undisputed that
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11 Mr. Macaulay did not analyze or measure general benefits, including those arising from
12
13 construction necessary to meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual)
14
15 at 58 (“[c]onsideration may also be given to those construction costs related to meeting
16
17 design standards which may be general benefits as distinct from construction costs
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19 emanating from requirements of the LID project”). To the extent Fourth Avenue
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21 Associates’ property may benefit from the LID improvements, the benefit is general and
22
23 incidental, and failure to consider general benefits was a fatal flaw in the City’s
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25 methodology. For these reasons, Fourth Avenue Associate appeals the following portions of
26
27 the Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and
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29 IV.C.4.

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31 5. LID Improvements not necessary. Unlike typical LID projects, the
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33 Waterfront LID improvements are largely unnecessary to the functionality of any particular
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35 property, including Fourth Avenue Associates’ property. *See In re Schmitz*, 44 Wn.2d 429,
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37 433, 268 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road
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39 by 16 to 18 feet held invalid where owners would have benefitted equally from increase of
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41 only 9 feet); *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land
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43 at intersection for new water main for hydrant held invalid because land was already
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47 Fourth Avenue Associate has attached a master list of the hearing exhibits as Attachment A to this
appeal notice.

1 afforded functional hydrant at nearby street). Here, Fourth Avenue Associates provided
2 evidence through Gary Carpenter, taxpayer representative, who testified that the LID
3 Improvements are not necessary to the business of the Century Square Retail building,
4 which already has sufficient access to amenities necessary for their tenants and users. *See*
5 3/5/2020 (G. Carpenter) Hrg. Tr. at 50:18-52:4. The fact that there is no case law
6 differentiating between binary improvements and parks does not change the law prohibiting
7 assessments on properties already adequately served by existing amenities. *See* Examiner's
8 Recommendation at IV.C.3 (reasoning that "no case law is provided to support the
9 differentiation between a hardscape benefit and the more ephemeral benefits of park"). Nor
10 does the Examiner's reasoning excuse the City's failure to account for existing amenities as
11 part of the special benefit calculation. As Dr. Crompton testified, existing view amenities
12 may in fact diminish the incremental effect of new park improvements on the value of
13 properties, much like turning on a weak light in an already brightly illuminated room. *See*
14 Hrg. Exhibit 94 (Crompton's Report) at 12-13.

15
16 6. To the extent benefits can be considered "special" as opposed to general, they
17 are nominal or nonexistent for many properties even in the Central Waterfront, which
18 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
19 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
20 change due to expansion of sewer service *near* owners' parcel which were already
21 connected). Even if the City could assess for a view change (and it has promised not to
22 assess for viaduct removal), the fair market value of FOURTH AVENUE ASSOCIATES'
23 property has not changed because the LID Improvements have not improved the property's
24 waterfront view or access to the waterfront, nor will they when the City anticipates

1 completion in 2024. For these reasons, Fourth Avenue Associate appeals the following
2 portions of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.
3

4
5 7. No analysis of special detriments. The Final Study fails to properly account
6 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
7 owners for removal and cleanup of underground storage tanks discovered during the
8 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
9 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
10 of how lost parking might be a detriment, and no property-specific parking analysis in any
11 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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15 8. Likewise, there was no analysis of the risks associated with disamenities such
16 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
17 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
18 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
19 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
20 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
21 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.⁵ And if
22 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
23 the maintenance agreement. *Id.* at 13:4-14:2.
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36 9. There was also no consideration of negative impacts from another four-plus
37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
38 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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45 ⁵ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 law allowing him to dismiss these actual, non-speculative impacts. Because future special
2 benefits calculations are inherently speculative, Washington’s eminent domain statute
3 specifically allows condemnees to postpone special benefits assessments until improvements
4 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
5
6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district “significantly” lagged in value). For these reasons, Fourth
10 Avenue Associate appeals the following portions of the Examiner’s Recommendation:
11
12 Sections II.25, IV.B.8, and IV.B.9.
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15 10. Special benefit estimate is speculative. When calculating a special benefit,
16 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
17 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
18 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
19 P.2d 1078 (1958)).
20

21 11. Assuming without conceding that one day, the City’s planned LID
22 Improvements might increase the value of neighboring properties to some extent, that
23 potential benefit is many years away and speculative. While appraisers tolerate some degree
24 of estimation and judgment, Fourth Avenue Associates’ expert testified that Mr. Macaulay’s
25 Final Study is far too speculative to satisfy industry practices and standards.
26
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28 12. Although LIDs are sometimes finalized prior to completion of improvements,
29 this is typically just six month or a year prior, and the assessments are otherwise supported
30 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
31 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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1 will not be realized for four or five years. In the meantime, there is permitting risk,
2 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
3 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
4 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
5 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
6 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
7 testified: "I just don't know what the market value would be as of the date the project would
8 be finally constructed" because "[t]here could be a lot of elements in the market that did
9 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
10 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
11 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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23 13. The record is clear that while no one can know what "special benefit" might
24 accrue to these properties in four years (if any), we do know that there are no actual benefits
25 now. The LID improvements provide no immediate special benefit to property owners
26 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
27 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
28 sewer system for future users).
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34 14. Further, there are no "plans and specifications" on file with the Clerk's Office
35 for the LID Improvements, and it is unlawful to move to final assessments without such
36 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*
37 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
38 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
39 dollars on projects still early in the design process. *See* Washington Attorney General
40 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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1 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
2 of programs and included “only so much of the overall costs” that took place within and
3 benefitted the assessed properties).
4

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6 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
7 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
8 anticipated to be delivered five years later. Even before COVID, it was speculative to
9 assume that market highs experienced in October 2019¹ would be sustained through 2024,
10 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
11 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
12 my analysis in October 2019, who would have thought that this COVID issue would
13 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
14 process was that the market was going to continue to go up.” *See* Gibbons Decl. ISO
15 Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as
16 of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has impacted
17 *current* values and rendered the hypothetical October 2019 Final Study valuations outdated.
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21 16. As another example of how future events could affect the accuracy and
22 reliability of the City’s 2019 proposed assessment, Fourth Avenue Associate recently
23 requested the Hearing Examiner re-open the record to allow the City to explain whether the
24 assessments against property owners within the LID are, in fact, being used by the City to
25 fund the emergency dismantling and reconstruction of Pier 58.⁶ It has been reported that the
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42 ⁶ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
43 5, Aug. 15, 2020), available at [https://www.king5.com/article/news/local/seattle/seattle-mayor-](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3)
44 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3)
45 [0b60d4097aa3](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3); *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
46 58 (Waterfront Park) Emergency Demolition Project, *available at*
47 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que>

City plans to use LID funding to pay for the expedited, emergency repairs and replacement.⁷ If true, the City would be improperly imposing costs on property owners within the LID for improvements that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon habitat and City infrastructure—this does not provide any special benefit to LID property owners.

17. There is also no certainty the improvements will be delivered on time. Mr. Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a delay in construction schedule would not constitute a “material change” under the City Council’s ordinance authorizing the improvements. In other words, the City cannot guarantee that the LID Improvements will be delivered as expected in 2024 or any time after that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Fourth Avenue Associates’ experts Reid Shockey and Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and potential delays and project changes inherent in those processes, that call into question the assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson Decl., dated 4/15/2020).

18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on, he could not point to a single one where the assessment roll was finalized five years in advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,

[ry=Ux5Fpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonline.sa.gov.au/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.aspx?query=Ux5Fpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=); see also Aug. 13, 2020 Ltr. from H. Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations, available at <https://www.govonline.sa.gov.au/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.aspx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

⁷ Asia Fields, 'Substantial' pier shift closes Seattle's Waterfront Park (Seattle Times, Aug. 8, 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.

1 he has never recommended final special assessments based on designs less than 30 percent
2 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
4 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
5 at 66:17-25. He performed no independent due diligence to determine the reliability of the
6 City’s estimates for completion of the LID Improvements, or to ensure that proposed
7 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
8 agreed that if any of his assumptions are incorrect, his opinion of market value would need
9 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
10 68:11-18.

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12 19. The City has cited no authority—and Fourth Avenue Associates is aware of
13 none—that affirms the use of hypothetical, anticipatory Before and After values in order to
14 estimate and assess taxes for “actual” special benefits that will not accrue for another five
15 years (if all goes off without a hitch). To the contrary, the hypothetical assumption that all
16 of the Before and After Improvements are constructed as of October 1, 2019 allows Mr.
17 Macaulay to base his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
18 411. For these reasons, Fourth Avenue Associate appeals the following portions of the
19 Examiner’s Recommendation: Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5,
20 IV.B.6, IV.B.11(c), IV.C.12, IV.C.14, and IV.C.18.

21 20. Failure to discount special benefit estimates to account for risks and present
22 value. Due to the inherent uncertainty, Fourth Avenue Associates’ expert opine that the
23 Final Study should have accounted for risks associated with delivery of the improvements
24 (including permitting risk, construction risk, general economic risk) and any special
25 damages associated with interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-

1 120:9, 59:20-60:20. In addition, as is typical appraisal practice, Mr. Macaulay should have
2 discounted the anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-
3 55:1; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers
4 routinely consider the impact of future conditions [through] discounted cash flow
5 analysis.”).
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10 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.
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34 22. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
35 present value, an appraiser would consider discount rates for land development to account
36 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
37 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
38 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
39 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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1 23. Applying the Q19 Korpacz rates and assuming arguendo that Macauley's
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3 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
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5 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
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7 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
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9 ignoring momentarily all of the other methodological and other flaws discussed here and in
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11 Fourth Avenue Associates' case-in-chief, and assuming that the LID Improvements provide
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13 special benefits as soon as they are complete in 2024, Mr. Macaulay's hypothetical
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15 assessment materially exceeds special benefits when reduced to present value. Further, to
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17 the extent the City is arguing that because they are permitted to assess 100% of the special
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19 benefit, the special benefit estimate can be off by 60.8% because they only assess 39.2% of
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21 that benefit, the City is again wrong. After applying proper discounting, the City's proposed
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23 special benefit assessment is far more than 39.2% of the total estimated special benefit, and
24
25 in fact exceeds 100% of the total estimated special benefit.

26 24. But even the assumption that the LID improvements would deliver benefits
27
28 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
29
30 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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32 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
33
34 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
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36 indicates that during the construction period, the Greenway district "significantly" lagged in
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38 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
39
40 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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42 30-31 (discussing New York City High Line and San Francisco Embarcadero
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44 improvements). Given the lengthy delay, any prediction of future special benefits is
45
46 speculative, especially during the construction phase where values are likely to decline. And
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1 assuming the LID Improvements take a similarly long period of time after they are complete
2 to start producing tangible property value benefits, each additional year of delay results in
3 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
4 Closing Stmt., ¶ 19, Ex. A.
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8 25. Applying the same discounting methods described above and in Mr. Gibbons
9 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
10 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
11 before applying the 39.2% percentage assessment. *Id.* For Fourth Avenue Associate, this
12 means at most the 100% assessment should be no more than \$38,810.40. Anything more
13 would permit the City to assess Fourth Avenue Associates based on a hypothetical
14 assumption that these improvements are in place and providing benefit, and ignore the risks,
15 construction disamenity, and time value of money that normal appraisal principles would
16 take into account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be
17 only 39.2% of that assessment cap, or \$15,213.68.
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20 26. Attachment C includes two Excel spreadsheets applying these discounting
21 methods to Fourth Avenue Associates' assessment. It is undisputed that special benefits will
22 not actually accrue until the LID Improvements are complete in 2024. Accordingly, the first
23 spreadsheet demonstrates that discounting the City's hypothetical October 2019 special
24 benefits to present value would reduce Fourth Avenue Associates' assessment to \$55,385,
25 exclusive of any other flaws in the City's proposed assessment. The second spreadsheet
26 shows even more drastic reductions after taking into account: (1) a rough discount for
27 property value loss due to COVID-19 and (2) discounting to present value for 5 years (*i.e.*,
28 from 2024 when the City anticipates completing the LID Improvements) and 10 years (*i.e.*,
29 from 2029 to account for the time it takes for the improvements to capture property value).
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1 After such reductions, Fourth Avenue Associates' assessment would be just \$48,462 (for the
2 5-year discount) or \$13,316 (for the 10-year discount). Neither of these spreadsheets
3 address other issues raised by Fourth Avenue Associates' appeal, but are intended to help
4 demonstrate how unfair and inflated the City's proposed hypothetical assessment is. The
5 Hearing Examiner's Recommendation simply dismisses Fourth Avenue Associates'
6 discounting argument without legal or factual analysis; that failure is error.
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13 **Appraisal and Assessment Calculation Methods Are Flawed**

14 27. The "general rule is that each lot, piece, or parcel of land should be assessed
15 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
16 Wn.2d at 97.
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20 28. It is proper to sustain a challenge to an assessment, even without the appraisal
21 testimony from the owner, where the objector's expert establishes that the assessment was
22 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
23 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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28 29. The City's appraiser purports to utilize the income method of valuation but
29 relied on inaccurate revenue and market data, as discussed further below.
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32 30. The City's appraiser purports to utilize the comparable sales method of
33 valuation, but no City witness attempted "to characterize any one, or all of them, as
34 comparable to [Fourth Avenue Associates' property]." *See Bellevue Plaza*, 121 Wn.2d at 406
35 (finding "several serious flaws" in ABS's LID analysis in that case, including that the
36 appraiser "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt
37 to characterize any one, or all of them, as comparable to any particular property within the
38 LID"). And no City witness could explain how specific adjustments were made to these sales
39 to account for value increases due to the hypothesized Before and After Improvements. For
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1 this reason, Fourth Avenue Associate appeals Section II.23 of the Examiner's
2 Recommendation.
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4 31. Special assessment improperly includes value lift from the Before
5 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
6 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
7 Improvements, which WSDOT had independently committed to fund. However, Mr.
8 Macaulay did not calculate the actual market value of LID properties in October 2019, and
9 did not separately analyze the hypothetical increase to property values attributable to
10 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
11 current value and then separately calculate a hypothetical "With WSDOT" Before value);
12 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
13 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
14 3-4. Without any documented basis or support, Mr. Macaulay simply "ma[de] a judgment a
15 call" on what occupancy and rates would have been for the commercial properties assuming
16 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
17 130:11. This outright omission precludes any independent evaluation of the true market
18 "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional
19 appraisal standards; if an appraiser uses current sales data to infer values, then the appraiser
20 must explain how he analyzed that data and other information to come up with the
21 hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just
22 removal of the viaduct, but also other road, pedestrian and landscaping improvements
23 WSDOT had already committed to make.
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25 32. However, because Mr. Macaulay testified that he did include some WSDOT-
26 related value-lift in the "Before" values, it follows that part of the special assessment
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1 improperly is based on value attributable to the WSDOT Improvements. As shown by
2 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
3 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
4 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
5 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
6 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
7 to properly exclude the value of Before Improvements from the assessments. For these
8 reasons, Fourth Avenue Associate appeals the following portions of the Examiner's
9 Recommendation: Sections II.19, II.29, and IV.B.11(a)(ii)

10
11 33. Special benefits were assigned rather than measured. Mr. Macaulay
12 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
13 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/3/2020 (A.
14 Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr.
15 Macaulay used to analyze the commercial properties, Fourth Avenue Associates' experts
16 concluded that Mr. Macaulay based adjustments on hypothesized very small increases to
17 property revenue and very small reductions to cap rates to "calculate" an "After" value due
18 to the coming 2024 LID Improvements. Attachment B (ABS Spreadsheet). These series of
19 micro adjustments were based on "professional judgment" that are neither shown nor
20 replicable.

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22 34. For these reasons, Fourth Avenue Associates appeals the following portions
23 of the Examiner's Recommendation: Sections II.19 and IV.B.11(a)(iii).

24
25 35. Special benefit falls within margin of error. The Final Special Benefit Study
26 applies an estimated value enhancement of less than 4%, which is generally within the
27 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*

1 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
2
3 Fourth Avenue Associates’ experts explained that if two appraisers independently arrive at
4 values within 5% of one another, this difference is considered reasonable as it falls within
5 the standard margin of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at
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7 164:2-9. Because Mr. Macaulay’s micro-special benefit percentages fall far below that 5%
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9 margin, “there is no way of authenticating” such incremental changes because “[m]arket
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11 forces completely obliterate any tiny little noise factor like that.” *See* 3/3/2020 (A. Gibbons)
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13 Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too
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15 small to measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to
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17 measure a difference in cap rates for Fourth Avenue Associates’ property within that
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19 margin. Additionally, the fact that “Before” values are also based on a hypothetical that
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21 adds some unstated incremental value to actual 2019 values exacerbates this issue—the
22
23 ability for an appraiser to discern the micro-value differences between hypothetical
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25 conditions that are so similar (the WSDOT improvements compared to the LID
26
27 improvements) “verges on being ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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30 36. Even if it were possible to accurately tease out such a miniscule hypothetical
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32 value change due to improvements coming five years later, experts testified that there is no
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34 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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36 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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38 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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40 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Fourth
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42 Avenue Associate appeals the following portions of the Examiner’s Recommendation: II.27
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44 and IV.B.4.
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1 37. No analysis of value increase attributable to individual components of the
2 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
3 percentage difference between hypothetical Before and After conditions. Throughout his
4 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
5 descriptions in the Addenda even though he testified that he relied on these to calculate
6 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
7 someone might be able to determine how he attributed value to After conditions described in
8 the Addenda, he answered that that was “not the scope of the assignment” because he was
9 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
10 that the six components were not actually a continuous project, that he was viewing them
11 together because the City asked him to, and that if he were to view them independently,
12 there was a low probability that properties in the north would specially benefit from
13 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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16 38. Not only did he fail to analyze benefits from each of these non-contiguous
17 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
18 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
19 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
20 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
21 objectives that guided regulators’ assessment of architectural plans for buildings along a
22 “signature street” were so vague that they amounted to ad hoc review based on the
23 regulators’ subjective impressions and feelings).⁸ It became clear through his testimony that
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26 ⁸ As an aside, this admission suggests that there should have been an explicit City Council
27 finding that properties within the LID would benefit from the improvements as a whole. See RCW
28 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
29 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
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1 even though he used the renderings as “visual aid[s] in appraising the property in the before
2 and after” to “visually see what the differences would be,” he could not explain what
3 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
4 when shown a rendering of a two-lane road going down to one-lane in the After condition
5 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
6 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
7 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
8 could explain the depiction of the same trees in the After condition nearly twice as tall as in
9 the Before. *Id.* at 173:17-175:4. For these reasons, Fourth Avenue Associate appeals the
10 following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

21 39. Special assessment is not supported by comparable studies, data or reports.
22 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
23 that the LID Improvements will lead to meaningfully increased real estate values for Fourth
24 Avenue Associate. Indeed, no City witness was able to explain how ABS Valuation used
25 comparable sales or information from the “over twenty-five studies and reports” to arrive at
26 very precise special benefit increases for the commercial properties, including Fourth
27 Avenue Associates’ property. For example, although Mr. Macaulay stated that no single
28 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
29 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
30 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
31 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;

45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
2 for similarities and differences between these improvements and the comparable parks he
3 looked at).
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6 40. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
7 assignment of incremental increase of 0.5% to 4% to property values within the LID.
8
9 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
10 research misinterprets his work in critical ways, including because the LID Improvements
11 manifest the characteristics of a parkway (not a park), and his research indicates that most of
12 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
13 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
14 related value increases are in fact smaller; that estimated increases are "best guesses" rather
15 than predictions of property value increases in a particular city; and that percentages do not
16 account for diminishing returns after taking into account water views, which would be the
17 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
18 topography grants most properties in downtown a water view.
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21 41. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
22 that this was just one source of information that was not entirely relevant because, among
23 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
24 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
25 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
26 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
27 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
28 Crompton concluded that 500 feet via road from "park" improvements is just one or two
29 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
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1 significantly beyond that which the park study indicated (even if it was legitimate to use the
2 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
3 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
4 impact applicable to “community parks”—which the LID Improvements are not. *Id.* Fourth
5 Avenue Associates’ property is not within 500 road network feet from the “park”
6 improvements. *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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12 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
13 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
14 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
15 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
16 materials, it was clearly an important—if not *the* most important—source of information for
17 estimating special benefits (especially with respect to the condos).⁹ No City witness
18 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
19 parcel-by-parcel analysis.
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28 43. The destination parks discussed in the Final Special Benefit Study do not
29 provide reliable, comparable, and valid support for the calculation of special assessments
30 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
31 Study were funded by a LID. And in virtually all of those cases, the park improvements
32 dramatically restored unimproved or blighted areas, and properties evaluated were within
33 two or three blocks of the park.
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42 ⁹ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 44. ABS’s claimed reliance on three economic studies to support property value
2 increase is also flawed. The HR&A study does not inform what value increases are
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4 expected from the LID Improvements because it projects increases to tourism from *all* of the
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6 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
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8 dissimilar parks in other cities,¹⁰ making the methodological application to the LID
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10 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
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12 conclusion that there would be *no new net visitors* from downtown residents as a result of
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14 the LID Improvements and could not explain how this impacted his condo analysis.
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16 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
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18 Property Values” primarily focused on whether the benefits accrue to the larger community
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20 rather than properties adjacent to the park. And the 2014 New York City Department of
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22 Transportation study is not based on real estate transactions and market sales and fails to
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24 substantiate any link between increased retail sales and property values. Moreover, this
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26 study only looked at impact either directly abutting the streetscape improvement, or a couple
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28 hundred feet for plaza-like improvements.
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30 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
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32 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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34 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
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36 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
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38 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
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43 ¹⁰ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
2 asked whether he considered that HR&A's estimated LID impact is six times greater than
3 TLP's assessment of Seattle's entire park system, his surmised that it was because the
4 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
5 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
6 assumptions to account for this difference, which may be partly explained by the fact that
7 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
8 approximately 3.44% of King County tourists visit Seattle primarily because of the city
9 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
10 waterfront improvements.

20 46. Although proximity to the improvements is a key factor in all of these
21 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
22 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
23 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
24 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
25 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
26 Improvements is approximate 20 acres and it is not a community park.¹¹

34 47. There is no explanation in the Final Study or the supporting materials of how
35 the studies or comparable sales were used to derive values for Fourth Avenue Associates'
36 property. For these reasons, Fourth Avenue Associate appeals the following portions of the
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42 ¹¹ *See*
43 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
44 connecting Seattle's central waterfront to downtown.").

1 Examiner's Recommendation: Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30,
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3 II.32, and IV.C.5.

4 48. Failure to comply with USPAP. Fourth Avenue Associates' assessment also
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6 rests on a fundamentally wrong basis due to the City's appraiser's decision to utilize a
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8 hybrid mass-appraisal method. Randall Scott, a former mass appraiser responsible (and
9
10 professionally recognized) for developing the MAI standards for mass appraisals, testified
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12 that the Final Study does not meet mass appraisal standards nor allow for independent
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14 assessment of the accuracy of Mr. Macauley's conclusions.

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16 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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18 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
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20 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
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22 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
23
24 testimony suggests that he incorrectly believed that the only difference between direct
25
26 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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28 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
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30 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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32 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
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34 Gordon uses in doing his limited restricted report").

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36 50. But the difference is not only in reporting—mass appraisal techniques must
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38 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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40 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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42 parcel approach:

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44 The mass appraisal technique is an appraisal method used to evaluate
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46 a group of properties that are subject to similar market forces as of a
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certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.
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4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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6 51. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
7 universe of properties as a given date using standard methodology, employing common data,
8 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
9 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
10 model" is "a mathematical expression of how supply and demand factors interact in a
11 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
12 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
13 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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22 52. Regardless of client direction, Mr. Macaulay is required to comply with
23 USPAP. So if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
24 economically feasible because it would have taken "an incredible amount of time and cost"
25 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
26 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
27 individual appraisal of each [condo] parcel would have been cost and time prohibitive").
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34 53. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
35 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
36 value, fails to calibrate the model structure to determine the contribution of the individual
37 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
2 217:1;¹² Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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5 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6 proximity to the elements, the increase in market rent, market vacancy changes,
7 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
8 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
9 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
10 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
11 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
12 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
13 were hypothetical, it was not possible to identify matched pair sales and no City witness
14 explained how ABS Valuation made adjustments to “comparable” sales in order to check
15 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
16 him to explain his model structure.
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28 55. For these reasons, Fourth Avenue Associate appeals the following portions of
29 the Examiner’s Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Fourth
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34 ¹² Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 Avenue Associate renews Objectors' Motion To Exclude The Expert Testimony of Robert J.
2 Macaulay, filed on April 8, 2020, and appeals the Examiner's denial of that motion.
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4 56. Finally, Fourth Avenue Associates' property is not appurtenant—or even in
5 close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the
6 burden of proving special benefit” shifted to the City because the protestors' parcels merely
7 stood “in close proximity to the property on which expert testimony was given”). Indeed,
8 Fourth Avenue Associates' property is not even within 500 road network feet from the core
9 “park” improvements. And, as described above, the special assessment is overstated
10 because the Final Study makes no attempt to determine general benefits, existing amenities
11 for Fourth Avenue Associates' specific property, or special detriments. In addition, it is
12 speculative due to the fact that, as of October 2019, improvements were not in in place—
13 and, in fact, much of the waterfront is a construction zone following removal of the viaduct
14 and now Pier 58 demolition. Under these circumstances, rather than relying on entirely
15 imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have
16 discounted the special benefit estimates or waited to perform the Study until the
17 improvements were at least close to complete.
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32 **Erroneous Pre-Improvement Valuation**

33 57. The proposed final assessment erroneously overstates the pre-improvement
34 value of Fourth Avenue Associates' property as of October 1, 2019 and, as a result,
35 overstates the special benefit to the Fourth Avenue Associates' property.
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40 58. The City's Final Study was used to compute the proposed final assessment of
41 FOURTH AVENUE ASSOCIATES' property. The City's Study purportedly uses data
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1 from the King County Department of Assessments,¹³ but the pre-improvement valuation
2 information in the Final Study does not accurately reflect this data. For example, the City's
3 Study values FOURTH AVENUE ASSOCIATES' property at \$35,538,000 as of October 1,
4 2019. However, the King County assessor determined the true and fair value of the property
5 to be \$19,969,7000, valued in 2019 for tax year 2020. In other words, the Final Special
6 Benefit Study's valuation is 178% of King County's assessed value. The Final Special
7 Benefit Study does not explain this difference—or any differences—between its pre-
8 improvement valuation and its supposed source for market data. For this reason, Fourth
9 Avenue Associate appeals Section IV.C.11 of the Examiner's Recommendation.

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19 59. Fourth Avenue Associate expects an opportunity to respond to the revised
20 assessment once that is provided (*see* Examiner's Recommendation at V) and appeals the
21 remainder of Section IV.C.10 of the Examiner's Recommendation rejecting Fourth Avenue
22 Associates' other bases for reducing the assessment. In addition to failing to consider the
23 Century Square Retail building development restrictions, the City's analysis was based on
24 unreliable market data. Mr. Macaulay conceded he did not have all of the relevant
25 information for the Century Square Retail building and that he would be submitting re-
26 evaluations for the property. 6/23/2020 Hrg. Tr. at 7:7-18

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35 60. Thus, aside from multiple other reasons why computation of the special
36 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
37 improvement values that do not accurately reflect market data. For these reason, Fourth
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45 ¹³ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 Avenue Associate appeals the following portions of the Examiner’s Recommendation:

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3 Section III.

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5 **Erroneous Computation of Special Benefit**

6 61. “Special benefit” is “the increase in fair market value attributable to the local
7 improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property
8 may receive by reason of the improvement is not measured alone by the physical character
9 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
10 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
11 the particular tract or property benefited by the entire improvement, and is it assessed
12 proportionately with the other property included within the assessment district?” *Id.* 165–
13 66.
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15 62. The proposed final assessment erroneously overstates the special benefit of
16 LID improvements in a number of ways.
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18 63. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
19 the Century Square Retail, Mr. Macaulay assumed revenue would increase by 1.67% (low)
20 and 2.22% (high) due to the 2024 LID Improvements. He then uses this hypothesized
21 increased revenue to calculate a new net operating income for the commercial properties and
22 capitalizes that to come up with an “After” valuation.
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24 64. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
25 operating income remains the same as in the hypothetical “Before” condition, but changes
26 the cap rate. For the Century Square Retail building, the cap rate goes from 4.75% to 4.63%
27 and 4.65%.
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1 65. Mr. Macaulay then averages his four “After” values to arrive at a final special
2 benefit conclusion. For Century Square Retail this is an increase in property value of 2.00%
3 due to the LID Improvements.
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5 66. Mr. Macaulay offered little justification for his micro adjustments to revenue
6 and capitalization rates. When asked precisely what the basis is for his special benefit
7 percentage increases to revenue for each commercial property, he could not point to
8 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
9 is nothing in the report to allow a reader to understand how he came up with these
10 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
11 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
12 the basis for his belief that certain factors—liked increased connectivity—will increase
13 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
14 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
15 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
16 sources equally even though there was no separate analysis done for food and beverage or
17 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Fourth Avenue Associates’
18 expert’s conclusion that the adjustments are arbitrary and fall below generally accepted
19 margins of error, and that there is no actual, measurable, non-speculative special benefit to
20 Fourth Avenue Associates’ properties.
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22 67. Mr. Macaulay testified that he used comparable sales as a reasonableness
23 check for commercial properties. But as explained above, no City witness has explained
24 how anyone, or all, of the sales are comparable to any particular commercial property within
25 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
26 in order to make sales “comparable,” he would have had to make adjustments to account for
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1 Before and After conditions, but there is no way to understand how adjustments were made
2 because he “didn’t do a separate sales comparison approach where we showed adjustments
3 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
4 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
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9 *Id.* at 127:10-128:24.

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11 68. It also bears noting that any “internal review” of the special benefit estimates
12 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
13 error. Indeed, given all the same information, he seemed to suggest that it would be
14 perfectly reasonable for another experienced appraiser to come up with special benefit
15 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
16 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18 margin of error conflicts with the testimony of Fourth Avenue Associates’ experts and
19 reaffirms that there are absolutely no standards governing his process. *See id.* at 91:6-94:5.
20 Even if the typical margin of error (5%) is a “rule of thumb” and not a “hard legal standard,”
21 there are still reasonable and unreasonable variations within the appraisal field. *See*
22 Examiner’s Recommendation at IV.B.4. Thus, the special assessment is not actual,
23 measurable or special because it is arbitrarily assigned; and it is too small to realistically be
24 supported by appraisal techniques.
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39 69. No evidence of special benefit. Meanwhile, there is “no actual evidence from
40 any seller or purchaser that the price was higher because of the LID improvements.”
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42 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
43 identified any seller or buyer, or any particular property where the existence of the LID
44 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Fourth Avenue
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1 Associate has explained that the property has not increased rental rates or revenue due to the
2 forthcoming LID Improvements, because, among other reasons (and apart from COVID),
3 the improvements ABS believes will generate value do not exist, and will not for a number
4 of years to come. There are no comparable sales because the LID Improvements are not in
5 place, nor will they be until the end of 2024 if completed on schedule.
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10 70. The fair market value of FOURTH AVENUE ASSOCIATES' property has
11 not changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143
12 (property was not specially benefited from installation of new water main and fire hydrant
13 where it was already adequately supplied with water and afforded adequate fire protection).
14 And in any event, any value attributable to removal of the viaduct was to be excluded from
15 the assessment calculation.
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22 71. There is no special benefit because LID improvements may in fact diminish
23 the value of Fourth Avenue Associates' property by drawing visitors away towards
24 improvements that do not abut the property, increasing retail competition. *See Kuskys*, 85
25 Wn. App. 493 (testimony of owners' expert that LID actually diminished value of property
26 was sufficient to rebut presumption that assessment was proper).
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33 72. Moreover, the assessment formula is an attempt to distribute costs that do not
34 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
35 "merely a mathematical model that distributes costs").
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39 73. The Special Benefit Study fails to address whether the \$346,000,000
40 estimated LID project cost takes into account the investment that would have occurred in the
41 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
42 invested. This is a critical component of estimating which properties receive a direct benefit
43 from the improvements, versus more incidental benefits further from the park.
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1 74. Mr. Macaulay also included personal property in his valuation of hotels even
2 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
3 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
4 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
5 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
7 receiving a disproportionately high LID assessment in comparison to other property types,
8 since hotels were the only property type subject to personal property LID assessments.
9 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
10 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
11 notice procedures because hotel property owners only received notice that their real estate
12 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).

13 75. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
14 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
15 a television at the waterfront Marriott is assigned a greater special benefit than the same
16 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
17 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
18 unreasonable to assign a value lift to personal property that is replaceable at the same cost
19 and may be obsolete before the LID improvements are even completed. Further, personal
20 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
21 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
22 be redone to correct for this error.

23 76. The proposed final assessment substantially exceeds the special benefit to the
24 property and is grossly disproportionate to similarly situated properties within the LID. For

1 these reasons, Fourth Avenue Associate appeals the following portions of the Examiner's
2 Recommendation: Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).
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4 **State Environmental Policy Act and Other Environmental Permitting**

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6 77. While this appeal is not challenging the City's environmental review and
7 permitting processes, those processes are relevant in determining the legality of the
8 assessments, and to assessing the delivery risk, the present value of the City's plans, and
9 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
10 pursue projects that have not yet undergone environmental review (thus limiting the choice
11 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
12 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
13 is just beginning. Further, the City has segmented environmental review, and still has a
14 gauntlet of federal, state and tribal review processes to complete before it will be clear what
15 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
16 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
17 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
18 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
19 committing to reconstruction of Pier 58 and major street improvements without
20 environmental review, or the City's Final Special Study has improperly included and is
21 proposing to assess the Fourth Avenue Associate the costs and special benefits of
22 improvements that may not get built. Either way, it is faulty process.
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41 **Due Process Rights**

42 78. The City's failed to notify FOURTH AVENUE ASSOCIATES sufficiently in
43 advance of the hearing to allow FOURTH AVENUE ASSOCIATES to obtain evidence and
44 prepare to properly challenge the assessments. Because LID assessments involve a
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1 deprivation of property, affected owners have the right to a hearing as to whether the
2 improvement resulted (or will result) in special benefits to their properties and whether their
3 assessments are proportionate, which necessarily includes the right to adequate notice of the
4 hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761
5 (2010).
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10 79. The LID statute specifies that cities must mail notices giving the time and
11 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
12 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
13 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
14 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
15 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
16 secure their own appraisal), evaluate proportionality of the proposed assessments, and
17 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
18 for anybody to get an appraisal”).
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28 80. The City’s Notice of Assessment was sent on December 30, 2019. And the
29 Final Special Benefit Study has only been available for public review since January 7, 2020.
30 Due to this short time frame, FOURTH AVENUE ASSOCIATES requested a prehearing
31 conference and scheduling order that would preserve and protect Fourth Avenue Associates’
32 right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct
33 depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay
34 between SEPA and the City’s assessment of taxes for Pier 58 and Pike/Pine improvements).
35 The Hearing Examiner erroneously denied that request. For this reason, Fourth Avenue
36 Associate appeals the following portions of the Examiner’s Recommendation: I.B.
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1 **VII. Relief Requested**

2 FOURTH AVENUE ASSOCIATES respectfully requests that the City Council:

- 3
- 4 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
- 5 assessment dated December 30, 2019; or
- 6
- 7 2. Revise Fourth Avenue Associates' Waterfront Local Improvement District No. 6751
- 8 proposed final assessment to \$0 (zero), or such amount as Fourth Avenue Associates
- 9 establishes at the hearing in this matter; or
- 10
- 11 3. Grant the Examiner's recommended remand but with instructions recalculate and
- 12 reduce Fourth Avenue Associates' assessment using recognized appraisal techniques
- 13 consistent with USPAP and:
- 14
- 15 i. Excluding any property value increase attributable to viaduct removal
- 16 and other planned WSDOT Improvements;
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- 18 ii. Taking into account the effects of the COVID-19 pandemic on the
- 19 value of Fourth Avenue Associates' property and other relevant
- 20 developments since October 2019;
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- 22 iii. Accounting for and excluding (1) any special benefits from existing
- 23 or planned improvements that already provide similar benefits to
- 24 Fourth Avenue Associates' property, and (2) any special detriments
- 25 from construction and other anticipated LID-related disamenities;
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- 27 iv. Accounting for and including only those actual benefits anticipated to
- 28 accrue to Fourth Avenue Associates' property based on its location
- 29 relative to Pier 58, Overlook Walk, and the Promenade, and specific
- 30 elements of the LID Improvements;
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- 1 v. Discounting anticipated special benefits to present value, based on
2 reliable estimates regarding when special benefits will start accruing
3 following completion of the LID Improvements; and
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7 vi. Accounting for such other issues specific to Fourth Avenue
8 Associates' property relevant to calculation of such assessment; and
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11 4. Grant such further relief as the City Council deems just and proper.
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15 DATED: September 22, 2020

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3:04 pm, Tue, September 22, 2020

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Attached please find the Waterfront LID Appeal for Case No. CWF-0425.
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Thank you,
Kimball Mullins

Zip enclosures:
CWF-0425
A – Master List of Evidence
B – B-226-Harbor Steps NW
C – Discounting for CWF-0425
CWF-0425 Appeal Notice

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

Harbor Steps Northwest

Map Nos.: B-226
Tax Parcel Nos.: 197620-0070
Property key: 4317
Address: 1301 1st Avenue
Zoning: DMC-170
Property rights: No apparent restrictions, view protection easement in favor of property (1652)
Previous sale: N/A
Proximity to project: 300± feet to waterfront park
Ownership: EQR-Harbor Steps, LLC
Description: 15,360 SF site on the northeast corner of Western Avenue and University Avenue, improved with a 115-unit apartment building constructed in 2000, with 115-stall basement parking structure.

INCOME ANALYSIS Before	Year Built	2000
	Parking	115

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	16	518	8,288	\$2,020	\$3.90
1-bedroom	73	759	55,407	\$2,600	\$3.43
2-bedroom	26	1,105	28,730	\$3,475	\$3.14
Total apartments	115	804	92,425	\$2,717	\$3.38
	GBA	NRA			
Retail	13,591	12,631		SF NRA @	\$32.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	13,591	12,631			
Parking Area/Stalls	39,354	0	115	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	184,094	114,388		SF NRA @	\$40.26
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			
Parking operating expenses @	0.0%	of parking EGI			
Apartment operating expenses	27.0%	of apartment EGI			
Structural maintenance/reserve	\$0.25	per SF of GBA			

Total operating expenses		\$10.84	28.0%
Net operating income			
Indicated Value			
Land Value			
	15,360	SF @	\$1,250.00
Residual Improvements	114,388	SF NRA @	\$513.50
	184,094	SF GRA @	\$319.07

Special Benefit Summary				
	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,250.00	\$19,200,000	\$58,738,000	N/A
With LID				
Scenario A1	\$1,287.50	\$19,776,000	\$60,138,000	2.38%
Scenario A2	\$1,287.50	\$19,776,000	\$60,731,000	3.39%
Scenario B1	\$1,287.50	\$19,776,000	\$60,714,000	3.36%
Scenario B2	\$1,287.50	\$19,776,000	\$60,110,000	2.34%
Percent change in land value	3.00%		\$60,423,000	2.87%
Summary				
Without LID	\$1,250.00	\$19,200,000	\$58,738,000	N/A
With LID	\$1,287.50	\$19,776,000	\$60,305,000	2.67%

Harbor Steps Northwest

Scenario A: Rental and Vacancy Rate Changes

erty owner (per AFN 20130517-

ersity Street, zoned DMC-170,
with 12,631 SF of retail space

		INCOME ANALYSIS After				Year Built	2000
		Potential Gross Income					
			Units	SF NRA			
	\$387,840	Studio	16	518			
	\$2,277,600	1-bedroom	73	759			
	\$1,084,200	2-bedroom	26	1,105			
	\$3,749,640	Total apartments	115	804			
			GBA	NRA			
per SF =	\$404,192	Retail	13,591	12,631		SF	
per SF =	\$0	Restaurant	0	0		SF	
per SF =	\$0	Other	0	0		SF	
per SF =	\$0	Other	0	0		SF	
	\$404,192	Subtotals	13,821	15,817			
/month	\$414,000	Parking Area/Stalls	39,354	0		115	
per SF =	\$0	Basement	0	0		SF	
per SF =	\$0	Other	0	0		SF	
	\$37,496	Other					
/SF =	\$4,605,328	Total Bldg Area & Gross Income	184,094	114,388		SF	
	(\$149,986)	Less: Vacancy/credit allowance					
	(\$20,210)	of apartment					
	\$0	of commercial					
	(\$170,195)	of parking					
	\$4,435,133	Total vacancy/credit allowance					
		Effective gross income					
	(\$221,757)	Less: Operating expenses					
	\$0	Management fee @	5.0%	of total EGI			
	(\$971,907)	Parking operating expenses @	0.0%	of parking EGI			
	(\$46,024)	Apartment operating expenses	27.0%	of apartment EGI			
		Structural maintenance/reserve	\$0.25	per SF of GBA			

\$10,780	(\$1,239,687)
	\$3,195,446
Capitalized @	4.10%
Indicated value	\$77,937,716
(R)	\$77,938,000
Per DU	\$677,722
per SF =	\$19,200,000
per SF =	\$58,738,000

Total operating expenses	
Net operating income	
Indicated Value	
Land Value	
	15,360
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit	% Change	
\$77,938,000	N/A	N/A	Per DU
\$79,914,000	\$1,976,000	2.54%	\$17,183
\$80,507,000	\$2,569,000	3.30%	\$22,339
\$80,490,000	\$2,552,000	3.27%	\$22,191
\$79,886,000	\$1,948,000	2.50%	\$16,939
\$77,938,000	N/A		
\$80,081,000	\$2,143,000	2.75%	

Harbor Steps Northwest
Scenario B: Overall Capitalization F

	<u>Per DU</u>	<u>Per DU</u>	Low 2.50%	High 3.25%
	\$2,071	\$2,086	\$397,536	\$400,445
	\$2,665	\$2,685	\$2,334,540	\$2,351,622
	\$3,562	\$3,588	\$1,111,305	\$1,119,437
	\$2,785	\$2,805	\$3,843,381	\$3,871,503
			2.50%	3.25%
• NRA @	\$32.80	\$33.04	\$414,297	\$417,328
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$414,297	\$417,328
			2.50%	3.25%
stalls @	\$307.50	\$309.75	\$424,350	\$427,455
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$38,434	\$38,715
• NRA @	\$41.27	\$41.57	\$4,720,462	\$4,755,002
revenue	4.00%	4.00%	(\$153,735)	(\$154,860)
revenue	5.00%	5.00%	(\$20,715)	(\$20,866)
revenue	0.00%	0.00%	\$0	\$0
			(\$174,450)	(\$175,727)
			\$4,546,012	\$4,579,275
			(\$227,301)	(\$228,964)
			\$0	\$0
			(\$996,204)	(\$1,003,494)
			(\$46,024)	(\$46,024)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	
Parking operating expenses @	
Apartment operating expenses	
Structural maintenance/reserve	

		(\$1,269,528)	(\$1,278,481)
		\$3,276,483	\$3,300,794
Capitalized @	4.10%	4.10%	
	\$79,914,222	\$80,507,174	
(R)	\$79,914,000	\$80,507,000	
Per DU	\$694,904	\$700,061	
% change	2.54%	3.30%	
SF @ \$1,287.50 per SF =	\$19,776,000	\$19,776,000	3.00%
	\$60,138,000	\$60,731,000	
Per SF NRA	\$525.74	\$530.92	
	\$1,976,000	\$2,569,000	

Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements
Special Benefit Summary

Rates Changes

Year Built		2000				
Units	SF NRA	Total NRA	Rent	Rent/SF		
16	518	8,288	\$2,020	\$3.90		\$387,840
73	759	55,407	\$2,600	\$3.43		\$2,277,600
26	1,105	28,730	\$3,475	\$3.14		\$1,084,200
115	804	92,425	\$2,717	\$3.38		\$3,749,640
13,591	12,631		SF NRA @	\$32.00	per SF =	\$404,192
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
13,821	15,817					\$404,192
39,354	0	115	stalls @	\$300.00	/month	\$414,000
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$37,496
184,094	114,388		SF NRA @	\$40.26	/SF	\$4,605,328
4.0% of apartment revenue						(\$149,986)
5.0% of commercial revenue						(\$20,210)
0.0% of parking revenue						\$0
						(\$170,195)
						\$4,435,133
5.0% of total EGI						(\$221,757)
0.0% of parking EGI						\$0
27.0% of apartment EGI						(\$971,907)
\$0.25 per SF of GBA						(\$46,024)

[illegible]

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0425	Harbor Steps Northwest Building -- 1306 Western Avenue	1306 Western Avenue	1976200070

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$2,143,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$288,082

Model Input				
Appeal #	Property	Address	Assessor's #	
CWF-0425	Harbor Steps Northwest Building -- 1306 Western Avenue	1306 Western Avenue	1976200070	

		BEFORE	Appraiser	Value
A	Final City Before Value		City	\$77,938,000
B	Actual Value per Taxpayer - January 2020		Taxpayer	\$55,938,000
C	COVID 19 Discount and value		-12.5%	
D				
(B*(1+C) unless no value for B, then A*(1+C))		Corrected FMV for Assessment		\$48,945,750

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$2,143,000		
H/A	As Percentage of Final City Before Value	2.750%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$1,345,823		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$461,525	\$126,811
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$180,918	\$49,710

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0425

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200070

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
40
41
42

43 **I. Taxpayer / Appellant**
44

45 The Taxpayer filing this appeal is:
46
47

1 Eqr-Harbor Steps LLC
2 Eqr-RE Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
7

8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
16 Bellevue, Washington 98004
17 Telephone: 425.635.1400
18 Facsimile: 425.635.2400
19
20

21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
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30 **III. Statement of Taxpayer's Interest**
31

32 Harbor Steps owns the property that is subject to the proposed final assessment
33 described in Section IV. The property at issue is a multifamily residential apartment building
34 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
35 downtown retail core to the waterfront amenities.
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39 The basis of the proposed assessment is a Final Special Benefit/Proportionate
40 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
41 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
42 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
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1 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
2 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4 to exclude charges for other improvement projects in the Central Waterfront, and
5 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
6 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
7 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
8 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
9 because construction was not complete on the LID Improvements or the WSDOT
10 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
11 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
12 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
13 based on the Final Study.
14

15 **IV. Matter Under Appeal**

16 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
17 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
18 final assessment dated December 30, 2019 against the following property:
19

20 King County Parcel No. 1976200070
21 Site Address: 1306 Western Ave., Seattle, Washington
22 Proposed Final LID Assessment for Parcel: \$839,674.55
23

24 *See* Examiner’s Recommendation at 61-62, 105. To avoid repetition, Taxpayer incorporates
25 the evidence and arguments raised before the Hearing Examiner into this appeal. In
26 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
27 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
28

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 105, Sections II.6, II.7, II.12, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22,
8 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
9 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
10 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7,
11 IV.C.8, IV.C.9, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$2,143,000.00 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

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11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
35 or conjectural"
36

37
38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
4
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6 **V. Standard of Review**

7 “When considering the assessment roll, the city council sits ‘as a board of
8 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
9 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
10 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
11 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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18 The proposed assessments are presumed correct, “unless overcome by clear, cogent
19 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
20 than the heightened presumption of correctness on judicial appeal because “applying these
21 elevated standards at the municipal hearing would afford unwarranted deference to a report
22 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
23 presumption is not evidence and its efficacy is lost when the other party adduces credible
24 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
25 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
26 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
27 presented credible evidence showing that the City’s proposed assessment is arbitrary,
28 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
29 to the City to prove the assessments are actual, measurable, special, non-speculative and
30 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV.C.7–9. This is contrary to law.
4

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6 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
7 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
8 IV.C.11.
9

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12 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

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14 4. RCW 35.43.040 provides cities and towns authority for ordering local
15 improvements and for levying and collecting special assessments “on property specially
16 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
17 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
18

19
20 5. No analysis of general benefits. Special assessments have been “held valid
21 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
22 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
23 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
24 they are for the construction of local improvements that are appurtenant to specific land and
25 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
26

27
28 6. Harbor Steps' property is not specially benefited by the LID Improvements.
29 The primary purpose and effect of the LID Improvements are to benefit “members of the
30 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
31 library is for the benefit of the members of the whole community individually and
32 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2
3 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
4
5 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
6
7 is proximity to their places of employment and other amenities downtown. *See* 3/5/2020 (E.
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9 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
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11 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
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13 benefit from increased connectivity from being four to five blocks from the Overlook Walk
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15 even though the properties currently have direct access to the waterfront via the Harbor
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17 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; *see also* B. Scott Decl., ¶ 7. Mr. Leigh testified that
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19 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
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21 measurable portion of waterfront-bound pedestrian traffic moved north to the market. *See*
22
23 *also* B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
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25 traffic being pulled away towards new amenities). Even if the City could assess for a view
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27 change (and it has promised not to assess for viaduct removal), the fair market value of
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29 Harbor Steps' property has not changed because the LID Improvements have not improved
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31 the property's waterfront view or access to the waterfront, nor will they when the City
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33 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
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35 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
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39 for special detriments. *See Kuskys*, 85 Wn. App. at 501 (city failed to consider the costs to
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41 owners for removal and cleanup of underground storage tanks discovered during the
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43 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
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45 testified that property values may in fact be negatively impacted by the LID Improvements
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47 due to loss of parking, increased traffic and noise, and increased potential for crime,

1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. *See* 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
4
5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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16 10. Likewise, there was no analysis of the risks associated with disamenities such
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18 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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20 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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22 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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24 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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26 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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28 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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30 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
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32 the maintenance agreement. *Id.* at 13:4-14:2.
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35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

benefits calculations are inherently speculative, Washington's eminent domain statute specifically allows condemnees to postpone special benefits assessments until improvements are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).

Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy Greenway, the Greenway district "significantly" lagged in value). For these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation: Sections II.25, IV.B.8, and IV.B.9.

12. Special benefit estimate is speculative. When calculating a special benefit, "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324 P.2d 1078 (1958)).

13. Assuming without conceding that one day, the City's planned LID Improvements might increase the value of neighboring properties to some extent, that potential benefit is many years away and speculative. While appraisers tolerate some degree of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is far too speculative to satisfy industry practices and standards.

14. Although LIDs are sometimes finalized prior to completion of improvements, this is typically just six month or a year prior, and the assessments are otherwise supported by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here will not be realized for four or five years. In the meantime, there is permitting risk,

1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
5 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
6 testified: "I just don't know what the market value would be as of the date the project would
7 be finally constructed" because "[t]here could be a lot of elements in the market that did
8 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
9 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
10 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
22 accrue to these properties in four years (if any), we do know that there are no actual benefits
23 now. The LID improvements provide no immediate special benefit to property owners
24 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
25 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
26 sewer system for future users). For example, notwithstanding the questionable hypothesis
27 that apartments will benefit from an expected increase in tenant interest when the
28 improvements are complete, it is undisputed that tenants are not coming in larger numbers
29 and paying higher rental rates now because of something happening five years down the
30 road. *See O'Connor Decl. ISO Closing Stmt.*, ¶ 7 (dated 7/7/2020) (no apartment leased
31 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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42 16. Further, there are no "plans and specifications" on file with the Clerk's Office
43 for the LID Improvements, and it is unlawful to move to final assessments without such
44 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*
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1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
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5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.*, 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
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27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
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39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
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43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
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4 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
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32 26. But even the assumption that the LID improvements would deliver benefits
33 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
34 on. Rather, those studies demonstrate that a discount period of five years is conservative.
35 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
36 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
37 indicates that during the construction period, the Greenway district "significantly" lagged in
38 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
39 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
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10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$201,870.60. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$79,133.28.
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21 28. Attachment C includes two Excel spreadsheets applying these discounting
22 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
23 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
24 demonstrates that discounting the City's hypothetical October 2019 special benefits to
25 present value would reduce Taxpayer's assessment to \$288,082, exclusive of any other
26 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
27 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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7 the time it takes for the improvements to capture property value.). After such reductions,
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9 Taxpayer's assessment would be just \$180,918 (for the 5-year discount) or \$49,710 (for the
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11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
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15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
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23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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25 Wn.2d at 97.

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27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
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29 testimony from the owner, where the objector's expert establishes that the assessment was
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31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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35 31. The City's appraiser purports to utilize the income method of valuation but
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37 relied on inaccurate revenue and market data, as discussed further below.

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39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
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43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
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47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
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7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
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16 Macauley did not calculate the actual market value of LID properties in October 2019 and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
21
22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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26 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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28 Petition) at 3-4. Without any documented basis or support, Mr. Macauley simply “ma[de] a
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30 judgment a call” on what occupancy and rates would have been for the commercial
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32 properties assuming all of the WSDOT Improvements are completed as of 2019. Macauley
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34 Depo. at 129:19-130:11. For example, Mr. Macauley surmised that Brian O’Connor’s
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36 conclusion that the “Before” value for Harbor Steps was overstated by \$88M was perhaps
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38 due to the fact that Mr. O’Connor was looking at current income numbers and not
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40 accounting for the value of the “Before” conditions. However, when asked whether the
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42 value of the of the “Before” conditions is lower or higher than \$88M, Mr. Macauley had no
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44 clue because he did not do this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright
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46 omission precludes any independent evaluation of the true market “Before” values. *See*
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1 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards; if an
2 appraiser uses current sales data to infer values, then the appraiser must explain how he
3 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
4 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
5 other road, pedestrian and landscaping improvements WSDOT had already committed to
6 make.
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12 34. However, because Mr. Macaulay testified that he did include some WSDOT-
13 related value-lift in the “Before” values, it follows that part of the special assessment
14 improperly is based on value attributable to the WSDOT Improvements. As shown by
15 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
16 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
17 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
18 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
19 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
20 to properly exclude the value of Before Improvements from the assessments. For these
21 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
22 Sections II.19, II.29, and IV.B.11(a)(ii)
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24
25 35. Special benefits were assigned rather than measured. Mr. Macaulay
26 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
27 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
28 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
29 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
30 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
31 on hypothesized very small increases to property revenue and very small reductions to cap
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1 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.

2 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
3
4 “professional judgment” that are neither shown nor replicable.
5

6 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
7
8 Recommendation: Sections II.19 and IV.B.11(a)(iii)
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10 37. Special benefit falls within margin of error. The Final Special Benefit Study
11
12 applies an estimated value enhancement of less than 4%, which is generally within the
13
14 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
15
16 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
17
18 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
19
20 of one another, this difference is considered reasonable as it falls within the standard margin
21
22 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
23
24 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
25
26 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
27
28 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
29
30 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
31
32 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
33
34 “Before” values are also based on a hypothetical that adds some unstated incremental value
35
36 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
37
38 micro-value differences between hypothetical conditions that are so similar (the WSDOT
39
40 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
41
42 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
43

44 38. Even if it were possible to accurately tease out such a miniscule hypothetical
45
46 value change due to improvements coming five years later, experts testified that there is no
47

1 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
2
3 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
4
5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
6
7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
8
9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

10
11 39. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
13
14 percentage difference between hypothetical Before and After conditions. Throughout his
15
16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
17
18 descriptions in the Addenda even though he testified that he relied on these to calculate
19
20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
21
22 someone might be able to determine how he attributed value to After conditions described in
23
24 the Addenda, he answered that that was “not the scope of the assignment” because he was
25
26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
27
28 that the six components were not actually a continuous project, that he was viewing them
29
30 together because the City asked him to, and that if he were to view them independently,
31
32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 40. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
42
43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
44
45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 41. Special assessment is not supported by comparable studies, data or reports.

25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for residential and commercial combined properties,
30 including Taxpayer’s property. For example, although Mr. Macaulay stated that no single
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
2
3 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
4
5 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
6
7 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
8
9 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
10
11 for similarities and differences between these improvements and the comparable parks he
12
13 looked at).

14
15 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
16
17 assignment of incremental increase of 0.5% to 4% to property values within the LID.
18
19 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
20
21 research misinterprets his work in critical ways, including because the LID Improvements
22
23 manifest the characteristics of a parkway (not a park), and his research indicates that most of
24
25 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
26
27 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
28
29 related value increases are in fact smaller; that estimated increases are “best guesses” rather
30
31 than predictions of property value increases in a particular city; and that percentages do not
32
33 account for diminishing returns after taking into account water views, which would be the
34
35 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
36
37 topography grants most properties in downtown a water view.

38
39 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
40
41 that this was just one source of information that was not entirely relevant because, among
42
43 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
44
45 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
46
47 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3
4 Crompton concluded that 500 feet via road from “park” improvements is just one or two
5
6 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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8 significantly beyond that which the park study indicated (even if it was legitimate to use the
9
10 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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12 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
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14 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

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16 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
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18 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
19
20 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
21
22 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
23
24 materials, it was clearly an important—if not *the* most important—source of information for
25
26 estimating special benefits (especially with respect to the condos).⁷ No City witness
27
28 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
29
30 parcel-by-parcel analysis.
31

32
33 45. The destination parks discussed in the Final Special Benefit Study do not
34
35 provide reliable, comparable, and valid support for the calculation of special assessments
36
37 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
38
39 Study were funded by a LID. And in virtually all of those cases, the park improvements
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41
42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
2
3 two or three blocks of the park.

4
5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
7 expected from the LID Improvements because it projects increases to tourism from *all* of the
8 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
9 dissimilar parks in other cities,⁸ making the methodological application to the LID
10 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
11 conclusion that there would be *no new net visitors* from downtown residents as a result of
12 the LID Improvements and could not explain how this impacted his condo analysis.
13
14 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
15 Property Values" primarily focused on whether the benefits accrue to the larger community
16 rather than properties adjacent to the park. And the 2014 New York City Department of
17 Transportation study is not based on real estate transactions and market sales and fails to
18 substantiate any link between increased retail sales and property values. Moreover, this
19 study only looked at impact either directly abutting the streetscape improvement, or a couple
20 hundred feet for plaza-like improvements.
21
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23
24 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
25 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
26 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
8
9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
10
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12
13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

16
17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
18
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
32
33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
34
35 Gordon uses in doing his limited restricted report").

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37 52. But the difference is not only in reporting—mass appraisal techniques must
38
39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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43 parcel approach:

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45 The mass appraisal technique is an appraisal method used to evaluate
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47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.
3

4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
5
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7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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23 54. Regardless of client direction, Mr. Macaulay is required to comply with
24 USPAP. So, if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have
25 been economically feasible because it would have taken "an incredible amount of time and
26 cost" (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
27 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
28 ("performing an individual appraisal of each [condo] parcel would have been cost and time
29 prohibitive").
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37 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
38 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
39 value, fails to calibrate the model structure to determine the contribution of the individual
40 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
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9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
17
18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
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29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36
37 relationship between characteristics that affect value, and to calibrate that model to specify how
38
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
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41 21). The purpose is to rationally determine what characteristics will create value, and by how much.
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43 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
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45 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
46
47 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
include explanation of the model specification, data requirements, calibration methods, and
mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
(o). Without this reporting, it is impossible for users of the appraisal report to determine how the
appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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3 and appeals the Examiner's denial of that motion.
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5 58. Finally, Taxpayer's property is not appurtenant to any proposed
6 improvements. *See Hasit*, 179 Wn. App. at 947 ("the burden of proving special benefit"
7 shifted to the City because the protestors' parcels merely stood "in close proximity to the
8 property on which expert testimony was given"). As described above, the special
9 assessment is overstated because the Final Study makes no attempt to determine general
10 benefits, existing amenities for Taxpayer's specific property, or special detriments. In
11 addition, it is speculative due to the fact that, as of October 2019, improvements were not in
12 in place—and, in fact, much of the waterfront is a construction zone following removal of
13 the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on
14 entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should
15 have discounted the special benefit estimates or waited to perform the Study until the
16 improvements were at least close to complete.
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28 **Erroneous Pre-Improvement Valuation**

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30 59. The proposed final assessment erroneously overstates the pre-improvement
31 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
32 benefit to the Taxpayer's property.
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36 60. The City's Final Study was used to compute the proposed final assessment of
37 Harbor Steps' property. The City's Study purportedly uses data from the King County
38 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
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45 ¹¹ *See, e.g.*, Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$77,938,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$70,549,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 110.5% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$55,938,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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39 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
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5 66.
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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
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13 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
14 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.50% (low)
15 and 3.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
16 percentages (2.50% and 3.25%) to increase retail and parking. He then uses this
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.
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22 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition but changes
24 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.97% (low scenario,
25 creating a bigger value increase) and 4.00% (high scenario, creating a lower value increase).
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29 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
30 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.75% due
31 to the LID Improvements.
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35 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
36 and capitalization rates. When asked precisely what the basis is for his special benefit
37 percentage increases to revenue for each commercial property, he could not point to
38 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
39 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
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5 the basis for his belief that certain factors—liked increased connectivity—will increase
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7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
8
9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
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13 sources equally even though there was no separate analysis done for food and beverage or
14
15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
16
17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
18
19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
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21 properties.

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23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
26
27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
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33 Before and After conditions, but there is no way to understand how adjustments were made
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35 because he “didn’t do a separate sales comparison approach where we showed adjustments
36
37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
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39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

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43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
46
47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
4 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
5 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
6 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
7 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
8 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
9 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
10 special because it is arbitrarily assigned; and it is too small to realistically be supported by
11 appraisal techniques.

22 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
23 any seller or purchaser that the price was higher because of the LID improvements."
24 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
25 identified any seller or buyer, or any particular property where the existence of the LID
26 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
27 explained that the property has not increased rental rates or revenue due to the forthcoming
28 LID Improvements, because, among other reasons (and apart from COVID), the
29 improvements ABS believes will generate value do not exist and will not for a number of
30 years to come. There are no comparable sales because the LID Improvements are not in
31 place, nor will they be until the end of 2024 if completed on schedule.

42 72. The fair market value of Harbor Steps' property has not changed due to
43 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
44 benefited from installation of new water main and fire hydrant where it was already
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1 adequately supplied with water and afforded adequate fire protection). And in any event, any
2 value attributable to removal of the viaduct was to be excluded from the assessment
3 calculation.
4

5
6 73. There is no special benefit to the Harbor Steps because its apartment demand
7 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
8 value of Harbor Steps' property by drawing visitors away towards improvements that do not
9 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
10 App. 493 (testimony of owners' expert that LID actually diminished value of property was
11 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
12 will be harmed by the LID improvements because the Overlook Walk and Union Street
13 connection improvements will likely direct foot traffic away from the Harbor Steps and
14 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
15 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
16 Steps already has a high-quality connectivity to the waterfront and no data was presented to
17 justify a value lift based on additional connection points several blocks away. On cross-
18 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
19 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
20 would generally support additional connection points to the waterfront amenities. *See*
21 6/23/2020 Hrg. Tr. at 48-50.
22

23 74. Moreover, the assessment formula is an attempt to distribute costs that do not
24 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
25 "merely a mathematical model that distributes costs").
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27 75. The Special Benefit Study fails to address whether the \$346,000,000
28 estimated LID project cost takes into account the investment that would have occurred in the
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1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

5
6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14
15 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
16 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
17 notice procedures because hotel property owners only received notice that their real estate
18 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
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21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
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3 be redone to correct for this error.

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5 78. The proposed final assessment substantially exceeds the special benefit to the
6
7 property and is grossly disproportionate to similarly situated properties within the LID. For
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9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

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15 79. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
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19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20
21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
22
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
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27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
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29 is just beginning. Further, the City has segmented environmental review, and still has a
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31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
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33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
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35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
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41 committing to reconstruction of Pier 58 and major street improvements without
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43 environmental review, or the City's Final Special Study has improperly included and is
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45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
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47 not get built. Either way, it is faulty process.

Due Process Rights

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3 80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing
4 to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments.
5 Because LID assessments involve a deprivation of property, affected owners have the right
6 to a hearing as to whether the improvement resulted (or will result) in special benefits to
7 their properties and whether their assessments are proportionate, which necessarily includes
8 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
9 555, 569–70, 229 P.3d 761 (2010).
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16 81. The LID statute specifies that cities must mail notices giving the time and
17 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
18 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
19 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
20 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
21 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
22 secure their own appraisal), evaluate proportionality of the proposed assessments, and
23 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
24 for anybody to get an appraisal”).
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34 82. The City’s Notice of Assessment was sent on December 30, 2019. And the
35 Final Special Benefit Study has only been available for public review since January 7, 2020.
36 Due to this short time frame, Harbor Steps requested a prehearing conference and
37 scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond
38 to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
39 accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the
40 City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
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erroneously denied that request. For this reason, Taxpayer appeals the following portions of the Examiner's Recommendation: I.B.

VII. Relief Requested

Harbor Steps respectfully requests that the City Council:

1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection and:
 - a. Cancel the Waterfront Local Improvement District No. 6751 proposed final assessment dated December 20, 2019; or
 - b. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the hearing in this matter; or
 - c. Remand the matter to the Hearing Examiner or City appraiser to recalculate and reduce Taxpayer's assessment using recognized appraisal techniques consistent with USPAP and:
 - i. Excluding any property value increase attributable to viaduct removal and other planned WSDOT Improvements;
 - ii. Taking into account the effects of COVID-19 pandemic on the value of Taxpayers property and other relevant developments since October 2019;
 - iii. Accounting for and excluding (1) any special benefits from existing or planning improvements that already provide similar benefits to Taxpayers property, and (2) any special detriments from construction and other anticipated LID-related disamenities;

- 1 iv. Accounting for and including only those actual benefits
2 anticipated to accrue to Taxpayer's property based on its
3 location relative to Pier 58, Overlook Walk, and the
4 Promenade, and specific elements of the LID Improvements;
5
6 v. Discounting anticipated special benefits to present value,
7 based on reliable estimates regarding when special benefits
8 will start accruing following completion of the LID
9 Improvements; and
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11 vi. Accounting for such other issues specific to Taxpayer's
12 property relevant to calculation of such assessment; and
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21 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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PERKINS COIE LLP

5 By:
6
7



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FILED

4:34 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Campbell, Karen \(BEL\)](#)
Subject: RE: Waterfront LID Appeal for Case No. CWF-0425 CORRECTED
Date: Tuesday, September 22, 2020 4:06:50 PM
Attachments: [CWF-0425 CORRECTED.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0425 **CORRECTED**.
This file replaces the prior zip file sent for CWF-0425.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0425
A – Master List of Evidence
B – B-226-Harbor Steps NW
C – Discounting for CWF-0425
CWF-0425 Appeal Notice
Supplemental Decl. to Attachment C

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From: Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>
Sent: Tuesday, September 22, 2020 2:45 PM
To: cityclerkfiling@seattle.gov
Cc: Lutz, Jerry (BEL) <JLutz@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Starkey, Byron (SEA) <ByronStarkey@perkinscoie.com>; Stillwell, Jacob (SEA) <JStillwell@perkinscoie.com>; Carmody, Jane (SEA) <JCarmody@perkinscoie.com>; Mahon, Robert (SEA) <RMahon@perkinscoie.com>; Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>; Campbell, Karen (BEL) <KCampbell@perkinscoie.com>
Subject: Waterfront LID Appeal for Case No. CWF-0425

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0425.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0425

A – Master List of Evidence

B – B-226-Harbor Steps NW

C – Discounting for CWF-0425

CWF-0425 Appeal Notice

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> ○ (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> ○ John Gordon property-specific direct ○ (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> ○ John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

Harbor Steps Northwest

Map Nos.: B-226
Tax Parcel Nos.: 197620-0070
Property key: 4317
Address: 1301 1st Avenue
Zoning: DMC-170
Property rights: No apparent restrictions, view protection easement in favor of property (1652)
Previous sale: N/A
Proximity to project: 300± feet to waterfront park
Ownership: EQR-Harbor Steps, LLC
Description: 15,360 SF site on the northeast corner of Western Avenue and University Avenue, improved with a 115-unit apartment building constructed in 2000, with 115-stall basement parking structure.

INCOME ANALYSIS Before	Year Built	2000
	Parking	115

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	16	518	8,288	\$2,020	\$3.90
1-bedroom	73	759	55,407	\$2,600	\$3.43
2-bedroom	26	1,105	28,730	\$3,475	\$3.14
Total apartments	115	804	92,425	\$2,717	\$3.38
	GBA	NRA			
Retail	13,591	12,631		SF NRA @	\$32.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	13,591	12,631			
Parking Area/Stalls	39,354	0	115	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	184,094	114,388		SF NRA @	\$40.26
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			
Parking operating expenses @	0.0%	of parking EGI			
Apartment operating expenses	27.0%	of apartment EGI			
Structural maintenance/reserve	\$0.25	per SF of GBA			

Total operating expenses		\$10.84	28.0%
Net operating income			
Indicated Value			
Land Value			
	15,360	SF @	\$1,250.00
Residual Improvements	114,388	SF NRA @	\$513.50
	184,094	SF GRA @	\$319.07

Special Benefit Summary				
	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,250.00	\$19,200,000	\$58,738,000	N/A
With LID				
Scenario A1	\$1,287.50	\$19,776,000	\$60,138,000	2.38%
Scenario A2	\$1,287.50	\$19,776,000	\$60,731,000	3.39%
Scenario B1	\$1,287.50	\$19,776,000	\$60,714,000	3.36%
Scenario B2	\$1,287.50	\$19,776,000	\$60,110,000	2.34%
Percent change in land value	3.00%		\$60,423,000	2.87%
Summary				
Without LID	\$1,250.00	\$19,200,000	\$58,738,000	N/A
With LID	\$1,287.50	\$19,776,000	\$60,305,000	2.67%

Harbor Steps Northwest

Scenario A: Rental and Vacancy Rate Changes

erty owner (per AFN 20130517-

ersity Street, zoned DMC-170,
with 12,631 SF of retail space

		INCOME ANALYSIS After				Year Built	2000
		Potential Gross Income					
			Units	SF NRA			
	\$387,840	Studio	16	518			
	\$2,277,600	1-bedroom	73	759			
	\$1,084,200	2-bedroom	26	1,105			
	\$3,749,640	Total apartments	115	804			
			GBA	NRA			
per SF =	\$404,192	Retail	13,591	12,631			SF
per SF =	\$0	Restaurant	0	0			SF
per SF =	\$0	Other	0	0			SF
per SF =	\$0	Other	0	0			SF
	\$404,192	Subtotals	13,821	15,817			
/month	\$414,000	Parking Area/Stalls	39,354	0			115
per SF =	\$0	Basement	0	0			SF
per SF =	\$0	Other	0	0			SF
	\$37,496	Other					
/SF =	\$4,605,328	Total Bldg Area & Gross Income	184,094	114,388			SF
	(\$149,986)	Less: Vacancy/credit allowance					
	(\$20,210)	of apartment					
	\$0	of commercial					
	(\$170,195)	of parking					
	\$4,435,133	Total vacancy/credit allowance					
		Effective gross income					
	(\$221,757)	Less: Operating expenses					
	\$0	Management fee @	5.0%	of total EGI			
	(\$971,907)	Parking operating expenses @	0.0%	of parking EGI			
	(\$46,024)	Apartment operating expenses	27.0%	of apartment EGI			
		Structural maintenance/reserve	\$0.25	per SF of GBA			

\$10,780	(\$1,239,687)
	\$3,195,446
Capitalized @	4.10%
Indicated value	\$77,937,716
(R)	\$77,938,000
Per DU	\$677,722
per SF =	\$19,200,000
per SF =	\$58,738,000

Total operating expenses	
Net operating income	
Indicated Value	
Land Value	
	15,360
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit	% Change	
\$77,938,000	N/A	N/A	Per DU
\$79,914,000	\$1,976,000	2.54%	\$17,183
\$80,507,000	\$2,569,000	3.30%	\$22,339
\$80,490,000	\$2,552,000	3.27%	\$22,191
\$79,886,000	\$1,948,000	2.50%	\$16,939
\$77,938,000	N/A		
\$80,081,000	\$2,143,000	2.75%	

Harbor Steps Northwest
Scenario B: Overall Capitalization F

	<u>Per DU</u>	<u>Per DU</u>	Low 2.50%	High 3.25%
	\$2,071	\$2,086	\$397,536	\$400,445
	\$2,665	\$2,685	\$2,334,540	\$2,351,622
	\$3,562	\$3,588	\$1,111,305	\$1,119,437
	\$2,785	\$2,805	\$3,843,381	\$3,871,503
			2.50%	3.25%
• NRA @	\$32.80	\$33.04	\$414,297	\$417,328
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$414,297	\$417,328
			2.50%	3.25%
stalls @	\$307.50	\$309.75	\$424,350	\$427,455
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$38,434	\$38,715
• NRA @	\$41.27	\$41.57	\$4,720,462	\$4,755,002
revenue	4.00%	4.00%	(\$153,735)	(\$154,860)
revenue	5.00%	5.00%	(\$20,715)	(\$20,866)
revenue	0.00%	0.00%	\$0	\$0
			(\$174,450)	(\$175,727)
			\$4,546,012	\$4,579,275
			(\$227,301)	(\$228,964)
			\$0	\$0
			(\$996,204)	(\$1,003,494)
			(\$46,024)	(\$46,024)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	
Parking operating expenses @	
Apartment operating expenses	
Structural maintenance/reserve	

		(\$1,269,528)	(\$1,278,481)
		\$3,276,483	\$3,300,794
Capitalized @	4.10%	4.10%	
	\$79,914,222	\$80,507,174	
(R)	\$79,914,000	\$80,507,000	
Per DU	\$694,904	\$700,061	
% change	2.54%	3.30%	
SF @ \$1,287.50 per SF =	\$19,776,000	\$19,776,000	3.00%
	\$60,138,000	\$60,731,000	
Per SF NRA	\$525.74	\$530.92	
	\$1,976,000	\$2,569,000	

Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements
Special Benefit Summary

Rates Changes

Year Built		2000				
Units	SF NRA	Total NRA	Rent	Rent/SF		
16	518	8,288	\$2,020	\$3.90		\$387,840
73	759	55,407	\$2,600	\$3.43		\$2,277,600
26	1,105	28,730	\$3,475	\$3.14		\$1,084,200
115	804	92,425	\$2,717	\$3.38		\$3,749,640
13,591	12,631		SF NRA @	\$32.00	per SF =	\$404,192
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
13,821	15,817					\$404,192
39,354	0	115	stalls @	\$300.00	/month	\$414,000
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$37,496
184,094	114,388		SF NRA @	\$40.26	/SF	\$4,605,328
4.0% of apartment revenue						(\$149,986)
5.0% of commercial revenue						(\$20,210)
0.0% of parking revenue						\$0
						(\$170,195)
						\$4,435,133
5.0% of total EGI						(\$221,757)
0.0% of parking EGI						\$0
27.0% of apartment EGI						(\$971,907)
\$0.25 per SF of GBA						(\$46,024)

										(\$1,239,687)
										\$3,195,446
Low										High
Capitalized @ 3.97%										4.00%
Indicated Value \$80,489,833										\$79,886,159
(R) \$80,490,000										\$79,886,000
Per DU \$699,913										\$694,661
% change 3.27%										2.50%
15,360	SF @	\$1,287.50	per SF =					\$19,776,000	\$19,776,000	3.00%
								\$60,714,000	\$60,110,000	
								\$530.77	\$525.49	
								\$2,552,000	\$1,948,000	

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0425	Harbor Steps Northwest Building -- 1306 Western Avenue	1306 Western Avenue	1976200070

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$2,143,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$288,082

Model Input				
Appeal #	Property	Address	Assessor's #	
CWF-0425	Harbor Steps Northwest Building -- 1306 Western Avenue	1306 Western Avenue	1976200070	

		BEFORE	Appraiser	Value
A	Final City Before Value		City	\$77,938,000
B	Actual Value per Taxpayer - January 2020		Taxpayer	\$55,938,000
C	COVID 19 Discount and value		-12.5%	
D				
(B*(1+C) unless no value for B, then A*(1+C))		Corrected FMV for Assessment		\$48,945,750

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$2,143,000		
H/A	As Percentage of Final City Before Value	2.750%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$1,345,823		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$461,525	\$126,811
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$180,918	\$49,710

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In re Proposed Final Assessment Roll for
Local Improvement District No. 6751
("Waterfront LID")

Case Nos. CWF-0425, 0426, 0427, 0440, AND
0441

DECLARATION OF ED LEIGH

I, Ed Leigh, declare as follows:

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same.
2. I am the Vice President of Investments for Equity Residential. I testified in this appeal as to my position, qualifications and employment history.
3. Eqr-Harbor Steps LLC is owned by Equity Residential. Eqr-Harbor Steps LLC owns a four-tower apartment complex encompassing parcel nos. 1976200070, 1976200075, 1976200076, and 7666202465. These parcels are located at 1306 Western Ave., 1301 1st Ave., 1201 1st Ave., and 1212 Western Ave., Seattle WA, and are the subject

DECLARATION OF ED LEIGH – 1

1 of case nos. CWF-0425, -0426, -0427, -0440. These properties are known as the "Harbor
2 Steps" apartment towers.
3

4 4. Eqr-Second & Pine LLC is also owned by Equity Residential, and owns real
5 property parcel no. 7683890010, which is located at 206 Pine St., Seattle WA, and is the
6 subject of case no. CWF-0441. This property is known as the Helios apartments.
7
8

9 5. Equity Residential appealed the City's proposed final assessment for
10 Waterfront LID No. 6751 for each of the properties described above.
11
12

13 **HARBOR STEPS (CWF-0425, -0426, -0427, -0440)**
14

15 6. The Harbor Steps are multifamily residential apartment buildings with
16 ground floor retail. Additionally, the Harbor Steps are on a pedestrian corridor connecting
17 the downtown retail core to the waterfront amenities.
18
19

20 **HELIOS (CWF-0441)**
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22 7. Helios is a multifamily residential apartment building located a block east of
23 Pike Place Market, and approximately two blocks from the proposed overlook walk.
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26 **COVID-19 Calculations**
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28 8. After we appealed our assessments, the Covid-19 pandemic broke out,
29 causing significant disruptions in Seattle and around the world. Based on our current rents,
30 compared with Brian O'Connor's appraisal calculations to support our appeals, our
31 properties have decreased in value in the range consistent with those described by John
32 Gordon. In Mr. Gordon's April 21, 2020 Declaration, he noted that property values for
33 hotels in Downtown Seattle would be at least 10% to 15% lower when compared with the
34 values as of October 2019 and January 2020. The same is true for our properties. The year-
35 over-year rent reductions that I have observed in our Downtown Seattle assets are consistent
36 with Mr. Gordon's valuation reduction, assuming that rents do not quickly rebound. We
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DECLARATION OF ED LEIGH - 2

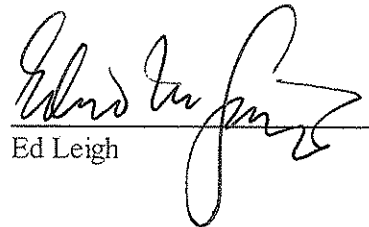
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Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 have not marked-to-market with these assets yet, as this is an end-of-year process for us, but
2
3 the 12.5% average Covid-19 discount is our best generic estimate at this time, based on the
4
5 information available to us.
6

7 I declare under penalty of perjury under the laws of the State of Washington that the
8
9 foregoing is true and correct.
10

11 Signed at Seattle, Washington, on September 21, 2020.
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Ed Leigh

DECLARATION OF ED LEIGH – 3

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0425

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200070

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
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42

43 **I. Taxpayer / Appellant**
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45 The Taxpayer filing this appeal is:
46
47

1 Eqr-Harbor Steps LLC
2 Eqr-RE Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
7

8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
16 Bellevue, Washington 98004
17 Telephone: 425.635.1400
18 Facsimile: 425.635.2400
19
20

21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
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30 **III. Statement of Taxpayer's Interest**
31

32 Harbor Steps owns the property that is subject to the proposed final assessment
33 described in Section IV. The property at issue is a multifamily residential apartment building
34 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
35 downtown retail core to the waterfront amenities.
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39 The basis of the proposed assessment is a Final Special Benefit/Proportionate
40 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
41 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
42 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
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1 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
2 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4 to exclude charges for other improvement projects in the Central Waterfront, and
5 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
6 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
7 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
8 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
9 because construction was not complete on the LID Improvements or the WSDOT
10 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
11 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
12 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
13 based on the Final Study.
14

15 **IV. Matter Under Appeal**

16 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
17 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
18 final assessment dated December 30, 2019 against the following property:
19

20 King County Parcel No. 1976200070
21 Site Address: 1306 Western Ave., Seattle, Washington
22 Proposed Final LID Assessment for Parcel: \$839,674.55
23

24 *See* Examiner’s Recommendation at 61-62, 105. To avoid repetition, Taxpayer incorporates
25 the evidence and arguments raised before the Hearing Examiner into this appeal. In
26 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
27 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
28

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 105, Sections II.6, II.7, II.12, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22,
8 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
9 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
10 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7,
11 IV.C.8, IV.C.9, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$2,143,000.00 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
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29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
35 or conjectural"
36

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38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
5
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
4
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6 **V. Standard of Review**

7
8 “When considering the assessment roll, the city council sits ‘as a board of
9 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
10 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
11 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
12 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
13
14

15 The proposed assessments are presumed correct, “unless overcome by clear, cogent
16 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
17 than the heightened presumption of correctness on judicial appeal because “applying these
18 elevated standards at the municipal hearing would afford unwarranted deference to a report
19 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
20 presumption is not evidence and its efficacy is lost when the other party adduces credible
21 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
22 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
23 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
24 presented credible evidence showing that the City’s proposed assessment is arbitrary,
25 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
26 to the City to prove the assessments are actual, measurable, special, non-speculative and
27 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV.C.7–9. This is contrary to law.
4

5
6 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
7 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
8 IV.C.11.
9

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12 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

13
14 4. RCW 35.43.040 provides cities and towns authority for ordering local
15 improvements and for levying and collecting special assessments “on property specially
16 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
17 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
18

19
20 5. No analysis of general benefits. Special assessments have been “held valid
21 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
22 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
23 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
24 they are for the construction of local improvements that are appurtenant to specific land and
25 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
26

27
28 6. Harbor Steps' property is not specially benefited by the LID Improvements.
29 The primary purpose and effect of the LID Improvements are to benefit “members of the
30 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
31 library is for the benefit of the members of the whole community individually and
32 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
3 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
4 is proximity to their places of employment and other amenities downtown. *See* 3/5/2020 (E.
5 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
6 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
7 benefit from increased connectivity from being four to five blocks from the Overlook Walk
8 even though the properties currently have direct access to the waterfront via the Harbor
9 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; *see also* B. Scott Decl., ¶ 7. Mr. Leigh testified that
10 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
11 measurable portion of waterfront-bound pedestrian traffic moved north to the market. *See*
12 *also* B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
13 traffic being pulled away towards new amenities). Even if the City could assess for a view
14 change (and it has promised not to assess for viaduct removal), the fair market value of
15 Harbor Steps' property has not changed because the LID Improvements have not improved
16 the property's waterfront view or access to the waterfront, nor will they when the City
17 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
38 for special detriments. *See Kuskys*, 85 Wn. App. at 501 (city failed to consider the costs to
39 owners for removal and cleanup of underground storage tanks discovered during the
40 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
41 testified that property values may in fact be negatively impacted by the LID Improvements
42 due to loss of parking, increased traffic and noise, and increased potential for crime,
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1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. *See* 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
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5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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16 10. Likewise, there was no analysis of the risks associated with disamenities such
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18 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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20 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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22 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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24 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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26 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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28 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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30 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
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32 the maintenance agreement. *Id.* at 13:4-14:2.
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35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

benefits calculations are inherently speculative, Washington's eminent domain statute specifically allows condemnees to postpone special benefits assessments until improvements are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).

Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy Greenway, the Greenway district "significantly" lagged in value). For these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation: Sections II.25, IV.B.8, and IV.B.9.

12. Special benefit estimate is speculative. When calculating a special benefit, "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324 P.2d 1078 (1958)).

13. Assuming without conceding that one day, the City's planned LID Improvements might increase the value of neighboring properties to some extent, that potential benefit is many years away and speculative. While appraisers tolerate some degree of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is far too speculative to satisfy industry practices and standards.

14. Although LIDs are sometimes finalized prior to completion of improvements, this is typically just six month or a year prior, and the assessments are otherwise supported by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here will not be realized for four or five years. In the meantime, there is permitting risk,

1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4
5 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
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7 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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9 testified: "I just don't know what the market value would be as of the date the project would
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11 be finally constructed" because "[t]here could be a lot of elements in the market that did
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13 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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15 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
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17 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
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23 accrue to these properties in four years (if any), we do know that there are no actual benefits
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25 now. The LID improvements provide no immediate special benefit to property owners
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27 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
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29 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
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31 sewer system for future users). For example, notwithstanding the questionable hypothesis
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33 that apartments will benefit from an expected increase in tenant interest when the
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35 improvements are complete, it is undisputed that tenants are not coming in larger numbers
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37 and paying higher rental rates now because of something happening five years down the
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39 road. *See O'Connor Decl. ISO Closing Stmt.*, ¶ 7 (dated 7/7/2020) (no apartment leased
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41 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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43 16. Further, there are no "plans and specifications" on file with the Clerk's Office
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45 for the LID Improvements, and it is unlawful to move to final assessments without such
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47 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*

1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
2
3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
4
5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.*, 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
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27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
38
39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
42
43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
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4 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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7 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
8 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
9 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
10 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
11 ignoring momentarily all of the other methodological and other flaws discussed here and in
12 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
13 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
14 exceeds special benefits when reduced to present value. Further, to the extent the City is
15 arguing that because they are permitted to assess 100% of the special benefit, the special
16 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
17 is again wrong. After applying proper discounting, the City's proposed special benefit
18 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
19 100% of the total estimated special benefit.
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22 26. But even the assumption that the LID improvements would deliver benefits
23 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
24 on. Rather, those studies demonstrate that a discount period of five years is conservative.
25 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
26 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
27 indicates that during the construction period, the Greenway district "significantly" lagged in
28 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
29 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
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10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$201,870.60. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$79,133.28.
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21 28. Attachment C includes two Excel spreadsheets applying these discounting
22 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
23 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
24 demonstrates that discounting the City's hypothetical October 2019 special benefits to
25 present value would reduce Taxpayer's assessment to \$288,082, exclusive of any other
26 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
27 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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7 the time it takes for the improvements to capture property value.). After such reductions,
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9 Taxpayer's assessment would be just \$180,918 (for the 5-year discount) or \$49,710 (for the
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11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
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15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
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23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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25 Wn.2d at 97.

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27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
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29 testimony from the owner, where the objector's expert establishes that the assessment was
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31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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35 31. The City's appraiser purports to utilize the income method of valuation but
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37 relied on inaccurate revenue and market data, as discussed further below.

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39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
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43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
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47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
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7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
15
16 Macauley did not calculate the actual market value of LID properties in October 2019 and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
21
22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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26 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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28 Petition) at 3-4. Without any documented basis or support, Mr. Macauley simply “ma[de] a
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30 judgment a call” on what occupancy and rates would have been for the commercial
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32 properties assuming all of the WSDOT Improvements are completed as of 2019. Macauley
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34 Depo. at 129:19-130:11. For example, Mr. Macauley surmised that Brian O’Connor’s
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36 conclusion that the “Before” value for Harbor Steps was overstated by \$88M was perhaps
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38 due to the fact that Mr. O’Connor was looking at current income numbers and not
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40 accounting for the value of the “Before” conditions. However, when asked whether the
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42 value of the of the “Before” conditions is lower or higher than \$88M, Mr. Macauley had no
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44 clue because he did not do this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright
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46 omission precludes any independent evaluation of the true market “Before” values. *See*
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1 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards; if an
2 appraiser uses current sales data to infer values, then the appraiser must explain how he
3 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
4 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
5 other road, pedestrian and landscaping improvements WSDOT had already committed to
6 make.
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12 34. However, because Mr. Macaulay testified that he did include some WSDOT-
13 related value-lift in the “Before” values, it follows that part of the special assessment
14 improperly is based on value attributable to the WSDOT Improvements. As shown by
15 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
16 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
17 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
18 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
19 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
20 to properly exclude the value of Before Improvements from the assessments. For these
21 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
22 Sections II.19, II.29, and IV.B.11(a)(ii)
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25 35. Special benefits were assigned rather than measured. Mr. Macaulay
26 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
27 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
28 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
29 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
30 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
31 on hypothesized very small increases to property revenue and very small reductions to cap
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1 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.

2 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
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4 “professional judgment” that are neither shown nor replicable.
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6 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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8 Recommendation: Sections II.19 and IV.B.11(a)(iii)
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10 37. Special benefit falls within margin of error. The Final Special Benefit Study
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12 applies an estimated value enhancement of less than 4%, which is generally within the
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14 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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16 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
17
18 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
19
20 of one another, this difference is considered reasonable as it falls within the standard margin
21
22 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
23
24 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
25
26 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
27
28 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
29
30 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
31
32 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
33
34 “Before” values are also based on a hypothetical that adds some unstated incremental value
35
36 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
37
38 micro-value differences between hypothetical conditions that are so similar (the WSDOT
39
40 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
41
42 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
43

44 38. Even if it were possible to accurately tease out such a miniscule hypothetical
45
46 value change due to improvements coming five years later, experts testified that there is no
47

1 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
2
3 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
4
5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
6
7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
8
9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

10
11 39. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
13
14 percentage difference between hypothetical Before and After conditions. Throughout his
15
16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
17
18 descriptions in the Addenda even though he testified that he relied on these to calculate
19
20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
21
22 someone might be able to determine how he attributed value to After conditions described in
23
24 the Addenda, he answered that that was “not the scope of the assignment” because he was
25
26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
27
28 that the six components were not actually a continuous project, that he was viewing them
29
30 together because the City asked him to, and that if he were to view them independently,
31
32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 40. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
42
43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
44
45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 41. Special assessment is not supported by comparable studies, data or reports.

25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for residential and commercial combined properties,
30 including Taxpayer’s property. For example, although Mr. Macaulay stated that no single
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
2
3 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
4
5 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
6
7 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
8
9 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
10
11 for similarities and differences between these improvements and the comparable parks he
12
13 looked at).

14
15 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
16
17 assignment of incremental increase of 0.5% to 4% to property values within the LID.
18
19 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
20
21 research misinterprets his work in critical ways, including because the LID Improvements
22
23 manifest the characteristics of a parkway (not a park), and his research indicates that most of
24
25 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
26
27 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
28
29 related value increases are in fact smaller; that estimated increases are “best guesses” rather
30
31 than predictions of property value increases in a particular city; and that percentages do not
32
33 account for diminishing returns after taking into account water views, which would be the
34
35 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
36
37 topography grants most properties in downtown a water view.

38
39 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
40
41 that this was just one source of information that was not entirely relevant because, among
42
43 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
44
45 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
46
47 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3
4 Crompton concluded that 500 feet via road from “park” improvements is just one or two
5
6 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
7
8 significantly beyond that which the park study indicated (even if it was legitimate to use the
9
10 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
11
12 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
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14 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

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16 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
17
18 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
19
20 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
21
22 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
23
24 materials, it was clearly an important—if not *the* most important—source of information for
25
26 estimating special benefits (especially with respect to the condos).⁷ No City witness
27
28 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
29
30 parcel-by-parcel analysis.
31

32
33 45. The destination parks discussed in the Final Special Benefit Study do not
34
35 provide reliable, comparable, and valid support for the calculation of special assessments
36
37 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
38
39 Study were funded by a LID. And in virtually all of those cases, the park improvements
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41
42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
2
3 two or three blocks of the park.

4
5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
7
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9
10 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
11
12 dissimilar parks in other cities,⁸ making the methodological application to the LID
13
14 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
15
16 conclusion that there would be *no new net visitors* from downtown residents as a result of
17
18 the LID Improvements and could not explain how this impacted his condo analysis.
19
20 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
21
22 Property Values" primarily focused on whether the benefits accrue to the larger community
23
24 rather than properties adjacent to the park. And the 2014 New York City Department of
25
26 Transportation study is not based on real estate transactions and market sales and fails to
27
28 substantiate any link between increased retail sales and property values. Moreover, this
29
30 study only looked at impact either directly abutting the streetscape improvement, or a couple
31
32 hundred feet for plaza-like improvements.
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35 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
36
37 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
38
39 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
8
9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
10
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12
13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

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17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
18
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
34
35 Gordon uses in doing his limited restricted report").

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37 52. But the difference is not only in reporting—mass appraisal techniques must
38
39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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43 parcel approach:

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45 The mass appraisal technique is an appraisal method used to evaluate
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47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.
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4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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23 54. Regardless of client direction, Mr. Macaulay is required to comply with
24 USPAP. So, if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have
25 been economically feasible because it would have taken "an incredible amount of time and
26 cost" (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
27 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
28 ("performing an individual appraisal of each [condo] parcel would have been cost and time
29 prohibitive").
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37 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
38 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
39 value, fails to calibrate the model structure to determine the contribution of the individual
40 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
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9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
11
12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
17
18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
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29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36 relationship between characteristics that affect value, and to calibrate that model to specify how
37 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
38 21). The purpose is to rationally determine what characteristics will create value, and by how much.
39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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3 and appeals the Examiner's denial of that motion.
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5 58. Finally, Taxpayer's property is not appurtenant to any proposed
6 improvements. *See Hasit*, 179 Wn. App. at 947 ("the burden of proving special benefit"
7 shifted to the City because the protestors' parcels merely stood "in close proximity to the
8 property on which expert testimony was given"). As described above, the special
9 assessment is overstated because the Final Study makes no attempt to determine general
10 benefits, existing amenities for Taxpayer's specific property, or special detriments. In
11 addition, it is speculative due to the fact that, as of October 2019, improvements were not in
12 in place—and, in fact, much of the waterfront is a construction zone following removal of
13 the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on
14 entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should
15 have discounted the special benefit estimates or waited to perform the Study until the
16 improvements were at least close to complete.
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28 **Erroneous Pre-Improvement Valuation**

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30 59. The proposed final assessment erroneously overstates the pre-improvement
31 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
32 benefit to the Taxpayer's property.
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36 60. The City's Final Study was used to compute the proposed final assessment of
37 Harbor Steps' property. The City's Study purportedly uses data from the King County
38 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
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45 ¹¹ *See, e.g.*, Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$77,938,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$70,549,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 110.5% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$55,938,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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39 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
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7 66.

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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.

11
12 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
13 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.50% (low)
14 and 3.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
15 percentages (2.50% and 3.25%) to increase retail and parking. He then uses this
16
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.

19
20 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
21 operating income remains the same as in the hypothetical “Before” condition but changes
22 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.97% (low scenario,
23 creating a bigger value increase) and 4.00% (high scenario, creating a lower value increase).

24
25 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
26 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.75% due
27 to the LID Improvements.

28
29 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
30 and capitalization rates. When asked precisely what the basis is for his special benefit
31 percentage increases to revenue for each commercial property, he could not point to
32 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
33 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
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5 the basis for his belief that certain factors—liked increased connectivity—will increase
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7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
8
9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12
13 sources equally even though there was no separate analysis done for food and beverage or
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15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
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17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
18
19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
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21 properties.

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23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
26
27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
32
33 Before and After conditions, but there is no way to understand how adjustments were made
34
35 because he “didn’t do a separate sales comparison approach where we showed adjustments
36
37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
38
39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

42
43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
46
47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3
4 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
5 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
6
7 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
8
9 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
10
11 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
12
13 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
14
15 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
16
17 special because it is arbitrarily assigned; and it is too small to realistically be supported by
18
19 appraisal techniques.
20
21

22 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
23 any seller or purchaser that the price was higher because of the LID improvements."
24
25 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
26 identified any seller or buyer, or any particular property where the existence of the LID
27 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
28 explained that the property has not increased rental rates or revenue due to the forthcoming
29 LID Improvements, because, among other reasons (and apart from COVID), the
30 improvements ABS believes will generate value do not exist and will not for a number of
31 years to come. There are no comparable sales because the LID Improvements are not in
32 place, nor will they be until the end of 2024 if completed on schedule.
33
34

35 72. The fair market value of Harbor Steps' property has not changed due to
36 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
37 benefited from installation of new water main and fire hydrant where it was already
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1 adequately supplied with water and afforded adequate fire protection). And in any event, any
2 value attributable to removal of the viaduct was to be excluded from the assessment
3 calculation.
4

5
6 73. There is no special benefit to the Harbor Steps because its apartment demand
7 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
8 value of Harbor Steps' property by drawing visitors away towards improvements that do not
9 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
10 App. 493 (testimony of owners' expert that LID actually diminished value of property was
11 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
12 will be harmed by the LID improvements because the Overlook Walk and Union Street
13 connection improvements will likely direct foot traffic away from the Harbor Steps and
14 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
15 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
16 Steps already has a high-quality connectivity to the waterfront and no data was presented to
17 justify a value lift based on additional connection points several blocks away. On cross-
18 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
19 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
20 would generally support additional connection points to the waterfront amenities. *See*
21 6/23/2020 Hrg. Tr. at 48-50.
22

23 74. Moreover, the assessment formula is an attempt to distribute costs that do not
24 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
25 "merely a mathematical model that distributes costs").
26

27 75. The Special Benefit Study fails to address whether the \$346,000,000
28 estimated LID project cost takes into account the investment that would have occurred in the
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1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

5
6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14
15 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
16 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
17 notice procedures because hotel property owners only received notice that their real estate
18 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
19
20

21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
2
3 be redone to correct for this error.

4
5 78. The proposed final assessment substantially exceeds the special benefit to the
6
7 property and is grossly disproportionate to similarly situated properties within the LID. For
8
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
10
11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

13
14
15 79. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
18
19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20
21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
22
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
26
27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
34
35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
38
39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
40
41 committing to reconstruction of Pier 58 and major street improvements without
42
43 environmental review, or the City's Final Special Study has improperly included and is
44
45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
46
47 not get built. Either way, it is faulty process.

Due Process Rights

80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761 (2010).

81. The LID statute specifies that cities must mail notices giving the time and place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at 956. The key inquiry is whether the owner had sufficient time to gather evidence (and secure their own appraisal), evaluate proportionality of the proposed assessments, and whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient for anybody to get an appraisal”).

82. The City’s Notice of Assessment was sent on December 30, 2019. And the Final Special Benefit Study has only been available for public review since January 7, 2020. Due to this short time frame, Harbor Steps requested a prehearing conference and scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner

1 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
2
3 the Examiner's Recommendation: I.B.
4

5 **VII. Relief Requested**
6

7 Harbor Steps respectfully requests that the City Council:
8

- 9 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection
10 and:
11
12 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 20, 2019; or
14
15 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
16 proposed final assessment to \$0 (zero), or such amount as Taxpayer
17 establishes at the hearing in this matter; or
18
19 c. Remand the matter to the Hearing Examiner or City appraiser to
20 recalculate and reduce Taxpayer's assessment using recognized
21 appraisal techniques consistent with USPAP and:
22
23 i. Excluding any property value increase attributable to viaduct
24 removal and other planned WSDOT Improvements;
25
26 ii. Taking into account the effects of COVID-19 pandemic on the
27 value of Taxpayers property and other relevant developments
28 since October 2019;
29
30 iii. Accounting for and excluding (1) any special benefits from
31 existing or planning improvements that already provide
32 similar benefits to Taxpayers property, and (2) any special
33 detriments from construction and other anticipated LID-
34 related disamenities;
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- iv. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - v. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vi. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and

2. Grant such further relief as the City Council deems just and proper.

1
2 DATED: September 22, 2020
3
4

PERKINS COIE LLP

5 By:
6
7



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28 Attorneys for Eqr-Harbor Steps LLC
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3:31 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0425
Date: Tuesday, February 16, 2021 3:19:54 PM
Attachments: [NW Harbor Steps Amended LID Appeal before City.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
NW Harbor Steps Amended LID Appeal before City.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0425

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200070

32
33 EQR-HARBOR STEPS LLC (“Taxpayer”) files this amended appeal pursuant to
34 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
35 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
36 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
37 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
38 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
39 Recommendation issued February 1, 2021.
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1 **I. Eqr-Harbor Steps LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 EQR-HARBOR STEPS LLC
6 Eqr-RE Tax Dept.
7 PO Box 87407 (27193)
8 Chicago, IL 60680-0407
9

10 **II. Eqr-Harbor Steps LLC's Representatives**

11 EQR-HARBOR STEPS LLC'S representatives in this matter are:

12
13
14
15 R. Gerard Lutz, WSBA No. 17692
16 JLutz@perkinscoie.com
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Facsimile: 206.359.9000

23 **III. Statement of Eqr-Harbor Steps LLC's Interest and Incorporation of Prior**
24 **Arguments**

25
26 EQR-HARBOR STEPS LLC owns the property that is subject to the proposed final
27
28 assessment described in Section IV.
29

30 Eqr-Harbor Steps LLC is amending its appeal as authorized in City of Seattle
31
32 Resolution 31979 to include additional arguments relevant to the revised Final
33
34 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
35
36 2020, Eqr-Harbor Steps LLC timely filed an objection to the assessment, which was based
37
38 on the Final Study. Eqr-Harbor Steps LLC further timely filed an appeal of the Hearing
39
40 Examiner's 2020 recommendations to the City Council. Eqr-Harbor Steps LLC maintains
41
42 and incorporates all objections and arguments raised in its appeal filed with the City Clerk
43
44 on September 22, 2020. This amendment is a supplement is to be read together with Eqr-
45
46 Harbor Steps LLC's appeal filed on September 22, 2020. Eqr-Harbor Steps LLC
47

1 incorporates by reference all filings, evidence, and pleadings filed by any party before the
2
3 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
4
5 records pertaining to the November 2020 through February 2021 remand hearing ordered by
6
7 Council.
8

9 **IV. Amended Arguments on Appeal**

10 EQR-HARBOR STEPS LLC supplements its appeal of the Hearing Examiner's
11
12 recommendation to deny Eqr-Harbor Steps LLC's objection to the City of Seattle's
13
14 Waterfront Local Improvement District No. 6751 proposed final assessment dated
15
16 December 30, 2019 against the following property:
17

18 King County Parcel No. 1976200070
19 Site Address: 1306 Western Ave., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$839,674.55
21
22

23 To avoid repetition, Eqr-Harbor Steps LLC incorporates the evidence and arguments
24
25 raised before the Hearing Examiner and before the City in its September 22, 2020 appeal,
26
27 into this amended appeal.
28

29 **A. The Anticipated Special Benefits to Eqr-Harbor Steps LLC's Property**
30 **should be Discounted to Present Value and Assessments Adjusted as**
31 **Appropriate**
32

33 On remand, the City's appraiser acknowledged that special benefits to parcels can be
34
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36
37 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
38
39 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
40
41 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
42
43 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
44
45 accepted that recommendation. The City's appraiser further acknowledged that benefit
46
47 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined

1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
13
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefits are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
9

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17 **B. The City's Appraiser's Disregard of Data on Remand is Another**
18 **Example of How His Analysis is Unreliable, Not Admissible under Frye**
19 **or ER 702, and His Proposed Special Assessments are not based on**
20 **Actual, Measurable and Special Value Increases from the anticipated**
21 **LID Improvements.**
22

23 The City's appraiser was provided actual performance data for the remanded hotels,
24 including their average daily room rates, from which he had been instructed to "recalculate"
25 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
26 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
27 would be "too low." His remand analysis demonstrates that his whole "income approach to
28 valuation", used for both hotels and other commercial properties, like Taxpayer's, is
29 contrived speculation on speculation. The City's appraiser disregarded these hotels' actual
30 net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J. Macaulay,
31 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on Remand
32 for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436).
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42 Taxpayer's appraiser submitted an appraisal which was similarly realistic and
43 specific to the property but was disregarded. Taxpayer's appraiser demonstrated the actual
44 value of the property is \$55,938,000, and the LID assessment should be reduced to reflect
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1 this before-value. *See* CWF-0425 Statement of Objections, Exh. 6, Appraisal of Brian
2
3 O'Connor (Jan. 31, 2020).

4
5 **C. In Light of Covid's Continuing Impact on Eqr-Harbor Steps LLC and**
6 **other Downtown Property Owners and other Material Changes Since**
7 **October 2019, the LID Should be Cancelled, or at Least Assessments**
8 **Recalculated, to take Into Account Property Value Reductions**
9

10 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
11 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
12 other relevant developments since October 2019." When Washington's first COVID
13 restrictions were imposed in March and April 2020, there was an assumption that they
14 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
15 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
16 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
17 gotten much worse. The City has already imposed higher minimum wages and taxes on
18 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
19 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
20 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
21 years from completion, as a best case. In current circumstances, a downtown tax to fund
22 new, non-essential park improvements against financially strapped taxpayers, and likely
23 passed through to financially strapped tenants and customers would be unfair to taxpayers
24 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
25 rethinks its budget priorities for the next few years, and its potentially funding sources,
26 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
27 property owners) have a chance to recover, and that any assessment take into account the
28 changed circumstances since this appeal process started on February 4, 2020 to avoid
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unnecessarily and perhaps permanently killing downtown properties and businesses in the name of bettering them.

V. Relief Requested

Particularly in light of the Committee's decision not to take further comment, Eqr-Harbor Steps LLC respectfully request that each Committee member carefully review the record transmitted to Council before voting on our appeal.

EQR-HARBOR STEPS LLC respectfully reiterates its request from the September 22, 2020 appeal that the City Council:

1. Cancel the Waterfront Local Improvement District No. 6751 proposed final assessment dated December 30, 2019; or
2. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the hearing in this matter; or
3. Grant the Examiner's recommended remand but with instructions to recalculate and reduce Taxpayer's assessment using recognized appraisal techniques consistent with USPAP and
 - a. Excluding any property value increase attributable to viaduct removal and other planned WSDOT Improvements;
 - b. Taking into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019;
 - c. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to

1 Taxpayer's property, and (2) any special detriments from construction
2 and other anticipated LID-related disamenities;
3

4
5 d. Accounting for and including only those actual benefits anticipated to
6 accrue to Taxpayer's property based on its location relative to Pier 58,
7 Overlook Walk, and the Promenade, and specific elements of the LID
8 Improvements;
9

10
11
12 e. Discounting anticipated special benefits to present value, based on
13 reliable estimates regarding when special benefits will start accruing
14 following completion of the LID Improvements; and
15

16
17 f. Accounting for such other issues specific to Taxpayer's property
18 relevant to calculation of such assessment; and
19

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22 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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PERKINS COIE LLP

5 By:

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22 Attorneys for EQR-HARBOR STEPS LLC
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3:06 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0426
Date: Tuesday, September 22, 2020 2:47:56 PM
Attachments: [CWF-0426.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0426.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0426

A – Master List of Evidence

B – B-228 Harbor Steps NE

C – Discounting for CWF-0426

CWF-0426 Appeal Notice

Kimball Mullins | Perkins Coie LLP**SENIOR PARALEGAL**

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Harbor Steps Northeast**

Map Nos.:	B-228
Tax Parcel Nos.:	197620-0075
Property key:	4319
Address	1301 1st Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions, view protection easement in favor of property o
Previous sale:	N/A
Proximity to project:	400± feet to waterfront park
Ownership:	EQR-Harbor Steps, LLC
Description:	14,28 SF site on the northwest corner of 1st Avenue and University Street unit apartment building constructed in 2000, with 26,824 SF of retail spac parking structure.

INCOME ANALYSIS Before	Year Built	2000
	Parking	170

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	20		0	\$2,020	\$0.00
1-bedroom	84		0	\$2,600	\$0.00
2-bedroom	66		0	\$3,475	\$0.00
Total apartments	170	0	0	\$2,871	\$0.00
	GBA	NRA			
Retail	26,824	26,824		SF NRA @	\$35.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	26,824	26,824			
Parking Area/Stalls	39,354	0	170	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	313,955	202,736		SF NRA @	\$36.83
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			

Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	27.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$9.65	27.2%
Net operating income				
Indicated Value				
Land Value				
		14,280	SF @	\$1,700.00
Residual Improvements				
		202,736	SF NRA @	\$509.44
		313,955	SF GRA @	\$328.97

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,700.00	\$24,276,000	\$103,281,000	N/A
With LID				
Scenario A1	\$1,746.75	\$24,944,000	\$105,850,000	2.49%
Scenario A2	\$1,746.75	\$24,944,000	\$106,821,000	3.43%
Scenario B1	\$1,746.75	\$24,944,000	\$106,790,000	3.40%
Scenario B2	\$1,746.75	\$24,944,000	\$105,802,000	2.44%
Percent change in land value	2.75%		\$106,316,000	2.94%
Summary				
Without LID	\$1,700.00	\$24,276,000	\$103,281,000	N/A
With LID	\$1,746.75	\$24,944,000	\$106,125,000	2.75%

Harbor Steps Northeast

Scenario A: Rental and Vacancy Rate Changes

owner (per AFN 20130517-1652)

, zoned DMC 240/290-440, 170-
e and 170-stall basement

		INCOME ANALYSIS After		Year Built	2000
		Potential Gross Income			
			Units	SF NRA	
	\$484,800	Studio	20	0	
	\$2,620,800	1-bedroom	84	0	
	\$2,752,200	2-bedroom	66	0	
	\$5,857,800	Total apartments	170	0	
			GBA	NRA	
per SF =	\$938,840	Retail	26,824	26,824	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$938,840	Subtotals	27,164	26,824	
/month	\$612,000	Parking Area/Stalls	39,354	0	170
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$58,578	Other			
/SF =	\$7,467,218	Total Bldg Area & Gross Income	313,955	202,736	SF
	(\$234,312)	Less: Vacancy/credit allowance			of apartment
	(\$46,942)				of commercial
	\$0				of parking
	(\$281,254)	Total vacancy/credit allowance			
	\$7,185,964	Effective gross income			
		Less: Operating expenses			
	(\$359,298)	Management fee @	5.0%		of total EGI

	\$0
	(\$1,518,342)
	(\$78,489)
\$11,507	(\$1,956,129)
	\$5,229,835
Capitalized @	4.10%
Indicated value	\$127,556,958
(R) #####	
Per DU	\$750,335
per SF =	\$24,276,000
per SF =	\$103,281,000

Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		

Indicated Value	
Land Value	
	14,280
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit	% Change	
\$127,557,000	N/A	N/A	
			Per DU
\$130,794,000	\$3,237,000	2.54%	\$19,041
\$131,765,000	\$4,208,000	3.30%	\$24,753
\$131,734,000	\$4,177,000	3.27%	\$24,571
\$130,746,000	\$3,189,000	2.50%	\$18,759
\$127,557,000	N/A		
\$131,069,000	\$3,512,000	2.75%	\$20,659

Harbor Steps Northeast
Scenario B: Overall Capitalization R

	Per DU	Per DU	Low 2.50%	High 3.25%
	\$2,071	\$2,086	\$496,920	\$500,556
	\$2,665	\$2,685	\$2,686,320	\$2,705,976
	\$3,562	\$3,588	\$2,821,005	\$2,841,647
	\$2,943	\$2,965	\$6,004,245	\$6,048,179
			2.50%	3.25%
• NRA @	\$35.88	\$36.14	\$962,311	\$969,352
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$962,311	\$969,352
	Per Month	Per Month	2.50%	3.25%
stalls @	\$307.50	\$309.75	\$627,300	\$631,890
	Per SF	Per SF	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$60,042	\$60,482
• NRA @	\$37.75	\$38.03	\$7,653,898	\$7,709,903
revenue	4.00%	4.00%	(\$240,170)	(\$241,927)
revenue	5.00%	5.00%	(\$48,116)	(\$48,468)
revenue	0.00%	0.00%	\$0	\$0
			(\$288,285)	(\$290,395)
			\$7,365,613	\$7,419,508
			(\$368,281)	(\$370,975)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	

	\$0	\$0
	(\$1,556,300)	(\$1,567,688)
	(\$78,489)	(\$78,489)
	(\$2,003,070)	(\$2,017,152)
	\$5,362,543	\$5,402,356
Capitalized @	4.10%	4.10%
	\$130,793,741	\$131,764,776
(R)	\$130,794,000	\$131,765,000
Per DU	\$769,376	\$775,088
% change	2.54%	3.30%
SF @ \$1,746.75 per SF =	\$24,944,000	\$24,944,000
	\$105,850,000	\$106,821,000
Per SF NRA	\$522.11	\$526.90
	\$3,237,000	\$4,208,000

2.75%

Parking operating expenses @
Apartment operating expenses
Structural maintenance/reserve
Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements
Special Benefit Summary

Notes Changes

Year Built		2000				
Units	SF NRA	Total NRA	Rent	Rent/SF		
20	0	0	\$2,020	\$0.00		\$484,800
84	0	0	\$2,600	\$0.00		\$2,620,800
66	0	0	\$3,475	\$0.00		\$2,752,200
170	0	0	\$2,871	\$0.00		\$5,857,800
26,824	26,824		SF NRA @	\$35.00	per SF =	\$938,840
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
27,164	26,824					\$938,840
39,354	0	170	stalls @	\$300.00	/month	\$612,000
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$58,578
313,955	202,736		SF NRA @	\$36.83	/SF	\$7,467,218
4.0% of apartment revenue						(\$234,312)
5.0% of commercial revenue						(\$46,942)
0.0% of parking revenue						\$0
						(\$281,254)
						\$7,185,964
5.0% of total EGI						(\$359,298)

0.0%	of parking EGI	\$0
27.0%	of apartment EGI	(\$1,518,342)
\$0.25	per SF of GBA	(\$78,489)
		(\$1,956,129)
		\$5,229,835

	Low	High
Capitalized @	3.97%	4.00%
Indicated Value	\$131,733,886	\$130,745,882
(R)	\$131,734,000	\$130,746,000
Per DU	\$774,906	\$769,094
% change	3.27%	2.50%
14,280 SF @ \$1,746.75 per SF =	\$24,944,000	\$24,944,000
	\$106,790,000	\$105,802,000
per SF NRA	\$526.74	\$521.87
	\$4,177,000	\$3,189,000

2.75%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0426	Harbor Steps NE Tower -- 1301 1st Avenue	1301 1st Avenue	1976200075

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$3,512,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$472,115

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0426	Harbor Steps NE Tower -- 1301 1st Avenue	1301 1st Avenue	1976200075

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$127,557,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$105,557,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C))		Corrected FMV for Assessment	\$92,362,375

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$3,512,000		
H/A	As Percentage of Final City Before Value	2.753%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$2,542,994		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$872,073	\$239,616
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$341,853	\$93,930

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In re Proposed Final Assessment Roll for
Local Improvement District No. 6751
("Waterfront LID")

Case Nos. CWF-0425, 0426, 0427, 0440, AND
0441

DECLARATION OF ED LEIGH

I, Ed Leigh, declare as follows:

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same.
2. I am the Vice President of Investments for Equity Residential. I testified in this appeal as to my position, qualifications and employment history.
3. Eqr-Harbor Steps LLC is owned by Equity Residential. Eqr-Harbor Steps LLC owns a four-tower apartment complex encompassing parcel nos. 1976200070, 1976200075, 1976200076, and 7666202465. These parcels are located at 1306 Western Ave., 1301 1st Ave., 1201 1st Ave., and 1212 Western Ave., Seattle WA, and are the subject

DECLARATION OF ED LEIGH – 1

1 of case nos. CWF-0425, -0426, -0427, -0440. These properties are known as the "Harbor
2 Steps" apartment towers.
3

4 4. Eqr-Second & Pine LLC is also owned by Equity Residential, and owns real
5 property parcel no. 7683890010, which is located at 206 Pine St., Seattle WA, and is the
6 subject of case no. CWF-0441. This property is known as the Helios apartments.
7
8

9 5. Equity Residential appealed the City's proposed final assessment for
10 Waterfront LID No. 6751 for each of the properties described above.
11
12

13 **HARBOR STEPS (CWF-0425, -0426, -0427, -0440)**
14

15 6. The Harbor Steps are multifamily residential apartment buildings with
16 ground floor retail. Additionally, the Harbor Steps are on a pedestrian corridor connecting
17 the downtown retail core to the waterfront amenities.
18
19

20 **HELIOS (CWF-0441)**
21

22 7. Helios is a multifamily residential apartment building located a block east of
23 Pike Place Market, and approximately two blocks from the proposed overlook walk.
24
25

26 **COVID-19 Calculations**
27

28 8. After we appealed our assessments, the Covid-19 pandemic broke out,
29 causing significant disruptions in Seattle and around the world. Based on our current rents,
30 compared with Brian O'Connor's appraisal calculations to support our appeals, our
31 properties have decreased in value in the range consistent with those described by John
32 Gordon. In Mr. Gordon's April 21, 2020 Declaration, he noted that property values for
33 hotels in Downtown Seattle would be at least 10% to 15% lower when compared with the
34 values as of October 2019 and January 2020. The same is true for our properties. The year-
35 over-year rent reductions that I have observed in our Downtown Seattle assets are consistent
36 with Mr. Gordon's valuation reduction, assuming that rents do not quickly rebound. We
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DECLARATION OF ED LEIGH - 2

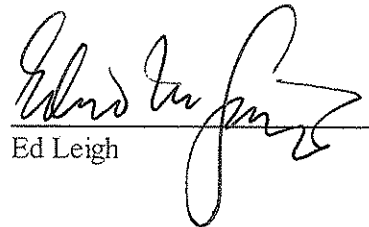
149590798.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 have not marked-to-market with these assets yet, as this is an end-of-year process for us, but
2
3 the 12.5% average Covid-19 discount is our best generic estimate at this time, based on the
4
5 information available to us.
6

7 I declare under penalty of perjury under the laws of the State of Washington that the
8
9 foregoing is true and correct.
10

11 Signed at Seattle, Washington, on September 21, 2020.
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Ed Leigh

DECLARATION OF ED LEIGH – 3

149590798.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0426

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-Harbor
Steps LLC OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200075

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
40
41
42

43 **I. Taxpayer / Appellant**
44

45 The Taxpayer filing this appeal is:
46
47

1 Eqr-Harbor Steps LLC
2 Eqr-Re Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
7

8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20 Robert L. Mahon, WSBA No. 26523
21 RMahon@perkinscoie.com
22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
26
27

28 **III. Statement of Taxpayer's Interest**
29

30 Harbor Steps owns the property that is subject to the proposed final assessment
31 described in Section IV. The property at issue is a multifamily residential apartment building
32 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
33 downtown retail core to the waterfront amenities.
34
35

36 The basis of the proposed assessment is a Final Special Benefit/Proportionate
37 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
38 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
39 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
40 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.
24

25 **IV. Matter Under Appeal**

26 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:
31

32
33 King County Parcel No. 1976200075
34 Site Address: 1301 1st Ave., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$1,376,078.86
36

37 See Examiner’s Recommendation at 61-62, 105. To avoid repetition, Harbor Steps
38
39 incorporates the evidence and arguments raised before the Hearing Examiner into this
40
41 appeal. In particular, Harbor Steps points the City Council to Taxpayer’s initial Appeal
42
43 Petition, *Frye* motion, Closing Brief submitted at the close of its case-in-chief (dated
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47

1 4/16/2020), and supplemental Closing Statement submitted at the close of the City's case-in-
2 chief (dated 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 105, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22, II.23,
8 II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3,
9 IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7, IV.C.8, IV.C.9,
11 IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. *See* SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$3,512,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
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44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
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29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
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34 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
35 or conjectural"
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38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
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46 **Legal Requirement:** Must comply with appraisal standards
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1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
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20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
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34 **Legal Requirement:** Cannot prematurely commit to build
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36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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6 **V. Standard of Review**

7
8 “When considering the assessment roll, the city council sits ‘as a board of
9 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
10 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
11 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
12 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
13
14

15 The proposed assessments are presumed correct, “unless overcome by clear, cogent
16 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
17 than the heightened presumption of correctness on judicial appeal because “applying these
18 elevated standards at the municipal hearing would afford unwarranted deference to a report
19 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
20 presumption is not evidence and its efficacy is lost when the other party adduces credible
21 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
22 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
23 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
24 presented credible evidence showing that the City’s proposed assessment is arbitrary,
25 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
26 to the City to prove the assessments are actual, measurable, special, non-speculative and
27 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

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7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV. C.7–9. This is contrary to law.
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6 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
7 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
8 IV.C.11.
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13 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
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15 4. RCW 35.43.040 provides cities and towns authority for ordering local
16 improvements and for levying and collecting special assessments “on property specially
17 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
18 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
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21 5. No analysis of general benefits. Special assessments have been “held valid
22 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
23 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
24 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
25 they are for the construction of local improvements that are appurtenant to specific land and
26 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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29 6. Harbor Steps' property is not specially benefited by the LID Improvements.
30 The primary purpose and effect of the LID Improvements are to benefit “members of the
31 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
32 library is for the benefit of the members of the whole community individually and
33 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
34 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
3 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
4 is proximity to their places of employment and other amenities downtown. See 3/5/2020 (E.
5 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
6 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
7 benefit from increased connectivity from being four to five blocks from the Overlook Walk
8 even though the properties currently have direct access to the waterfront via the Harbor
9 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; see also B. Scott Decl., ¶ 7. Mr. Leigh testified that
10 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
11 measurable portion of waterfront-bound pedestrian traffic moved north to the market. See
12 also B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
13 traffic being pulled away towards new amenities). Even if the City could assess for a view
14 change (and it has promised not to assess for viaduct removal), the fair market value of
15 Harbor Steps' property has not changed because the LID Improvements have not improved
16 the property's waterfront view or access to the waterfront, nor will they when the City
17 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
38 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
39 owners for removal and cleanup of underground storage tanks discovered during the
40 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
41 testified that property values may in fact be negatively impacted by the LID Improvements
42 due to loss of parking, increased traffic and noise, and increased potential for crime,
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1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. See 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
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5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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17 10. Likewise, there was no analysis of the risks associated with disamenities such
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19 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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21 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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23 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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25 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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27 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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29 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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31 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
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33 the maintenance agreement. *Id.* at 13:4-14:2.
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35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 benefits calculations are inherently speculative, Washington's eminent domain statute
2 specifically allows condemnees to postpone special benefits assessments until improvements
3 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
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6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
10 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
11 II.25, IV.B.8, and IV.B.9.
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14 12. Special benefit estimate is speculative. When calculating a special benefit,
15 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
16 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
17 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
18 P.2d 1078 (1958)).
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21 13. Assuming without conceding that one day, the City's planned LID
22 Improvements might increase the value of neighboring properties to some extent, that
23 potential benefit is many years away and speculative. While appraisers tolerate some degree
24 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
25 far too speculative to satisfy industry practices and standards.
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28 14. Although LIDs are sometimes finalized prior to completion of improvements,
29 this is typically just six month or a year prior, and the assessments are otherwise supported
30 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
31 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
32 will not be realized for four or five years. In the meantime, there is permitting risk,
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1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4
5 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
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7 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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9 testified: "I just don't know what the market value would be as of the date the project would
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11 be finally constructed" because "[t]here could be a lot of elements in the market that did
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13 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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15 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
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17 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
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23 accrue to these properties in four years (if any), we do know that there are no actual benefits
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25 now. The LID improvements provide no immediate special benefit to property owners
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27 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
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29 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
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31 sewer system for future users). For example, notwithstanding the questionable hypothesis
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33 that apartments will benefit from an expected increase in tenant interest when the
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35 improvements are complete, it is undisputed that tenants are not coming in larger numbers
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37 and paying higher rental rates now because of something happening five years down the
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39 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
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41 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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43 16. Further, there are no "plans and specifications" on file with the Clerk's Office
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45 for the LID Improvements, and it is unlawful to move to final assessments without such
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47 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*

1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
2
3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
4
5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.*, 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
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27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
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39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
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43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
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4 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
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32 26. But even the assumption that the LID improvements would deliver benefits
33 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
34 on. Rather, those studies demonstrate that a discount period of five years is conservative.
35 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
36 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
37 indicates that during the construction period, the Greenway district "significantly" lagged in
38 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
39 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
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9
10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$330,830.40. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$129,685.52.
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22 28. Attachment C includes two Excel spreadsheets applying these discounting
23 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
24 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
25 demonstrates that discounting the City's hypothetical October 2019 special benefits to
26 present value would reduce Taxpayer's assessment to \$472,115, exclusive of any other
27 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
28 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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7 the time it takes for the improvements to capture property value.) After such reductions,
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9 Taxpayer's assessment would be just \$341,853 (for the 5-year discount) or \$93,930 (for the
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11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
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15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
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23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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25 Wn.2d at 97.

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27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
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29 testimony from the owner, where the objector's expert establishes that the assessment was
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31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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35 31. The City's appraiser purports to utilize the income method of valuation but
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37 relied on inaccurate revenue and market data, as discussed further below.

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39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
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43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
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47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
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7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
8

9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
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16 Macauley did not calculate the actual market value of LID properties in October 2019 and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
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26 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
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28 3-4. Without any documented basis or support, Mr. Macauley simply “ma[de] a judgment a
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30 call” on what occupancy and rates would have been for the commercial properties assuming
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32 all of the WSDOT Improvements are completed as of 2019. Macauley Depo. at 129:19-
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34 130:11. For example, Mr. Macauley surmised that Brian O’Connor’s conclusion that the
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36 “Before” value for Harbor Steps was overstated by \$88M was perhaps due to the fact that
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38 Mr. O’Connor was looking at current income numbers and not accounting for the value of
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40 the “Before” conditions. However, when asked whether the value of the of the “Before”
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42 conditions is lower or higher than \$88M, Mr. Macauley had no clue because he did not do
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44 this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright omission precludes any
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46 independent evaluation of the true market “Before” values. *See* 6/23/2020 Hrg. Tr. at 44:25-
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1 45:9. It also fails to meet professional appraisal standards; if an appraiser uses current sales
2 data to infer values, then the appraiser must explain how he analyzed that data and other
3 information to come up with the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at
4 128:1-130:4. This includes not just removal of the viaduct, but also other road, pedestrian
5 and landscaping improvements WSDOT had already committed to make.
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10 34. However, because Mr. Macaulay testified that he did include some WSDOT-
11 related value-lift in the “Before” values, it follows that part of the special assessment
12 improperly is based on value attributable to the WSDOT Improvements. As shown by
13 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
14 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
15 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
16 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
17 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
18 to properly exclude the value of Before Improvements from the assessments. For these
19 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
20 Sections II.19, II.29, and IV.B.11(a)(ii)
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32 35. Special benefits were assigned rather than measured. Mr. Macaulay
33 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
34 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
35 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
36 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
37 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
38 on hypothesized very small increases to property revenue and very small reductions to cap
39 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.
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1 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
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3 “professional judgment” that are neither shown nor replicable.
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5 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
6 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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8 37. Special benefit falls within margin of error. The Final Special Benefit Study
9 applies an estimated value enhancement of less than 4%, which is generally within the
10 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
11 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
12 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
13 of one another, this difference is considered reasonable as it falls within the standard margin
14 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
15 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
16 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
17 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
18 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
19 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
20 “Before” values are also based on a hypothetical that adds some unstated incremental value
21 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
22 micro-value differences between hypothetical conditions that are so similar (the WSDOT
23 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
24 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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26 38. Even if it were possible to accurately tease out such a miniscule hypothetical
27 value change due to improvements coming five years later, experts testified that there is no
28 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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1 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
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3 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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5 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
6
7 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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9 39. No analysis of value increase attributable to individual components of the
10 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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12 percentage difference between hypothetical Before and After conditions. Throughout his
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14 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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16 descriptions in the Addenda even though he testified that he relied on these to calculate
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18 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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20 someone might be able to determine how he attributed value to After conditions described in
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22 the Addenda, he answered that that was “not the scope of the assignment” because he was
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24 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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26 that the six components were not actually a continuous project, that he was viewing them
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28 together because the City asked him to, and that if he were to view them independently,
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30 there was a low probability that properties in the north would specially benefit from
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32 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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34 40. Not only did he fail to analyze benefits from each of these non-contiguous
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36 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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38 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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40 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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42 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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44 objectives that guided regulators’ assessment of architectural plans for buildings along a
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46 “signature street” were so vague that they amounted to ad hoc review based on the
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1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.
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22 41. Special assessment is not supported by comparable studies, data or reports.
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24 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
25 that the LID Improvements will lead to meaningfully increased real estate values for
26 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
27 comparable sales or information from the "over twenty-five studies and reports" to arrive at
28 very precise special benefit increases for residential and commercial combined properties,
29 including Taxpayer's property. For example, although Mr. Macaulay stated that no single
30 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
2 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
3 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
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5 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
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7 for similarities and differences between these improvements and the comparable parks he
8
9 looked at).
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12 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
13 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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15 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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17 research misinterprets his work in critical ways, including because the LID Improvements
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19 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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21 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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23 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
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25 related value increases are in fact smaller; that estimated increases are “best guesses” rather
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27 than predictions of property value increases in a particular city; and that percentages do not
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29 account for diminishing returns after taking into account water views, which would be the
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31 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
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33 topography grants most properties in downtown a water view.
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37 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
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39 that this was just one source of information that was not entirely relevant because, among
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41 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
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43 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
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45 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
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47 180:2 (explaining that for purposes of “drawing boundaries around a park” he was

1 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
2
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
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5 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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7 significantly beyond that which the park study indicated (even if it was legitimate to use the
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9 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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11 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
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13 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

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15 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
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17 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
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19 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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21 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
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23 materials, it was clearly an important—if not *the* most important—source of information for
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25 estimating special benefits (especially with respect to the condos).⁷ No City witness
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27 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
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29 parcel-by-parcel analysis.

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31 45. The destination parks discussed in the Final Special Benefit Study do not
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33 provide reliable, comparable, and valid support for the calculation of special assessments
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35 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
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37 Study were funded by a LID. And in virtually all of those cases, the park improvements
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
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44 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
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46 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
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Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
park (or streetscape) improvement—other studies estimated premiums for real estate only much
closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
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3 two or three blocks of the park.

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5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
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8 expected from the LID Improvements because it projects increases to tourism from *all* of the
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10 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
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12 dissimilar parks in other cities,⁸ making the methodological application to the LID
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14 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
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16 conclusion that there would be *no new net visitors* from downtown residents as a result of
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18 the LID Improvements and could not explain how this impacted his condo analysis.
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20 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
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22 Property Values" primarily focused on whether the benefits accrue to the larger community
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24 rather than properties adjacent to the park. And the 2014 New York City Department of
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26 Transportation study is not based on real estate transactions and market sales and fails to
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28 substantiate any link between increased retail sales and property values. Moreover, this
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30 study only looked at impact either directly abutting the streetscape improvement, or a couple
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32 hundred feet for plaza-like improvements.
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35 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
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37 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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39 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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44
45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
2
3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
6
7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
8
9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
10
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12
13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

16
17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
18
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
28
29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
32
33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
34
35 Gordon uses in doing his limited restricted report").

36
37 52. But the difference is not only in reporting—mass appraisal techniques must
38
39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
40
41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
42
43 parcel approach:

44
45 The mass appraisal technique is an appraisal method used to evaluate
46
47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.
3

4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
5

6
7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
15
16

17 54. Regardless of client direction, Mr. Macaulay is required to comply with
18 USPAP. So, if as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
19 economically feasible because it would have taken "an incredible amount of time and cost"
20 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
21 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
22 individual appraisal of each [condo] parcel would have been cost and time prohibitive").
23
24

25 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
26 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
27 value, fails to calibrate the model structure to determine the contribution of the individual
28 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
2
3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
8
9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
11
12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
15
16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
17
18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
27

28
29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
30
31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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33

34
35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36
37 relationship between characteristics that affect value, and to calibrate that model to specify how
38
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
40
41 21). The purpose is to rationally determine what characteristics will create value, and by how much.
42
43 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
44
45 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
46
47 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
include explanation of the model specification, data requirements, calibration methods, and
mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
(o). Without this reporting, it is impossible for users of the appraisal report to determine how the
appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
2
3 and appeals the Examiner’s denial of that motion.
4

5 58. Finally, Taxpayer’s property is not appurtenant—or even in close
6
7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
8
9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
10
11 close proximity to the property on which expert testimony was given”). And, as described
12
13 above, the special assessment is overstated because the Final Study makes no attempt to
14
15 determine general benefits, existing amenities for Taxpayer’s specific property, or special
16
17 detriments. In addition, it is speculative due to the fact that, as of October 2019,
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19 improvements were not in place—and, in fact, much of the waterfront is a construction
20
21 zone following removal of the viaduct and now Pier 58 demolition. Under these
22
23 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
24
25 Mr. Macaulay at the very least should have discounted the special benefit estimates or
26
27 waited to perform the Study until the improvements were at least close to complete.
28

29 **Erroneous Pre-Improvement Valuation**

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31 59. The proposed final assessment erroneously overstates the pre-improvement
32
33 value of Taxpayer’s property as of October 1, 2019 and, as a result, overstates the special
34
35 benefit to the Taxpayer’s property.
36

37 60. The City’s Final Study was used to compute the proposed final assessment of
38
39 Harbor Steps’ property. The City’s Study purportedly uses data from the King County
40
41 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
42
43

44
45 ¹¹ *See, e.g.*, Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment’s online “eReal
47 Property” search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$127,557,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$104,290,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 122.3% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
9

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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$105,557,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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39 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
45
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47

1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
4
5 66.
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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
11

12
13 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
14 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.50% (low)
15 and 3.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
16 percentages (2.50% and 3.25%) to increase retail and parking. He then uses this
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.
19
20

21
22 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition but changes
24 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.97% (low scenario,
25 creating a bigger value increase) and 4.00% (high scenario, creating a lower value increase).
26
27

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29 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
30 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.75% due
31 to the LID Improvements.
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33

34
35 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
36 and capitalization rates. When asked precisely what the basis is for his special benefit
37 percentage increases to revenue for each commercial property, he could not point to
38 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
39 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
2
3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
4
5 the basis for his belief that certain factors—liked increased connectivity—will increase
6
7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
8
9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
10
11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12
13 sources equally even though there was no separate analysis done for food and beverage or
14
15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
16
17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
18
19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
20
21 properties.

22
23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
26
27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
32
33 Before and After conditions, but there is no way to understand how adjustments were made
34
35 because he “didn’t do a separate sales comparison approach where we showed adjustments
36
37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
38
39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

42
43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
46
47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3
4 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
5 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
6
7 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
8
9 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
10
11 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
12
13 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
14
15 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
16
17 special because it is arbitrarily assigned; and it is too small to realistically be supported by
18
19 appraisal techniques.
20
21

22 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
23
24 any seller or purchaser that the price was higher because of the LID improvements."
25
26 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
27
28 identified any seller or buyer, or any particular property where the existence of the LID
29
30 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
31
32 explained that the property has not increased rental rates or revenue due to the forthcoming
33
34 LID Improvements, because, among other reasons (and apart from COVID), the
35
36 improvements ABS believes will generate value do not exist and will not for a number of
37
38 years to come. There are no comparable sales because the LID Improvements are not in
39
40 place, nor will they be until the end of 2024 if completed on schedule.
41

42 72. The fair market value of Harbor Steps' property has not changed due to
43
44 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
45
46 benefited from installation of new water main and fire hydrant where it was already
47

1 adequately supplied with water and afforded adequate fire protection). And in any event,
2
3 any value attributable to removal of the viaduct was to be excluded from the assessment
4
5 calculation.

6
7 73. There is no special benefit to the Harbor Steps because its apartment demand
8
9 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
10
11 value of Harbor Steps' property by drawing visitors away towards improvements that do not
12
13 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
14
15 App. 493 (testimony of owners' expert that LID actually diminished value of property was
16
17 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
18
19 will be harmed by the LID improvements because the Overlook Walk and Union Street
20
21 connection improvements will likely direct foot traffic away from the Harbor Steps and
22
23 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
24
25 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
26
27 Steps already has a high-quality connectivity to the waterfront and no data was presented to
28
29 justify a value lift based on additional connection points several blocks away. On cross-
30
31 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
32
33 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
34
35 would generally support additional connection points to the waterfront amenities. *See*
36
37 6/23/2020 Hrg. Tr. at 48-50.

38
39 74. Moreover, the assessment formula is an attempt to distribute costs that do not
40
41 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
42
43 "merely a mathematical model that distributes costs").

44
45 75. The Special Benefit Study fails to address whether the \$346,000,000
46
47 estimated LID project cost takes into account the investment that would have occurred in the

1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

5
6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14
15 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
16 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
17 notice procedures because hotel property owners only received notice that their real estate
18 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
19
20

21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
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3 be redone to correct for this error.

4
5 78. The proposed final assessment substantially exceeds the special benefit to the
6
7 property and is grossly disproportionate to similarly situated properties within the LID. For
8
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
10
11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

13
14
15 79. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
18
19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20
21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
22
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
26
27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
34
35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
38
39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
40
41 committing to reconstruction of Pier 58 and major street improvements without
42
43 environmental review, or the City's Final Special Study has improperly included and is
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45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
46
47 not get built. Either way, it is faulty process.

Due Process Rights

80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761 (2010).

81. The LID statute specifies that cities must mail notices giving the time and place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at 956. The key inquiry is whether the owner had sufficient time to gather evidence (and secure their own appraisal), evaluate proportionality of the proposed assessments, and whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient for anybody to get an appraisal”).

82. The City’s Notice of Assessment was sent on December 30, 2019. And the Final Special Benefit Study has only been available for public review since January 7, 2020. Due to this short time frame, Harbor Steps requested a prehearing conference and scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner

1 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
2
3 the Examiner's Recommendation: I.B.
4

5 **VII. Relief Requested**
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7 Harbor Steps respectfully requests that the City Council:
8

- 9 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection
10 and:
11
12 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 20, 2019; or
14
15 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
16 proposed final assessment to \$0 (zero), or such amount as Taxpayer
17 establishes at the hearing in this matter; or
18
19 c. Remand the matter to the Hearing Examiner or City appraiser to
20 recalculate and reduce Taxpayer's assessment using recognized
21 appraisal techniques consistent with USPAP and:
22
23 i. Excluding any property value increase attributable to viaduct
24 removal and other planned WSDOT Improvements;
25
26 ii. Taking into account the effects of COVID-19 pandemic on the
27 value of Taxpayers property and other relevant developments
28 since October 2019;
29
30 iii. Accounting for and excluding (1) any special benefits from
31 existing or planning improvements that already provide
32 similar benefits to Taxpayers property, and (2) any special
33 detriments from construction and other anticipated LID-
34 related disamenities;
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- 1 iv. Accounting for and including only those actual benefits
2 anticipated to accrue to Taxpayer's property based on its
3 location relative to Pier 58, Overlook Walk, and the
4 Promenade, and specific elements of the LID Improvements;
5
6 v. Discounting anticipated special benefits to present value,
7 based on reliable estimates regarding when special benefits
8 will start accruing following completion of the LID
9 Improvements; and
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11 vi. Accounting for such other issues specific to Taxpayer's
12 property relevant to calculation of such assessment; and
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21 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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PERKINS COIE LLP

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FILED

4:14 pm, Tue, September 22, 2020

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Subject: RE: Waterfront LID Appeal for Case No. CWF-0426 CORRECTED
Date: Tuesday, September 22, 2020 3:53:17 PM
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CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0426 **CORRECTED**.

This file replaces the prior zip file sent for CWF-0426.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,

Kimball Mullins

Zip enclosures:

CWF-0426

A – Master List of Evidence

B – B-228 Harbor Steps NE

C – Discounting for CWF-0426

Supplemental Decl. to Attachment C

Kimball Mullins | Perkins Coie LLP

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From: Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>

Sent: Tuesday, September 22, 2020 2:46 PM

To: cityclerkfiling@seattle.gov

Cc: [Lutz, Jerry \(BEL\) <JLutz@perkinscoie.com>](mailto:JLutz@perkinscoie.com); [Lin, Megan \(BEL\) <MLin@perkinscoie.com>](mailto:MLin@perkinscoie.com); [Starkey, Byron \(SEA\) <ByronStarkey@perkinscoie.com>](mailto:ByronStarkey@perkinscoie.com); [Stillwell, Jacob \(SEA\) <JStillwell@perkinscoie.com>](mailto:JStillwell@perkinscoie.com); [Carmody, Jane \(SEA\) <JCarmody@perkinscoie.com>](mailto:JCarmody@perkinscoie.com); [Mahon, Robert \(SEA\) <RMahon@perkinscoie.com>](mailto:RMahon@perkinscoie.com); [Mullins, Kimball \(SEA\) <KPMullins@perkinscoie.com>](mailto:KPMullins@perkinscoie.com); [Campbell, Karen \(BEL\) <KCampbell@perkinscoie.com>](mailto:KCampbell@perkinscoie.com)

Subject: Waterfront LID Appeal for Case No. CWF-0426

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0426.

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Thank you,
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CWF-0426

A – Master List of Evidence

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CWF-0426 Appeal Notice

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Harbor Steps Northeast**

Map Nos.:	B-228
Tax Parcel Nos.:	197620-0075
Property key:	4319
Address	1301 1st Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions, view protection easement in favor of property o
Previous sale:	N/A
Proximity to project:	400± feet to waterfront park
Ownership:	EQR-Harbor Steps, LLC
Description:	14,28 SF site on the northwest corner of 1st Avenue and University Street unit apartment building constructed in 2000, with 26,824 SF of retail spac parking structure.

INCOME ANALYSIS Before	Year Built	2000
	Parking	170

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	20		0	\$2,020	\$0.00
1-bedroom	84		0	\$2,600	\$0.00
2-bedroom	66		0	\$3,475	\$0.00
Total apartments	170	0	0	\$2,871	\$0.00
	GBA	NRA			
Retail	26,824	26,824		SF NRA @	\$35.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	26,824	26,824			
Parking Area/Stalls	39,354	0	170	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	313,955	202,736		SF NRA @	\$36.83
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			

Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	27.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$9.65	27.2%
Net operating income				
Indicated Value				
Land Value				
		14,280	SF @	\$1,700.00
Residual Improvements				
		202,736	SF NRA @	\$509.44
		313,955	SF GRA @	\$328.97

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,700.00	\$24,276,000	\$103,281,000	N/A
With LID				
Scenario A1	\$1,746.75	\$24,944,000	\$105,850,000	2.49%
Scenario A2	\$1,746.75	\$24,944,000	\$106,821,000	3.43%
Scenario B1	\$1,746.75	\$24,944,000	\$106,790,000	3.40%
Scenario B2	\$1,746.75	\$24,944,000	\$105,802,000	2.44%
Percent change in land value	2.75%		\$106,316,000	2.94%
Summary				
Without LID	\$1,700.00	\$24,276,000	\$103,281,000	N/A
With LID	\$1,746.75	\$24,944,000	\$106,125,000	2.75%

Harbor Steps Northeast

Scenario A: Rental and Vacancy Rate Changes

owner (per AFN 20130517-1652)

, zoned DMC 240/290-440, 170-
e and 170-stall basement

		INCOME ANALYSIS After		Year Built	2000
		Potential Gross Income			
			Units	SF NRA	
	\$484,800	Studio	20	0	
	\$2,620,800	1-bedroom	84	0	
	\$2,752,200	2-bedroom	66	0	
	\$5,857,800	Total apartments	170	0	
			GBA	NRA	
per SF =	\$938,840	Retail	26,824	26,824	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$938,840	Subtotals	27,164	26,824	
/month	\$612,000	Parking Area/Stalls	39,354	0	170
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$58,578	Other			
/SF =	\$7,467,218	Total Bldg Area & Gross Income	313,955	202,736	SF
	(\$234,312)	Less: Vacancy/credit allowance			of apartment
	(\$46,942)				of commercial
	\$0				of parking
	(\$281,254)	Total vacancy/credit allowance			
	\$7,185,964	Effective gross income			
		Less: Operating expenses			
	(\$359,298)	Management fee @	5.0%		of total EGI

	\$0
	(\$1,518,342)
	(\$78,489)
\$11,507	(\$1,956,129)
	\$5,229,835
Capitalized @	4.10%
Indicated value	\$127,556,958
(R) #####	
Per DU	\$750,335
per SF =	\$24,276,000
per SF =	\$103,281,000

Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	27.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		

Indicated Value	
Land Value	
	14,280
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit	% Change	
\$127,557,000	N/A	N/A	
			Per DU
\$130,794,000	\$3,237,000	2.54%	\$19,041
\$131,765,000	\$4,208,000	3.30%	\$24,753
\$131,734,000	\$4,177,000	3.27%	\$24,571
\$130,746,000	\$3,189,000	2.50%	\$18,759
\$127,557,000	N/A		
\$131,069,000	\$3,512,000	2.75%	\$20,659

Harbor Steps Northeast
Scenario B: Overall Capitalization R

	Per DU	Per DU	Low	High
	\$2,071	\$2,086	2.50%	3.25%
	\$2,665	\$2,685	\$496,920	\$500,556
	\$3,562	\$3,588	\$2,686,320	\$2,705,976
	\$2,943	\$2,965	\$2,821,005	\$2,841,647
			\$6,004,245	\$6,048,179
			2.50%	3.25%
• NRA @	\$35.88	\$36.14	\$962,311	\$969,352
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$962,311	\$969,352
	Per Month	Per Month	2.50%	3.25%
stalls @	\$307.50	\$309.75	\$627,300	\$631,890
	Per SF	Per SF	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$60,042	\$60,482
• NRA @	\$37.75	\$38.03	\$7,653,898	\$7,709,903
revenue	4.00%	4.00%	(\$240,170)	(\$241,927)
revenue	5.00%	5.00%	(\$48,116)	(\$48,468)
revenue	0.00%	0.00%	\$0	\$0
			(\$288,285)	(\$290,395)
			\$7,365,613	\$7,419,508
			(\$368,281)	(\$370,975)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	

	\$0	\$0
	(\$1,556,300)	(\$1,567,688)
	(\$78,489)	(\$78,489)
	(\$2,003,070)	(\$2,017,152)
	\$5,362,543	\$5,402,356
Capitalized @	4.10%	4.10%
	\$130,793,741	\$131,764,776
(R)	\$130,794,000	\$131,765,000
Per DU	\$769,376	\$775,088
% change	2.54%	3.30%
SF @ \$1,746.75 per SF =	\$24,944,000	\$24,944,000
	\$105,850,000	\$106,821,000
Per SF NRA	\$522.11	\$526.90
	\$3,237,000	\$4,208,000

2.75%

Parking operating expenses @
Apartment operating expenses
Structural maintenance/reserve
Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements
Special Benefit Summary

ates Changes

Year Built 2000						
Units	SF NRA	Total NRA	Rent	Rent/SF		
20	0	0	\$2,020	\$0.00		\$484,800
84	0	0	\$2,600	\$0.00		\$2,620,800
66	0	0	\$3,475	\$0.00		\$2,752,200
170	0	0	\$2,871	\$0.00		\$5,857,800
26,824	26,824		SF NRA @	\$35.00	per SF =	\$938,840
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
27,164	26,824					\$938,840
39,354	0	170	stalls @	\$300.00	/month	\$612,000
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$58,578
313,955	202,736		SF NRA @	\$36.83	/SF	\$7,467,218
4.0% of apartment revenue						(\$234,312)
5.0% of commercial revenue						(\$46,942)
0.0% of parking revenue						\$0
						(\$281,254)
						\$7,185,964
5.0% of total EGI						(\$359,298)

0.0%	of parking EGI	\$0
27.0%	of apartment EGI	(\$1,518,342)
\$0.25	per SF of GBA	(\$78,489)
		(\$1,956,129)
		\$5,229,835

	Low	High
Capitalized @	3.97%	4.00%
Indicated Value	\$131,733,886	\$130,745,882
(R)	\$131,734,000	\$130,746,000
Per DU	\$774,906	\$769,094
% change	3.27%	2.50%
14,280 SF @ \$1,746.75 per SF =	\$24,944,000	\$24,944,000
	\$106,790,000	\$105,802,000
per SF NRA	\$526.74	\$521.87
	\$4,177,000	\$3,189,000

2.75%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0426	Harbor Steps NE Tower -- 1301 1st Avenue	1301 1st Avenue	1976200075

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$3,512,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$472,115

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0426	Harbor Steps NE Tower -- 1301 1st Avenue	1301 1st Avenue	1976200075

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$127,557,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$105,557,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C)) Corrected FMV for Assessment			\$92,362,375

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$3,512,000		
H/A	As Percentage of Final City Before Value	2.753%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$2,542,994		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$872,073	\$239,616
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$341,853	\$93,930

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0426

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-Harbor
Steps LLC OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200075

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
40
41
42

43 **I. Taxpayer / Appellant**
44

45 The Taxpayer filing this appeal is:
46
47

1 Eqr-Harbor Steps LLC
2 Eqr-Re Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
7

8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20 Robert L. Mahon, WSBA No. 26523
21 RMahon@perkinscoie.com
22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
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27

28 **III. Statement of Taxpayer's Interest**
29

30 Harbor Steps owns the property that is subject to the proposed final assessment
31 described in Section IV. The property at issue is a multifamily residential apartment building
32 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
33 downtown retail core to the waterfront amenities.
34
35

36 The basis of the proposed assessment is a Final Special Benefit/Proportionate
37 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
38 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
39 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
40 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.
24

25 **IV. Matter Under Appeal**

26 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:
31

32
33 King County Parcel No. 1976200075
34 Site Address: 1301 1st Ave., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$1,376,078.86
36

37 See Examiner’s Recommendation at 61-62, 105. To avoid repetition, Harbor Steps
38
39 incorporates the evidence and arguments raised before the Hearing Examiner into this
40
41 appeal. In particular, Harbor Steps points the City Council to Taxpayer’s initial Appeal
42
43 Petition, *Frye* motion, Closing Brief submitted at the close of its case-in-chief (dated
44
45
46
47

1 4/16/2020), and supplemental Closing Statement submitted at the close of the City's case-in-
2 chief (dated 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 105, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22, II.23,
8 II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3,
9 IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7, IV.C.8, IV.C.9,
11 IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29

30
31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$3,512,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25

26
27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34
35 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
36 or conjectural"
37

38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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7
8 **Legal Requirement:** Actual and measurable special benefit
9

10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
4
5

6 **V. Standard of Review**

7 “When considering the assessment roll, the city council sits ‘as a board of
8 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
9 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
10 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
11 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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18 The proposed assessments are presumed correct, “unless overcome by clear, cogent
19 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
20 than the heightened presumption of correctness on judicial appeal because “applying these
21 elevated standards at the municipal hearing would afford unwarranted deference to a report
22 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
23 presumption is not evidence and its efficacy is lost when the other party adduces credible
24 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
25 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
26 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
27 presented credible evidence showing that the City’s proposed assessment is arbitrary,
28 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
29 to the City to prove the assessments are actual, measurable, special, non-speculative and
30 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

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7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV. C.7–9. This is contrary to law.
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6 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
7 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
8 IV.C.11.
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13 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
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15 4. RCW 35.43.040 provides cities and towns authority for ordering local
16 improvements and for levying and collecting special assessments “on property specially
17 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
18 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
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21 5. No analysis of general benefits. Special assessments have been “held valid
22 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
23 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
24 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
25 they are for the construction of local improvements that are appurtenant to specific land and
26 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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29 6. Harbor Steps' property is not specially benefited by the LID Improvements.
30 The primary purpose and effect of the LID Improvements are to benefit “members of the
31 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
32 library is for the benefit of the members of the whole community individually and
33 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
34 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
3 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
4 is proximity to their places of employment and other amenities downtown. See 3/5/2020 (E.
5 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
6 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
7 benefit from increased connectivity from being four to five blocks from the Overlook Walk
8 even though the properties currently have direct access to the waterfront via the Harbor
9 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; see also B. Scott Decl., ¶ 7. Mr. Leigh testified that
10 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
11 measurable portion of waterfront-bound pedestrian traffic moved north to the market. See
12 also B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
13 traffic being pulled away towards new amenities). Even if the City could assess for a view
14 change (and it has promised not to assess for viaduct removal), the fair market value of
15 Harbor Steps' property has not changed because the LID Improvements have not improved
16 the property's waterfront view or access to the waterfront, nor will they when the City
17 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
38 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
39 owners for removal and cleanup of underground storage tanks discovered during the
40 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
41 testified that property values may in fact be negatively impacted by the LID Improvements
42 due to loss of parking, increased traffic and noise, and increased potential for crime,
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1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. See 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
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5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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17 10. Likewise, there was no analysis of the risks associated with disamenities such
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19 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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21 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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23 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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25 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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27 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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29 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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31 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
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33 the maintenance agreement. *Id.* at 13:4-14:2.
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35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

benefits calculations are inherently speculative, Washington's eminent domain statute specifically allows condemnees to postpone special benefits assessments until improvements are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).

Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy Greenway, the Greenway district "significantly" lagged in value). For these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation: Sections II.25, IV.B.8, and IV.B.9.

12. Special benefit estimate is speculative. When calculating a special benefit, "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324 P.2d 1078 (1958)).

13. Assuming without conceding that one day, the City's planned LID Improvements might increase the value of neighboring properties to some extent, that potential benefit is many years away and speculative. While appraisers tolerate some degree of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is far too speculative to satisfy industry practices and standards.

14. Although LIDs are sometimes finalized prior to completion of improvements, this is typically just six month or a year prior, and the assessments are otherwise supported by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here will not be realized for four or five years. In the meantime, there is permitting risk,

1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
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5 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
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7 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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9 testified: "I just don't know what the market value would be as of the date the project would
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11 be finally constructed" because "[t]here could be a lot of elements in the market that did
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13 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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15 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
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17 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
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23 accrue to these properties in four years (if any), we do know that there are no actual benefits
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25 now. The LID improvements provide no immediate special benefit to property owners
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27 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
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29 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
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31 sewer system for future users). For example, notwithstanding the questionable hypothesis
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33 that apartments will benefit from an expected increase in tenant interest when the
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35 improvements are complete, it is undisputed that tenants are not coming in larger numbers
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37 and paying higher rental rates now because of something happening five years down the
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39 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
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41 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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43 16. Further, there are no "plans and specifications" on file with the Clerk's Office
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45 for the LID Improvements, and it is unlawful to move to final assessments without such
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47 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*

1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
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5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.*, 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
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27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
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39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
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43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
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4 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
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32 26. But even the assumption that the LID improvements would deliver benefits
33 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
34 on. Rather, those studies demonstrate that a discount period of five years is conservative.
35 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
36 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
37 indicates that during the construction period, the Greenway district "significantly" lagged in
38 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
39 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
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10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$330,830.40. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$129,685.52.
20

21 28. Attachment C includes two Excel spreadsheets applying these discounting
22 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
23 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
24 demonstrates that discounting the City's hypothetical October 2019 special benefits to
25 present value would reduce Taxpayer's assessment to \$472,115, exclusive of any other
26 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
27 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
4
5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
6
7 the time it takes for the improvements to capture property value.) After such reductions,
8
9 Taxpayer's assessment would be just \$341,853 (for the 5-year discount) or \$93,930 (for the
10
11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
12
13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
14
15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
16
17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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20
21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
22
23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
24
25 Wn.2d at 97.

26
27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
28
29 testimony from the owner, where the objector's expert establishes that the assessment was
30
31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
32
33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

34
35 31. The City's appraiser purports to utilize the income method of valuation but
36
37 relied on inaccurate revenue and market data, as discussed further below.

38
39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
42
43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
44
45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
46
47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
2
3 And no City witness could explain how specific adjustments were made to these sales to
4
5 account for value increases due to the hypothesized Before and After Improvements. For this
6
7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
8

9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
11
12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
13
14 Improvements, which WSDOT had independently committed to fund. However, Mr.
15
16 Macaulay did not calculate the actual market value of LID properties in October 2019 and
17
18 did not separately analyze the hypothetical increase to property values attributable to
19
20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
21
22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
23
24 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
25
26 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
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28 3-4. Without any documented basis or support, Mr. Macaulay simply “ma[de] a judgment a
29
30 call” on what occupancy and rates would have been for the commercial properties assuming
31
32 all of the WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-
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34 130:11. For example, Mr. Macaulay surmised that Brian O’Connor’s conclusion that the
35
36 “Before” value for Harbor Steps was overstated by \$88M was perhaps due to the fact that
37
38 Mr. O’Connor was looking at current income numbers and not accounting for the value of
39
40 the “Before” conditions. However, when asked whether the value of the of the “Before”
41
42 conditions is lower or higher than \$88M, Mr. Macaulay had no clue because he did not do
43
44 this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright omission precludes any
45
46 independent evaluation of the true market “Before” values. *See* 6/23/2020 Hrg. Tr. at 44:25-
47

1 45:9. It also fails to meet professional appraisal standards; if an appraiser uses current sales
2 data to infer values, then the appraiser must explain how he analyzed that data and other
3 information to come up with the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at
4 128:1-130:4. This includes not just removal of the viaduct, but also other road, pedestrian
5 and landscaping improvements WSDOT had already committed to make.
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10 34. However, because Mr. Macaulay testified that he did include some WSDOT-
11 related value-lift in the “Before” values, it follows that part of the special assessment
12 improperly is based on value attributable to the WSDOT Improvements. As shown by
13 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
14 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
15 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
16 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
17 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
18 to properly exclude the value of Before Improvements from the assessments. For these
19 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
20 Sections II.19, II.29, and IV.B.11(a)(ii)
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32 35. Special benefits were assigned rather than measured. Mr. Macaulay
33 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
34 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
35 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
36 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
37 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
38 on hypothesized very small increases to property revenue and very small reductions to cap
39 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.
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1 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
2
3 “professional judgment” that are neither shown nor replicable.
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5 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
6 Recommendation: Sections II.19 and IV.B.11(a)(iii).
7

8 37. Special benefit falls within margin of error. The Final Special Benefit Study
9 applies an estimated value enhancement of less than 4%, which is generally within the
10 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
11 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
12 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
13 of one another, this difference is considered reasonable as it falls within the standard margin
14 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
15 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
16 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
17 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
18 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
19 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
20 “Before” values are also based on a hypothetical that adds some unstated incremental value
21 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
22 micro-value differences between hypothetical conditions that are so similar (the WSDOT
23 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
24 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
25

26 38. Even if it were possible to accurately tease out such a miniscule hypothetical
27 value change due to improvements coming five years later, experts testified that there is no
28 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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1 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
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3 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
4
5 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
6
7 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
8

9 39. No analysis of value increase attributable to individual components of the
10 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
11
12 percentage difference between hypothetical Before and After conditions. Throughout his
13
14 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
15
16 descriptions in the Addenda even though he testified that he relied on these to calculate
17
18 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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20 someone might be able to determine how he attributed value to After conditions described in
21
22 the Addenda, he answered that that was “not the scope of the assignment” because he was
23
24 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
25
26 that the six components were not actually a continuous project, that he was viewing them
27
28 together because the City asked him to, and that if he were to view them independently,
29
30 there was a low probability that properties in the north would specially benefit from
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32 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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34 40. Not only did he fail to analyze benefits from each of these non-contiguous
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36 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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38 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
39
40 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
41
42 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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44 objectives that guided regulators’ assessment of architectural plans for buildings along a
45
46 “signature street” were so vague that they amounted to ad hoc review based on the
47

1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.

22 41. Special assessment is not supported by comparable studies, data or reports.
23 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
24 that the LID Improvements will lead to meaningfully increased real estate values for
25 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
26 comparable sales or information from the "over twenty-five studies and reports" to arrive at
27 very precise special benefit increases for residential and commercial combined properties,
28 including Taxpayer's property. For example, although Mr. Macaulay stated that no single
29 report or study was directly on point due to the unique nature of the LID Improvements (*see*,

41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
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3 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
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5 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
6
7 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
8
9 for similarities and differences between these improvements and the comparable parks he
10
11 looked at).

12
13 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
14
15 assignment of incremental increase of 0.5% to 4% to property values within the LID.
16
17 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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19 research misinterprets his work in critical ways, including because the LID Improvements
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21 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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23 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
24
25 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
26
27 related value increases are in fact smaller; that estimated increases are “best guesses” rather
28
29 than predictions of property value increases in a particular city; and that percentages do not
30
31 account for diminishing returns after taking into account water views, which would be the
32
33 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
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35 topography grants most properties in downtown a water view.

36
37 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
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39 that this was just one source of information that was not entirely relevant because, among
40
41 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
42
43 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
44
45 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
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47 180:2 (explaining that for purposes of “drawing boundaries around a park” he was

1 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
2
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
4
5 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
6
7 significantly beyond that which the park study indicated (even if it was legitimate to use the
8
9 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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11 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
12
13 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

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15 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
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17 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
18
19 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
20
21 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
22
23 materials, it was clearly an important—if not *the* most important—source of information for
24
25 estimating special benefits (especially with respect to the condos).⁷ No City witness
26
27 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
28
29 parcel-by-parcel analysis.

30
31 45. The destination parks discussed in the Final Special Benefit Study do not
32
33 provide reliable, comparable, and valid support for the calculation of special assessments
34
35 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
36
37 Study were funded by a LID. And in virtually all of those cases, the park improvements
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41
42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43
44 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
45
46 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
47
Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
park (or streetscape) improvement—other studies estimated premiums for real estate only much
closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
2
3 two or three blocks of the park.

4
5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
7
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9
10 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
11
12 dissimilar parks in other cities,⁸ making the methodological application to the LID
13
14 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
15
16 conclusion that there would be *no new net visitors* from downtown residents as a result of
17
18 the LID Improvements and could not explain how this impacted his condo analysis.
19
20 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
21
22 Property Values" primarily focused on whether the benefits accrue to the larger community
23
24 rather than properties adjacent to the park. And the 2014 New York City Department of
25
26 Transportation study is not based on real estate transactions and market sales and fails to
27
28 substantiate any link between increased retail sales and property values. Moreover, this
29
30 study only looked at impact either directly abutting the streetscape improvement, or a couple
31
32 hundred feet for plaza-like improvements.
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34
35 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
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37 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
38
39 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
2
3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
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9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
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11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
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13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

16
17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
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21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
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35 Gordon uses in doing his limited restricted report").

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37 52. But the difference is not only in reporting—mass appraisal techniques must
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39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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43 parcel approach:

44
45 The mass appraisal technique is an appraisal method used to evaluate
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47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.
3

4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
5

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7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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23 54. Regardless of client direction, Mr. Macaulay is required to comply with
24 USPAP. So, if as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
25 economically feasible because it would have taken "an incredible amount of time and cost"
26 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
27 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
28 individual appraisal of each [condo] parcel would have been cost and time prohibitive").
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35 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
36 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
37 value, fails to calibrate the model structure to determine the contribution of the individual
38 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
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9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
15
16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
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18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
27

28
29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
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37 relationship between characteristics that affect value, and to calibrate that model to specify how
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39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
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41 21). The purpose is to rationally determine what characteristics will create value, and by how much.
42
43 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
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45 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
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47 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
include explanation of the model specification, data requirements, calibration methods, and
mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
(o). Without this reporting, it is impossible for users of the appraisal report to determine how the
appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
2
3 and appeals the Examiner's denial of that motion.
4

5 58. Finally, Taxpayer's property is not appurtenant—or even in close
6 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
7 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
8 close proximity to the property on which expert testimony was given”). And, as described
9 above, the special assessment is overstated because the Final Study makes no attempt to
10 determine general benefits, existing amenities for Taxpayer's specific property, or special
11 detriments. In addition, it is speculative due to the fact that, as of October 2019,
12 improvements were not in place—and, in fact, much of the waterfront is a construction
13 zone following removal of the viaduct and now Pier 58 demolition. Under these
14 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
15 Mr. Macaulay at the very least should have discounted the special benefit estimates or
16 waited to perform the Study until the improvements were at least close to complete.
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29 **Erroneous Pre-Improvement Valuation**

30 59. The proposed final assessment erroneously overstates the pre-improvement
31 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
32 benefit to the Taxpayer's property.
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36 60. The City's Final Study was used to compute the proposed final assessment of
37 Harbor Steps' property. The City's Study purportedly uses data from the King County
38 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
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45 ¹¹ *See, e.g.*, Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment's online “eReal
47 Property” search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$127,557,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$104,290,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 122.3% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$105,557,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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39 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
45
46
47

1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
4
5 66.
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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
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13 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
14 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.50% (low)
15 and 3.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
16 percentages (2.50% and 3.25%) to increase retail and parking. He then uses this
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.
19
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21
22 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition but changes
24 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.97% (low scenario,
25 creating a bigger value increase) and 4.00% (high scenario, creating a lower value increase).
26
27

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29 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
30 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.75% due
31 to the LID Improvements.
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35 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
36 and capitalization rates. When asked precisely what the basis is for his special benefit
37 percentage increases to revenue for each commercial property, he could not point to
38 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
39 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
4
5 the basis for his belief that certain factors—liked increased connectivity—will increase
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7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
8
9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12
13 sources equally even though there was no separate analysis done for food and beverage or
14
15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
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17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
18
19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
20
21 properties.

22
23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
26
27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
32
33 Before and After conditions, but there is no way to understand how adjustments were made
34
35 because he “didn’t do a separate sales comparison approach where we showed adjustments
36
37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
38
39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

42
43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
46
47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3
4 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
5 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
6
7 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
8
9 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
10
11 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
12
13 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
14
15 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
16
17 special because it is arbitrarily assigned; and it is too small to realistically be supported by
18
19 appraisal techniques.
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21

22 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
23 any seller or purchaser that the price was higher because of the LID improvements."
24
25 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
26
27 identified any seller or buyer, or any particular property where the existence of the LID
28
29 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
30
31 explained that the property has not increased rental rates or revenue due to the forthcoming
32
33 LID Improvements, because, among other reasons (and apart from COVID), the
34
35 improvements ABS believes will generate value do not exist and will not for a number of
36
37 years to come. There are no comparable sales because the LID Improvements are not in
38
39 place, nor will they be until the end of 2024 if completed on schedule.
40
41

42 72. The fair market value of Harbor Steps' property has not changed due to
43 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
44
45 benefited from installation of new water main and fire hydrant where it was already
46
47

1 adequately supplied with water and afforded adequate fire protection). And in any event,
2
3 any value attributable to removal of the viaduct was to be excluded from the assessment
4
5 calculation.

6
7 73. There is no special benefit to the Harbor Steps because its apartment demand
8
9 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
10
11 value of Harbor Steps' property by drawing visitors away towards improvements that do not
12
13 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
14
15 App. 493 (testimony of owners' expert that LID actually diminished value of property was
16
17 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
18
19 will be harmed by the LID improvements because the Overlook Walk and Union Street
20
21 connection improvements will likely direct foot traffic away from the Harbor Steps and
22
23 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
24
25 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
26
27 Steps already has a high-quality connectivity to the waterfront and no data was presented to
28
29 justify a value lift based on additional connection points several blocks away. On cross-
30
31 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
32
33 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
34
35 would generally support additional connection points to the waterfront amenities. *See*
36
37 6/23/2020 Hrg. Tr. at 48-50.

38
39 74. Moreover, the assessment formula is an attempt to distribute costs that do not
40
41 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
42
43 "merely a mathematical model that distributes costs").

44
45 75. The Special Benefit Study fails to address whether the \$346,000,000
46
47 estimated LID project cost takes into account the investment that would have occurred in the

1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

5
6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
15 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
16 notice procedures because hotel property owners only received notice that their real estate
17 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
18
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21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
2
3 be redone to correct for this error.

4
5 78. The proposed final assessment substantially exceeds the special benefit to the
6
7 property and is grossly disproportionate to similarly situated properties within the LID. For
8
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
10
11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

13
14
15 79. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
18
19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20
21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
22
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
26
27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
34
35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
38
39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
40
41 committing to reconstruction of Pier 58 and major street improvements without
42
43 environmental review, or the City's Final Special Study has improperly included and is
44
45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
46
47 not get built. Either way, it is faulty process.

Due Process Rights

80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761 (2010).

81. The LID statute specifies that cities must mail notices giving the time and place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at 956. The key inquiry is whether the owner had sufficient time to gather evidence (and secure their own appraisal), evaluate proportionality of the proposed assessments, and whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient for anybody to get an appraisal”).

82. The City’s Notice of Assessment was sent on December 30, 2019. And the Final Special Benefit Study has only been available for public review since January 7, 2020. Due to this short time frame, Harbor Steps requested a prehearing conference and scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner

1 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
2
3 the Examiner's Recommendation: I.B.
4

5 **VII. Relief Requested**
6

7 Harbor Steps respectfully requests that the City Council:
8

- 9 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection
10 and:
11
12 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 20, 2019; or
14
15 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
16 proposed final assessment to \$0 (zero), or such amount as Taxpayer
17 establishes at the hearing in this matter; or
18
19 c. Remand the matter to the Hearing Examiner or City appraiser to
20 recalculate and reduce Taxpayer's assessment using recognized
21 appraisal techniques consistent with USPAP and:
22
23 i. Excluding any property value increase attributable to viaduct
24 removal and other planned WSDOT Improvements;
25
26 ii. Taking into account the effects of COVID-19 pandemic on the
27 value of Taxpayers property and other relevant developments
28 since October 2019;
29
30 iii. Accounting for and excluding (1) any special benefits from
31 existing or planning improvements that already provide
32 similar benefits to Taxpayers property, and (2) any special
33 detriments from construction and other anticipated LID-
34 related disamenities;
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- iv. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - v. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vi. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and

2. Grant such further relief as the City Council deems just and proper.

1
2 DATED: September 22, 2020
3
4

PERKINS COIE LLP

By:



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7
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28 Attorneys for Eqr-Harbor Steps LLC
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3:33 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0426
Date: Tuesday, February 16, 2021 3:21:19 PM
Attachments: [NE Harbor Steps Amended LID Appeal before City.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
NE Harbor Steps Amended LID Appeal before City.pdf

Kimball Mullins | Perkins Coie LLP

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
18

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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0426

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200075

32
33 EQR-HARBOR STEPS LLC (“Taxpayer”) files this amended appeal pursuant to
34 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
35 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
36 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
37 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
38 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
39 Recommendation issued February 1, 2021.
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1 **I. Eqr-Harbor Steps LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 EQR-HARBOR STEPS LLC
6 Eqr-RE Tax Dept.
7 PO Box 87407 (27193)
8 Chicago, IL 60680-0407
9

10 **II. Eqr-Harbor Steps LLC's Representatives**

11 EQR-HARBOR STEPS LLC'S representatives in this matter are:

12
13
14
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23 **III. Statement of Eqr-Harbor Steps LLC's Interest and Incorporation of Prior**
24 **Arguments**

25
26 EQR-HARBOR STEPS LLC owns the property that is subject to the proposed final
27
28 assessment described in Section IV.
29

30 Eqr-Harbor Steps LLC is amending its appeal as authorized in City of Seattle
31
32 Resolution 31979 to include additional arguments relevant to the revised Final
33
34 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
35
36 2020, Eqr-Harbor Steps LLC timely filed an objection to the assessment, which was based
37
38 on the Final Study. Eqr-Harbor Steps LLC further timely filed an appeal of the Hearing
39
40 Examiner's 2020 recommendations to the City Council. Eqr-Harbor Steps LLC maintains
41
42 and incorporates all objections and arguments raised in its appeal filed with the City Clerk
43
44 on September 22, 2020. This amendment is a supplement is to be read together with Eqr-
45
46 Harbor Steps LLC's appeal filed on September 22, 2020. Eqr-Harbor Steps LLC
47

1 incorporates by reference all filings, evidence, and pleadings filed by any party before the
2 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
3 records pertaining to the November 2020 through February 2021 remand hearing ordered by
4 Council.
5
6
7

8
9 **IV. Amended Arguments on Appeal**

10 EQR-HARBOR STEPS LLC supplements its appeal of the Hearing Examiner's
11 recommendation to deny Eqr-Harbor Steps LLC's objection to the City of Seattle's
12 Waterfront Local Improvement District No. 6751 proposed final assessment dated
13 December 30, 2019 against the following property:
14
15
16

17 King County Parcel No. 1976200075
18 Site Address: 1301 1st Ave., Seattle, Washington
19 Proposed Final LID Assessment for Parcel: \$1,376,078.86
20
21
22

23 To avoid repetition, Eqr-Harbor Steps LLC incorporates the evidence and arguments
24 raised before the Hearing Examiner and before the City in its September 22, 2020 appeal,
25 into this amended appeal.
26
27

28
29 **A. The Anticipated Special Benefits to Eqr-Harbor Steps LLC's Property**
30 **should be Discounted to Present Value and Assessments Adjusted as**
31 **Appropriate**
32

33 On remand, the City's appraiser acknowledged that special benefits to parcels can be
34 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
35 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
36 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
37 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
38 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
39 accepted that recommendation. The City's appraiser further acknowledged that benefit
40 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
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1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
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14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefit are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
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17 **B. The City's Appraiser's Disregard of Data on Remand is Another**
18 **Example of How His Analysis is Unreliable, Not Admissible under Frye**
19 **or ER 702, and His Proposed Special Assessments are not based on**
20 **Actual, Measurable and Special Value Increases from the anticipated**
21 **LID Improvements.**
22

23 The City's appraiser was provided actual performance data for the remanded hotels,
24 including their average daily room rates, from which he had been instructed to "recalculate"
25 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
26 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
27 would be "too low." His remand analysis demonstrates that his whole "income approach to
28 valuation", used for both hotels and other commercial properties, like Taxpayer's, is
29 contrived speculation on speculation. The City's appraiser disregarded these hotels' actual
30 net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J. Macaulay,
31 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on Remand
32 for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436).
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42 Taxpayer's appraiser submitted an appraisal which was similarly realistic and
43 specific to the property but was disregarded. Taxpayer's appraiser demonstrated the actual
44 value of the property is \$105,557,000, and the LID assessment should be reduced to reflect
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1 this before-value. *See* CWF-0426 Statement of Objections, Exh. 6, Appraisal of Brian
2
3 O'Connor (Jan. 31, 2020).

4
5 **C. In Light of Covid's Continuing Impact on Eqr-Harbor Steps LLC and**
6 **other Downtown Property Owners and other Material Changes Since**
7 **October 2019, the LID Should be Cancelled, or at Least Assessments**
8 **Recalculated, to take Into Account Property Value Reductions**
9

10 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
11 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
12 other relevant developments since October 2019." When Washington's first COVID
13 restrictions were imposed in March and April 2020, there was an assumption that they
14 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
15 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
16 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
17 gotten much worse. The City has already imposed higher minimum wages and taxes on
18 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
19 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
20 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
21 years from completion, as a best case. In current circumstances, a downtown tax to fund
22 new, non-essential park improvements against financially strapped taxpayers, and likely
23 passed through to financially strapped tenants and customers would be unfair to taxpayers
24 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
25 rethinks its budget priorities for the next few years, and its potentially funding sources,
26 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
27 property owners) have a chance to recover, and that any assessment take into account the
28 changed circumstances since this appeal process started on February 4, 2020 to avoid
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1 unnecessarily and perhaps permanently killing downtown properties and businesses in the
2 name of bettering them.
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5 **V. Relief Requested**

6 Particularly in light of the Committee's decision not to take further comment, Eqr-
7 Harbor Steps LLC respectfully request that each Committee member carefully review the
8 record transmitted to Council before voting on our appeal.
9

10 EQR-HARBOR STEPS LLC respectfully reiterates its request from the September
11 22, 2020 appeal that the City Council:
12

- 13 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
14 assessment dated December 30, 2019; or
15
- 16 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
17 proposed final assessment to \$0 (zero), or such amount as Taxpayer
18 establishes at the hearing in this matter; or
19
- 20 3. Grant the Examiner's recommended remand but with instructions to
21 recalculate and reduce Taxpayer's assessment using recognized appraisal
22 techniques consistent with USPAP and
23
 - 24 a. Excluding any property value increase attributable to viaduct removal
25 and other planned WSDOT Improvements;
26
 - 27 b. Taking into account the effects of the COVID-19 pandemic on the
28 value of Taxpayer's property and other relevant developments since
29 October 2019;
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 - 31 c. Accounting for and excluding (1) any special benefits from existing
32 or planned improvements that already provide similar benefits to
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1 Taxpayer's property, and (2) any special detriments from construction
2 and other anticipated LID-related disamenities;
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5 d. Accounting for and including only those actual benefits anticipated to
6 accrue to Taxpayer's property based on its location relative to Pier 58,
7 Overlook Walk, and the Promenade, and specific elements of the LID
8 Improvements;
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12 e. Discounting anticipated special benefits to present value, based on
13 reliable estimates regarding when special benefits will start accruing
14 following completion of the LID Improvements; and
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17 f. Accounting for such other issues specific to Taxpayer's property
18 relevant to calculation of such assessment; and
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22 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

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FILED

3:32 pm, Tue, September 22, 2020

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0427
Date: Tuesday, September 22, 2020 2:51:30 PM
Attachments: [CWF-0427.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0427.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0427
A – Master List of Evidence
B – B-230 Harbor Steps NE
C – Discounting for CWF-0427
CWF-0427 Appeal Notice

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Harbor Steps Southeast**

Map Nos.:	B-230
Tax Parcel Nos.:	197620-0076
Property key:	4321
Address	1201 1st Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions
Previous sale:	N/A
Proximity to project:	450± feet to waterfront park
Ownership:	EQR-Harbor Steps, LLC
Description:	50,727 SF site on the west side of 1st Avenue, south of University Str zoned DMC-170, improved with a 303-unit apartment building const of retail space and 202-stall basement parking structure.

INCOME ANALYSIS Before	Year Built	1996
	Parking	202

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	104	550	57,200	\$2,100	\$3.82
1-bedroom	163	700	114,100	\$2,650	\$3.79
2-bedroom / 1-bath	18	1,100	19,800	\$3,500	\$3.18
2-bedroom / 2-bath	18	1,250	22,500	\$3,500	\$2.80
Total apartments	303	705	213,600	\$2,562	\$3.63
	GBA	NRA			
Retail	35,400	15,000		SF NRA @	\$35.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	35,400	15,000			
Parking Area/Stalls	101,603	0	202	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	450,789	275,644		SF NRA @	\$38.68
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					

Management fee @	5.0%	of total EGI		
Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	25.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$10.38	27.9%
Net operating income				
Indicated Value				
Land Value				
		50,727	SF @	\$1,700.00
Residual Improvements				
		275,644	SF NRA @	\$342.02
		450,789	SF GRA @	\$209.13

Special Benefit Summary				
	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,700.00	\$86,236,000	\$94,275,000	N/A
With LID				
Scenario A1	\$1,742.50	\$88,392,000	\$95,784,000	1.60%
Scenario A2	\$1,742.50	\$88,392,000	\$97,617,000	3.54%
Scenario B1	\$1,742.50	\$88,392,000	\$97,561,000	3.49%
Scenario B2	\$1,742.50	\$88,392,000	\$95,711,000	1.52%
Percent change in land value	2.50%		\$96,668,000	2.54%
Summary				
Without LID	\$1,700.00	\$86,236,000	\$94,275,000	N/A
With LID	\$1,742.50	\$88,392,000	\$96,630,000	2.50%

Harbor Steps Southeast

Scenario A: Rental and Vacancy Rate Changes

et and north of Seneca Street,
tructed in 1996, with 15,000 SF

		INCOME ANALYSIS After		Year Built	1996
		Potential Gross Income			
			Units	SF NRA	
	\$2,620,800	Studio	104	550	
	\$5,183,400	1-bedroom	163	700	
	\$756,000	2-bedroom / 1-bath	18	1,100	
	\$756,000	2-bedroom / 2-bath	18	1,250	
	\$9,316,200	Total apartments	303	705	
			GBA	NRA	
per SF =	\$525,000	Retail	35,400	15,000	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$525,000	Subtotals	36,006	19,305	
/month	\$727,200	Parking Area/Stalls	101,603	0	202
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$93,162	Other			
/SF =	\$10,661,562	Total Bldg Area & Gross Income	450,789	275,644	SF
	(\$372,648)	Less: Vacancy/credit allowance			of apartment
	(\$26,250)				of commercial
	\$0				of parking
	(\$398,898)	Total vacancy/credit allowance			
	\$10,262,664	Effective gross income			
		Less: Operating expenses			

	(\$513,133)
	\$0
	(\$2,235,888)
	(\$112,697)
\$9,445	(\$2,861,718)
	\$7,400,946
Capitalized @	4.10%
Indicated value	\$180,510,867
(R)	\$180,511,000
Per DU	\$595,746
per SF =	\$86,236,000
per SF =	\$94,275,000

Management fee @	5.0%	of total EGI
Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	25.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		
Residual Improvements		
Special Benefit Summary		

Total Estimated Value	Special Benefit	% Change	
\$180,511,000	N/A	N/A	
			Per DU
\$184,176,000	\$3,665,000	2.03%	\$12,096
\$186,009,000	\$5,498,000	3.05%	\$18,145
\$185,953,000	\$5,442,000	3.01%	\$17,960
\$184,103,000	\$3,592,000	1.99%	\$11,855
\$180,511,000	N/A		
\$185,022,000	\$4,511,000	2.50%	\$14,888

Harbor Steps Southeast
Scenario B: Overall Capitalization

	<u>Per DU</u>	<u>Per DU</u>	Low	High
	\$2,142	\$2,163	2.00%	3.00%
	\$2,703	\$2,730	\$2,673,216	\$2,699,424
	\$3,570	\$3,605	\$5,287,068	\$5,338,902
	\$3,570	\$3,605	\$771,120	\$778,680
	\$2,613	\$2,639	\$771,120	\$778,680
			\$9,502,524	\$9,595,686
			2.00%	3.00%
• NRA @	\$35.70	\$36.05	\$535,500	\$540,750
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$535,500	\$540,750
	<u>Per Month</u>	<u>Per Month</u>	2.00%	3.00%
stalls @	\$306.00	\$309.00	\$741,744	\$749,016
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$95,025	\$95,957
• NRA @	\$39.45	\$39.84	\$10,874,793	\$10,981,409
revenue	4.00%	4.00%	(\$380,101)	(\$383,827)
revenue	5.00%	5.00%	(\$26,775)	(\$27,038)
revenue	0.00%	0.00%	\$0	\$0
			(\$406,876)	(\$410,865)
			\$10,467,917	\$10,570,544

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom / 1-bath	
2-bedroom / 2-bath	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	

		(\$523,396)	(\$528,527)
		\$0	\$0
		(\$2,280,606)	(\$2,302,965)
		(\$112,697)	(\$112,697)
		(\$2,916,699)	(\$2,944,189)
		\$7,551,218	\$7,626,355
	Capitalized @	4.10%	4.10%
		\$184,176,059	\$186,008,654
	(R) \$184,176,000	\$186,009,000	
	Per DU	\$607,842	\$613,891
	% change	2.03%	3.05%
SF @	\$1,742.50 per SF =	\$88,392,000	\$88,392,000
		\$95,784,000	\$97,617,000
	Per SF NRA	\$347.49	\$354.14
		\$3,665,000	\$5,498,000

2.50%

Management fee @
Parking operating expenses @
Apartment operating expenses
Structural maintenance/reserve
Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements
Special Benefit Summary

Rates Changes

Year Built	1996					
Units	SF NRA	Total NRA	Rent	Rent/SF		
104	550	57,200	\$2,100	\$3.82		\$2,620,800
163	700	114,100	\$2,650	\$3.79		\$5,183,400
18	1,100	19,800	\$3,500	\$3.18		\$756,000
18	1,250	22,500	\$3,500	\$2.80		\$756,000
303	705	213,600	\$2,562	\$3.63		\$9,316,200
35,400	15,000		SF NRA @	\$35.00	per SF =	\$525,000
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
36,006	19,305					\$525,000
101,603	0	202	stalls @	\$300.00	/month	\$727,200
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$93,162
450,789	275,644		SF NRA @	\$38.68	/SF	\$10,661,562
4.0% of apartment revenue						(\$372,648)
5.0% of commercial revenue						(\$26,250)
0.0% of parking revenue						\$0
						(\$398,898)
						\$10,262,664

5.0%	of total EGI	(\$513,133)
0.0%	of parking EGI	\$0
25.0%	of apartment EGI	(\$2,235,888)
\$0.25	per SF of GBA	(\$112,697)
		(\$2,861,718)
		\$7,400,946

	Low	High
Capitalized @	3.98%	4.02%
Indicated Value	\$185,953,406	\$184,103,123
(R)	\$185,953,000	\$184,103,000
Per DU	\$613,706	\$607,601
% change	3.01%	1.99%
50,727 SF @ \$1,742.50 per SF =	\$88,392,000	\$88,392,000
	\$97,561,000	\$95,711,000
per SF NRA	\$353.94	\$347.23
	\$5,442,000	\$3,592,000

2.50%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0427	Habor Steps (SE Tower) -- 1201 1st Avenue	1201 1st Avenue	1976200076

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$4,511,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$606,410

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0427	Habor Steps (SE Tower) -- 1201 1st Avenue	1201 1st Avenue	1976200076

	BEFORE	Appraiser	Value
A	Final City Before Value	City	\$180,511,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$158,511,000
C	COVID 19 Discount and value	-12.5%	
D			
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$138,697,125

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$4,511,000		
H/A	As Percentage of Final City Before Value	2.499%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$3,466,064		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$1,188,623	\$326,593
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$465,940	\$128,025

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In re Proposed Final Assessment Roll for
Local Improvement District No. 6751
("Waterfront LID")

Case Nos. CWF-0425, 0426, 0427, 0440, AND
0441

DECLARATION OF ED LEIGH

I, Ed Leigh, declare as follows:

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same.
2. I am the Vice President of Investments for Equity Residential. I testified in this appeal as to my position, qualifications and employment history.
3. Eqr-Harbor Steps LLC is owned by Equity Residential. Eqr-Harbor Steps LLC owns a four-tower apartment complex encompassing parcel nos. 1976200070, 1976200075, 1976200076, and 7666202465. These parcels are located at 1306 Western Ave., 1301 1st Ave., 1201 1st Ave., and 1212 Western Ave., Seattle WA, and are the subject

DECLARATION OF ED LEIGH – 1

1 of case nos. CWF-0425, -0426, -0427, -0440. These properties are known as the "Harbor
2 Steps" apartment towers.
3

4 4. Eqr-Second & Pine LLC is also owned by Equity Residential, and owns real
5 property parcel no. 7683890010, which is located at 206 Pine St., Seattle WA, and is the
6 subject of case no. CWF-0441. This property is known as the Helios apartments.
7
8

9 5. Equity Residential appealed the City's proposed final assessment for
10 Waterfront LID No. 6751 for each of the properties described above.
11
12

13 **HARBOR STEPS (CWF-0425, -0426, -0427, -0440)**
14

15 6. The Harbor Steps are multifamily residential apartment buildings with
16 ground floor retail. Additionally, the Harbor Steps are on a pedestrian corridor connecting
17 the downtown retail core to the waterfront amenities.
18
19

20 **HELIOS (CWF-0441)**
21

22 7. Helios is a multifamily residential apartment building located a block east of
23 Pike Place Market, and approximately two blocks from the proposed overlook walk.
24
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26 **COVID-19 Calculations**
27

28 8. After we appealed our assessments, the Covid-19 pandemic broke out,
29 causing significant disruptions in Seattle and around the world. Based on our current rents,
30 compared with Brian O'Connor's appraisal calculations to support our appeals, our
31 properties have decreased in value in the range consistent with those described by John
32 Gordon. In Mr. Gordon's April 21, 2020 Declaration, he noted that property values for
33 hotels in Downtown Seattle would be at least 10% to 15% lower when compared with the
34 values as of October 2019 and January 2020. The same is true for our properties. The year-
35 over-year rent reductions that I have observed in our Downtown Seattle assets are consistent
36 with Mr. Gordon's valuation reduction, assuming that rents do not quickly rebound. We
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DECLARATION OF ED LEIGH - 2

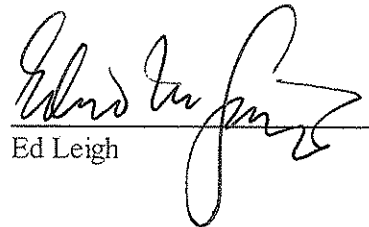
149590798.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 have not marked-to-market with these assets yet, as this is an end-of-year process for us, but
2
3 the 12.5% average Covid-19 discount is our best generic estimate at this time, based on the
4
5 information available to us.
6

7 I declare under penalty of perjury under the laws of the State of Washington that the
8
9 foregoing is true and correct.
10

11 Signed at Seattle, Washington, on September 21, 2020.
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Ed Leigh

DECLARATION OF ED LEIGH – 3

149590798.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0427

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200076

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”).
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43 **I. Taxpayer / Appellant**

44 The Taxpayer filing this appeal is:
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1 Eqr-Harbor Steps LLC
2 Eqr-RE Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
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8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
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19

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22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
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27

28 **III. Statement of Taxpayer's Interest**
29

30 Harbor Steps owns the property that is subject to the proposed final assessment
31 described in Section IV. The property at issue is a multifamily residential apartment building
32 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
33 downtown retail core to the waterfront amenities.
34
35

36 The basis of the proposed assessment is a Final Special Benefit/Proportionate
37 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
38 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
39 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
40 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
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3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
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19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
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21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
22
23 based on the Final Study.

24
25 **IV. Matter Under Appeal**

26 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
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28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 1976200076
34 Site Address: 1201 1st Ave., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$1,767,509.04

36
37 See Examiner’s Recommendation at 61-62, 105-106. To avoid repetition, Harbor Steps
38
39 incorporates the evidence and arguments raised before the Hearing Examiner into this
40
41 appeal. In particular, Harbor Steps points the City Council to Taxpayer’s initial Appeal
42
43 Petition, *Frye* motion, Closing Brief submitted at the close of its case-in-chief (dated
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1 4/16/2020), and supplemental Closing Statement submitted at the close of the City's case-in-
2 chief (dated 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 105-106, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22,
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9 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
10
11 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
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13 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7,
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15 IV.C.8, IV.C.9, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$4,511,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
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29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
35 or conjectural"
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37
38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
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34 **Legal Requirement:** Cannot prematurely commit to build
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36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
15

16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
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5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV. C.7–9. This is contrary to law.
4

5
6 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
7 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
8 IV.C.11.
9

10
11
12 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

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14 4. RCW 35.43.040 provides cities and towns authority for ordering local
15 improvements and for levying and collecting special assessments “on property specially
16 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
17 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
18

19
20 5. No analysis of general benefits. Special assessments have been “held valid
21 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
22 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
23 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
24 they are for the construction of local improvements that are appurtenant to specific land and
25 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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27
28 6. Harbor Steps' property is not specially benefited by the LID Improvements.
29 The primary purpose and effect of the LID Improvements are to benefit “members of the
30 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
31 library is for the benefit of the members of the whole community individually and
32 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference, Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
3 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
4 is proximity to their places of employment and other amenities downtown. See 3/5/2020 (E.
5 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
6 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
7 benefit from increased connectivity from being four to five blocks from the Overlook Walk
8 even though the properties currently have direct access to the waterfront via the Harbor
9 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; see also B. Scott Decl., ¶ 7. Mr. Leigh testified that
10 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
11 measurable portion of waterfront-bound pedestrian traffic moved north to the market. See
12 also B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
13 traffic being pulled away towards new amenities). Even if the City could assess for a view
14 change (and it has promised not to assess for viaduct removal), the fair market value of
15 Harbor Steps' property has not changed because the LID Improvements have not improved
16 the property's waterfront view or access to the waterfront, nor will they when the City
17 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
38 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
39 owners for removal and cleanup of underground storage tanks discovered during the
40 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
41 testified that property values may in fact be negatively impacted by the LID Improvements
42 due to loss of parking, increased traffic and noise, and increased potential for crime,
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1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. See 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
4
5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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17 10. Likewise, there was no analysis of the risks associated with disamenities such
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19 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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21 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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23 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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25 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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27 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
28
29 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
30
31 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
32
33 the maintenance agreement. *Id.* at 13:4-14:2.
34

35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 benefits calculations are inherently speculative, Washington's eminent domain statute
2 specifically allows condemnees to postpone special benefits assessments until improvements
3 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
4

5
6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
10 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
11 II.25, IV.B.8, and IV.B.9.
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13
14 12. Special benefit estimate is speculative. When calculating a special benefit,
15 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
16 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
17 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
18 P.2d 1078 (1958)).
19

20
21 13. Assuming without conceding that one day, the City's planned LID
22 Improvements might increase the value of neighboring properties to some extent, that
23 potential benefit is many years away and speculative. While appraisers tolerate some degree
24 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
25 far too speculative to satisfy industry practices and standards.
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27
28 14. Although LIDs are sometimes finalized prior to completion of improvements,
29 this is typically just six month or a year prior, and the assessments are otherwise supported
30 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
31 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
32 will not be realized for four or five years. In the meantime, there is permitting risk,
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1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4
5 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
6
7 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
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9 testified: "I just don't know what the market value would be as of the date the project would
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11 be finally constructed" because "[t]here could be a lot of elements in the market that did
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13 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
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15 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
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17 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
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23 accrue to these properties in four years (if any), we do know that there are no actual benefits
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25 now. The LID improvements provide no immediate special benefit to property owners
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27 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
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29 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
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31 sewer system for future users). For example, notwithstanding the questionable hypothesis
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33 that apartments will benefit from an expected increase in tenant interest when the
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35 improvements are complete, it is undisputed that tenants are not coming in larger numbers
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37 and paying higher rental rates now because of something happening five years down the
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39 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
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41 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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43 16. Further, there are no "plans and specifications" on file with the Clerk's Office
44
45 for the LID Improvements, and it is unlawful to move to final assessments without such
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47 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*

1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
2
3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
4
5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.*, 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
26
27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
38
39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
42
43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfo4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
3 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
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21 26. But even the assumption that the LID improvements would deliver benefits
22 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
23 on. Rather, those studies demonstrate that a discount period of five years is conservative.
24 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
25 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
26 indicates that during the construction period, the Greenway district "significantly" lagged in
27 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
28 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
8

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10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$424,936.20. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$166,574.99.
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22 28. Attachment C includes two Excel spreadsheets applying these discounting
23 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
24 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
25 demonstrates that discounting the City's hypothetical October 2019 special benefits to
26 present value would reduce Taxpayer's assessment to \$606,410, exclusive of any other
27 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
28 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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7 the time it takes for the improvements to capture property value.) After such reductions,
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9 Taxpayer's assessment would be just \$465,940 (for the 5-year discount) or \$128,025 (for the
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11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
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15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
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23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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25 Wn.2d at 97.

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27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
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29 testimony from the owner, where the objector's expert establishes that the assessment was
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31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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35 31. The City's appraiser purports to utilize the income method of valuation but
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37 relied on inaccurate revenue and market data, as discussed further below.

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39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
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43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
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47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
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7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
8

9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
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16 Macauley did not calculate the actual market value of LID properties in October 2019 and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
21
22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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26 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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28 Petition) at 3-4. Without any documented basis or support, Mr. Macauley simply “ma[de] a
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30 judgment a call” on what occupancy and rates would have been for the commercial
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32 properties assuming all of the WSDOT Improvements are completed as of 2019. Macauley
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34 Depo. at 129:19-130:11. For example, Mr. Macauley surmised that Brian O’Connor’s
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36 conclusion that the “Before” value for Harbor Steps was overstated by \$88M was perhaps
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38 due to the fact that Mr. O’Connor was looking at current income numbers and not
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40 accounting for the value of the “Before” conditions. However, when asked whether the
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42 value of the of the “Before” conditions is lower or higher than \$88M, Mr. Macauley had no
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44 clue because he did not do this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright
45
46 omission precludes any independent evaluation of the true market “Before” values. *See*
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1 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards; if an
2 appraiser uses current sales data to infer values, then the appraiser must explain how he
3 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
4 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
5 other road, pedestrian and landscaping improvements WSDOT had already committed to
6 make.
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12 34. However, because Mr. Macaulay testified that he did include some WSDOT-
13 related value-lift in the “Before” values, it follows that part of the special assessment
14 improperly is based on value attributable to the WSDOT Improvements. As shown by
15 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
16 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
17 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
18 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
19 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
20 to properly exclude the value of Before Improvements from the assessments. For these
21 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
22 Sections II.19, II.29, and IV.B.11(a)(ii)
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24
25 35. Special benefits were assigned rather than measured. Mr. Macaulay
26 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
27 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
28 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
29 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
30 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
31 on hypothesized very small increases to property revenue and very small reductions to cap
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1 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.

2 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
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4 “professional judgment” that are neither shown nor replicable.
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6 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
7
8 Recommendation: Sections II.19, and IV.B.11(a)(iii).
9

10 37. Special benefit falls within margin of error. The Final Special Benefit Study
11
12 applies an estimated value enhancement of less than 4%, which is generally within the
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14 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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16 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
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18 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
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20 of one another, this difference is considered reasonable as it falls within the standard margin
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22 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
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24 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
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26 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
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28 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
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30 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
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32 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
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34 “Before” values are also based on a hypothetical that adds some unstated incremental value
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36 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
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38 micro-value differences between hypothetical conditions that are so similar (the WSDOT
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40 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
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42 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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44 38. Even if it were possible to accurately tease out such a miniscule hypothetical
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46 value change due to improvements coming five years later, experts testified that there is no
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1 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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3 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
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9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 39. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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14 percentage difference between hypothetical Before and After conditions. Throughout his
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16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
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26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 40. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.

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24
25 41. Special assessment is not supported by comparable studies, data or reports.
26
27 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
28 that the LID Improvements will lead to meaningfully increased real estate values for
29 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
30 comparable sales or information from the “over twenty-five studies and reports” to arrive at
31 very precise special benefit increases for residential and commercial combined properties,
32 including Taxpayer’s property. For example, although Mr. Macaulay stated that no single
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
2
3 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
4
5 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
6
7 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
8
9 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
10
11 for similarities and differences between these improvements and the comparable parks he
12
13 looked at).

14
15 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
16
17 assignment of incremental increase of 0.5% to 4% to property values within the LID.
18
19 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
20
21 research misinterprets his work in critical ways, including because the LID Improvements
22
23 manifest the characteristics of a parkway (not a park), and his research indicates that most of
24
25 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
26
27 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
28
29 related value increases are in fact smaller; that estimated increases are “best guesses” rather
30
31 than predictions of property value increases in a particular city; and that percentages do not
32
33 account for diminishing returns after taking into account water views, which would be the
34
35 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
36
37 topography grants most properties in downtown a water view.

38
39 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
40
41 that this was just one source of information that was not entirely relevant because, among
42
43 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
44
45 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
46
47 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3
4 Crompton concluded that 500 feet via road from “park” improvements is just one or two
5
6 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
7
8 significantly beyond that which the park study indicated (even if it was legitimate to use the
9
10 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
11
12 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
13
14 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

15
16 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
17
18 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
19
20 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
21
22 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
23
24 materials, it was clearly an important—if not *the* most important—source of information for
25
26 estimating special benefits (especially with respect to the condos).⁷ No City witness
27
28 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
29
30 parcel-by-parcel analysis.
31

32
33 45. The destination parks discussed in the Final Special Benefit Study do not
34
35 provide reliable, comparable, and valid support for the calculation of special assessments
36
37 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
38
39 Study were funded by a LID. And in virtually all of those cases, the park improvements
40

41
42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
2
3 two or three blocks of the park.

4
5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
7
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9
10 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
11
12 dissimilar parks in other cities,⁸ making the methodological application to the LID
13
14 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
15
16 conclusion that there would be *no new net visitors* from downtown residents as a result of
17
18 the LID Improvements and could not explain how this impacted his condo analysis.
19
20 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
21
22 Property Values" primarily focused on whether the benefits accrue to the larger community
23
24 rather than properties adjacent to the park. And the 2014 New York City Department of
25
26 Transportation study is not based on real estate transactions and market sales and fails to
27
28 substantiate any link between increased retail sales and property values. Moreover, this
29
30 study only looked at impact either directly abutting the streetscape improvement, or a couple
31
32 hundred feet for plaza-like improvements.
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34
35 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
36
37 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
38
39 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
40
41

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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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44
45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
2
3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
6
7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
8
9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
10
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12
13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

16
17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
18
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
28
29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
32
33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
34
35 Gordon uses in doing his limited restricted report").

36
37 52. But the difference is not only in reporting—mass appraisal techniques must
38
39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
40
41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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43 parcel approach:

44
45 The mass appraisal technique is an appraisal method used to evaluate
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47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.

3
4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

5
6
7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

15
16
17 54. Regardless of client direction, Mr. Macaulay is required to comply with
18 USPAP. So, if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have
19 been economically feasible because it would have taken "an incredible amount of time and
20 cost" (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
21 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
22 ("performing an individual appraisal of each [condo] parcel would have been cost and time
23 prohibitive").

24
25 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
26 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
27 value, fails to calibrate the model structure to determine the contribution of the individual
28 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
8
9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
11
12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
15
16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
17
18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
27

28
29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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34
35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36
37 relationship between characteristics that affect value, and to calibrate that model to specify how
38
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
40
41 21). The purpose is to rationally determine what characteristics will create value, and by how much.
42
43 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
44
45 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
46
47 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
include explanation of the model specification, data requirements, calibration methods, and
mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
(o). Without this reporting, it is impossible for users of the appraisal report to determine how the
appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
2
3 and appeals the Examiner's denial of that motion.
4

5 58. Finally, Taxpayer's property is not appurtenant—or even in close
6
7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
8
9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
10
11 close proximity to the property on which expert testimony was given”). As described above,
12
13 the special assessment is overstated because the Final Study makes no attempt to determine
14
15 general benefits, existing amenities for Taxpayer's specific property, or special detriments.
16
17 In addition, it is speculative due to the fact that, as of October 2019, improvements were not
18
19 in in place—and, in fact, much of the waterfront is a construction zone following removal of
20
21 the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on
22
23 entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should
24
25 have discounted the special benefit estimates or waited to perform the Study until the
26
27 improvements were at least close to complete.
28

29 **Erroneous Pre-Improvement Valuation**

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31 59. The proposed final assessment erroneously overstates the pre-improvement
32
33 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
34
35 benefit to the Taxpayer's property.
36

37 60. The City's Final Study was used to compute the proposed final assessment of
38
39 Harbor Steps' property. The City's Study purportedly uses data from the King County
40
41 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
42
43

44
45 ¹¹ *See, e.g.*, Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment's online “eReal
47 Property” search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$180,511,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$185,880,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 97.1% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$158,511,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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38 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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47

1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
4
5 66.
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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
11

12
13 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
14 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.00% (low)
15 and 3.00% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
16 percentages (2.00% and 3.00%) to increase retail and parking. He then uses this
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.
19
20

21
22 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition but changes
24 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.98% (low scenario,
25 creating a bigger value increase) and 4.02% (high scenario, creating a lower value increase).
26
27

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29 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
30 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.50% due
31 to the LID Improvements.
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34
35 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
36 and capitalization rates. When asked precisely what the basis is for his special benefit
37 percentage increases to revenue for each commercial property, he could not point to
38 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
39 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
4
5 the basis for his belief that certain factors—liked increased connectivity—will increase
6
7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
8
9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
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13 sources equally even though there was no separate analysis done for food and beverage or
14
15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
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17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
18
19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
20
21 properties.

22
23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
26
27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
32
33 Before and After conditions, but there is no way to understand how adjustments were made
34
35 because he “didn’t do a separate sales comparison approach where we showed adjustments
36
37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
38
39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

42
43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
46
47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3
4 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
5 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
6
7 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
8
9 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
10
11 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
12
13 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
14
15 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
16
17 special because it is arbitrarily assigned; and it is too small to realistically be supported by
18
19 appraisal techniques.
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21

22 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
23 any seller or purchaser that the price was higher because of the LID improvements."
24
25 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
26
27 identified any seller or buyer, or any particular property where the existence of the LID
28
29 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
30
31 explained that the property has not increased rental rates or revenue due to the forthcoming
32
33 LID Improvements, because, among other reasons (and apart from COVID), the
34
35 improvements ABS believes will generate value do not exist and will not for a number of
36
37 years to come. There are no comparable sales because the LID Improvements are not in
38
39 place, nor will they be until the end of 2024 if completed on schedule.
40
41

42 72. The fair market value of Harbor Steps' property has not changed due to
43 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
44
45 benefited from installation of new water main and fire hydrant where it was already
46
47

1 adequately supplied with water and afforded adequate fire protection). And in any event,
2
3 any value attributable to removal of the viaduct was to be excluded from the assessment
4
5 calculation.

6
7 73. There is no special benefit to the Harbor Steps because its apartment demand
8
9 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
10
11 value of Harbor Steps' property by drawing visitors away towards improvements that do not
12
13 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
14
15 App. 493 (testimony of owners' expert that LID actually diminished value of property was
16
17 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
18
19 will be harmed by the LID improvements because the Overlook Walk and Union Street
20
21 connection improvements will likely direct foot traffic away from the Harbor Steps and
22
23 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
24
25 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
26
27 Steps already has a high-quality connectivity to the waterfront and no data was presented to
28
29 justify a value lift based on additional connection points several blocks away. On cross-
30
31 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
32
33 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
34
35 would generally support additional connection points to the waterfront amenities. *See*
36
37 6/23/2020 Hrg. Tr. at 48-50.

38
39 74. Moreover, the assessment formula is an attempt to distribute costs that do not
40
41 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
42
43 "merely a mathematical model that distributes costs").

44
45 75. The Special Benefit Study fails to address whether the \$346,000,000
46
47 estimated LID project cost takes into account the investment that would have occurred in the

1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

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6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14
15 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
16 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
17 notice procedures because hotel property owners only received notice that their real estate
18 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
19
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21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
2
3 be redone to correct for this error.

4
5 78. The proposed final assessment substantially exceeds the special benefit to the
6
7 property and is grossly disproportionate to similarly situated properties within the LID. For
8
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
10
11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

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14
15 79. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
18
19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20
21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
22
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
26
27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
34
35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
38
39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
40
41 committing to reconstruction of Pier 58 and major street improvements without
42
43 environmental review, or the City's Final Special Study has improperly included and is
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45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
46
47 not get built. Either way, it is faulty process.

Due Process Rights

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3 80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing
4 to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments.
5 Because LID assessments involve a deprivation of property, affected owners have the right
6 to a hearing as to whether the improvement resulted (or will result) in special benefits to
7 their properties and whether their assessments are proportionate, which necessarily includes
8 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
9 555, 569–70, 229 P.3d 761 (2010).
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16 81. The LID statute specifies that cities must mail notices giving the time and
17 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
18 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
19 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
20 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
21 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
22 secure their own appraisal), evaluate proportionality of the proposed assessments, and
23 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
24 for anybody to get an appraisal”).
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34 82. The City’s Notice of Assessment was sent on December 30, 2019. And the
35 Final Special Benefit Study has only been available for public review since January 7, 2020.
36 Due to this short time frame, Harbor Steps requested a prehearing conference and
37 scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond
38 to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
39 accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the
40 City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
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1 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
2
3 the Examiner's Recommendation: I.B.
4

5 **VII. Relief Requested**
6

7 Harbor Steps respectfully requests that the City Council:
8

- 9 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection
10 and:
11
12 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 20, 2019; or
14
15 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
16 proposed final assessment to \$0 (zero), or such amount as Taxpayer
17 establishes at the hearing in this matter; or
18
19 c. Remand the matter to the Hearing Examiner or City appraiser to
20 recalculate and reduce Taxpayer's assessment using recognized
21 appraisal techniques consistent with USPAP and:
22
23 i. Excluding any property value increase attributable to viaduct
24 removal and other planned WSDOT Improvements;
25
26 ii. Taking into account the effects of COVID-19 pandemic on the
27 value of Taxpayers property and other relevant developments
28 since October 2019;
29
30 iii. Accounting for and excluding (1) any special benefits from
31 existing or planning improvements that already provide
32 similar benefits to Taxpayers property, and (2) any special
33 detriments from construction and other anticipated LID-
34 related disamenities;
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- 1 iv. Accounting for and including only those actual benefits
2 anticipated to accrue to Taxpayer's property based on its
3 location relative to Pier 58, Overlook Walk, and the
4 Promenade, and specific elements of the LID Improvements;
5
6 v. Discounting anticipated special benefits to present value,
7 based on reliable estimates regarding when special benefits
8 will start accruing following completion of the LID
9 Improvements; and
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11 vi. Accounting for such other issues specific to Taxpayer's
12 property relevant to calculation of such assessment; and
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21 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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4

PERKINS COIE LLP

By:



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28 Attorneys for Eqr-Harbor Steps LLC
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4:16 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Campbell, Karen \(BEL\)](#)
Subject: RE: Waterfront LID Appeal for Case No. CWF-0427 CORRECTED
Date: Tuesday, September 22, 2020 3:55:11 PM
Attachments: [CWF-0427 CORRECTED.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0427 **CORRECTED**.
This file replaces the prior zip file sent for CWF-0427.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0427

A – Master List of Evidence

B – B-230 Harbor Steps NE

C – Discounting for CWF-0427

CWF-0427 Appeal Notice

Supplemental Decl. to Attachment C

Kimball Mullins | Perkins Coie LLP

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From: Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>

Sent: Tuesday, September 22, 2020 2:50 PM

To: cityclerkfiling@seattle.gov

Cc: Lutz, Jerry (BEL) <JLutz@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Starkey, Byron (SEA) <ByronStarkey@perkinscoie.com>; Stillwell, Jacob (SEA) <JStillwell@perkinscoie.com>; Carmody, Jane (SEA) <JCarmody@perkinscoie.com>; Mahon, Robert (SEA) <RMahon@perkinscoie.com>; Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>; Campbell, Karen (BEL) <KCampbell@perkinscoie.com>

Subject: Waterfront LID Appeal for Case No. CWF-0427

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0427.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0427

A – Master List of Evidence

B – B-230 Harbor Steps NE

C – Discounting for CWF-0427

CWF-0427 Appeal Notice

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Harbor Steps Southeast**

Map Nos.:	B-230
Tax Parcel Nos.:	197620-0076
Property key:	4321
Address	1201 1st Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions
Previous sale:	N/A
Proximity to project:	450± feet to waterfront park
Ownership:	EQR-Harbor Steps, LLC
Description:	50,727 SF site on the west side of 1st Avenue, south of University Str zoned DMC-170, improved with a 303-unit apartment building const of retail space and 202-stall basement parking structure.

INCOME ANALYSIS Before	Year Built	1996
	Parking	202

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	104	550	57,200	\$2,100	\$3.82
1-bedroom	163	700	114,100	\$2,650	\$3.79
2-bedroom / 1-bath	18	1,100	19,800	\$3,500	\$3.18
2-bedroom / 2-bath	18	1,250	22,500	\$3,500	\$2.80
Total apartments	303	705	213,600	\$2,562	\$3.63
	GBA	NRA			
Retail	35,400	15,000		SF NRA @	\$35.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	35,400	15,000			
Parking Area/Stalls	101,603	0	202	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	450,789	275,644		SF NRA @	\$38.68
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					

Management fee @	5.0%	of total EGI		
Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	25.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$10.38	27.9%
Net operating income				
Indicated Value				
</				

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,700.00	\$86,236,000	\$94,275,000	N/A
With LID				
Scenario A1	\$1,742.50	\$88,392,000	\$95,784,000	1.60%
Scenario A2	\$1,742.50	\$88,392,000	\$97,617,000	3.54%
Scenario B1	\$1,742.50	\$88,392,000	\$97,561,000	3.49%
Scenario B2	\$1,742.50	\$88,392,000	\$95,711,000	1.52%
Percent change in land value	2.50%		\$96,668,000	2.54%
Summary				
Without LID	\$1,700.00	\$86,236,000	\$94,275,000	N/A
With LID	\$1,742.50	\$88,392,000	\$96,630,000	2.50%

Harbor Steps Southeast

Scenario A: Rental and Vacancy Rate Changes

et and north of Seneca Street,
tructed in 1996, with 15,000 SF

		INCOME ANALYSIS After		Year Built	1996
		Potential Gross Income			
			Units	SF NRA	
	\$2,620,800	Studio	104	550	
	\$5,183,400	1-bedroom	163	700	
	\$756,000	2-bedroom / 1-bath	18	1,100	
	\$756,000	2-bedroom / 2-bath	18	1,250	
	\$9,316,200	Total apartments	303	705	
			GBA	NRA	
per SF =	\$525,000	Retail	35,400	15,000	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$525,000	Subtotals	36,006	19,305	
/month	\$727,200	Parking Area/Stalls	101,603	0	202
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$93,162	Other			
/SF =	\$10,661,562	Total Bldg Area & Gross Income	450,789	275,644	SF
	(\$372,648)	Less: Vacancy/credit allowance			of apartment
	(\$26,250)				of commercial
	\$0				of parking
	(\$398,898)	Total vacancy/credit allowance			
	\$10,262,664	Effective gross income			
		Less: Operating expenses			

	(\$513,133)
	\$0
	(\$2,235,888)
	(\$112,697)
\$9,445	(\$2,861,718)
	\$7,400,946
Capitalized @	4.10%
Indicated value	\$180,510,867
(R)	\$180,511,000
Per DU	\$595,746
per SF =	\$86,236,000
per SF =	\$94,275,000

Management fee @	5.0%	of total EGI
Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	25.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		

Indicated Value	
Land Value	
	50,727
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit	% Change	
\$180,511,000	N/A	N/A	
			Per DU
\$184,176,000	\$3,665,000	2.03%	\$12,096
\$186,009,000	\$5,498,000	3.05%	\$18,145
\$185,953,000	\$5,442,000	3.01%	\$17,960
\$184,103,000	\$3,592,000	1.99%	\$11,855
\$180,511,000	N/A		
\$185,022,000	\$4,511,000	2.50%	\$14,888

Harbor Steps Southeast
Scenario B: Overall Capitalization

	<u>Per DU</u>	<u>Per DU</u>	Low	High
	\$2,142	\$2,163	2.00%	3.00%
	\$2,703	\$2,730	\$2,673,216	\$2,699,424
	\$3,570	\$3,605	\$5,287,068	\$5,338,902
	\$3,570	\$3,605	\$771,120	\$778,680
	\$2,613	\$2,639	\$771,120	\$778,680
			\$9,502,524	\$9,595,686
			2.00%	3.00%
• NRA @	\$35.70	\$36.05	\$535,500	\$540,750
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$535,500	\$540,750
	<u>Per Month</u>	<u>Per Month</u>	2.00%	3.00%
stalls @	\$306.00	\$309.00	\$741,744	\$749,016
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$95,025	\$95,957
• NRA @	\$39.45	\$39.84	\$10,874,793	\$10,981,409
revenue	4.00%	4.00%	(\$380,101)	(\$383,827)
revenue	5.00%	5.00%	(\$26,775)	(\$27,038)
revenue	0.00%	0.00%	\$0	\$0
			(\$406,876)	(\$410,865)
			\$10,467,917	\$10,570,544

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom / 1-bath	
2-bedroom / 2-bath	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	

		(523,396)	(528,527)
		\$0	\$0
		(\$2,280,606)	(\$2,302,965)
		(\$112,697)	(\$112,697)
		(\$2,916,699)	(\$2,944,189)
		\$7,551,218	\$7,626,355
Capitalized @		4.10%	4.10%
(R)		\$184,176,059	\$186,008,654
Per DU		\$607,842	\$613,891
% change		2.03%	3.05%
SF @	\$1,742.50 per SF =	\$88,392,000	\$88,392,000
		\$95,784,000	\$97,617,000
Per SF NRA		\$347.49	\$354.14
		\$3,665,000	\$5,498,000

Management fee @	
Parking operating expenses @	
Apartment operating expenses	
Structural maintenance/reserve	
Total operating expenses	
Net operating income	
Indicated Value	
Land Value	
Residual Improvements	
Special Benefit Summary	

Rates Changes

Year Built	1996					
Units	SF NRA	Total NRA	Rent	Rent/SF		
104	550	57,200	\$2,100	\$3.82		\$2,620,800
163	700	114,100	\$2,650	\$3.79		\$5,183,400
18	1,100	19,800	\$3,500	\$3.18		\$756,000
18	1,250	22,500	\$3,500	\$2.80		\$756,000
303	705	213,600	\$2,562	\$3.63		\$9,316,200
35,400	15,000		SF NRA @	\$35.00	per SF =	\$525,000
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
36,006	19,305					\$525,000
101,603	0	202	stalls @	\$300.00	/month	\$727,200
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$93,162
450,789	275,644		SF NRA @	\$38.68	/SF	\$10,661,562
4.0% of apartment revenue						(\$372,648)
5.0% of commercial revenue						(\$26,250)
0.0% of parking revenue						\$0
						(\$398,898)
						\$10,262,664

5.0%	of total EGI	(\$513,133)
0.0%	of parking EGI	\$0
25.0%	of apartment EGI	(\$2,235,888)
\$0.25	per SF of GBA	(\$112,697)
		(\$2,861,718)
		\$7,400,946

	Low	High
Capitalized @	3.98%	4.02%
Indicated Value	\$185,953,406	\$184,103,123
(R)	\$185,953,000	\$184,103,000
Per DU	\$613,706	\$607,601
% change	3.01%	1.99%
50,727 SF @ \$1,742.50 per SF =	\$88,392,000	\$88,392,000
	\$97,561,000	\$95,711,000
per SF NRA	\$353.94	\$347.23
	\$5,442,000	\$3,592,000

2.50%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0427	Habor Steps (SE Tower) -- 1201 1st Avenue	1201 1st Avenue	1976200076

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$4,511,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$606,410

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0427	Habor Steps (SE Tower) -- 1201 1st Avenue	1201 1st Avenue	1976200076

	BEFORE	Appraiser	Value
A	Final City Before Value	City	\$180,511,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$158,511,000
C	COVID 19 Discount and value	-12.5%	
D			
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$138,697,125

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$4,511,000		
H/A	As Percentage of Final City Before Value	2.499%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$3,466,064		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$1,188,623	\$326,593
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$465,940	\$128,025

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0427

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
1976200076

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”).
39
40
41
42

43 **I. Taxpayer / Appellant**
44

45 The Taxpayer filing this appeal is:
46
47

1 Eqr-Harbor Steps LLC
2 Eqr-RE Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
7

8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20 Robert L. Mahon, WSBA No. 26523
21 RMahon@perkinscoie.com
22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
26
27

28 **III. Statement of Taxpayer's Interest**
29

30 Harbor Steps owns the property that is subject to the proposed final assessment
31 described in Section IV. The property at issue is a multifamily residential apartment building
32 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
33 downtown retail core to the waterfront amenities.
34
35

36 The basis of the proposed assessment is a Final Special Benefit/Proportionate
37 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
38 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
39 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
40 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
22
23 based on the Final Study.

24
25 **IV. Matter Under Appeal**

26 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 1976200076
34 Site Address: 1201 1st Ave., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$1,767,509.04

36
37 See Examiner’s Recommendation at 61-62, 105-106. To avoid repetition, Harbor Steps
38
39 incorporates the evidence and arguments raised before the Hearing Examiner into this
40
41 appeal. In particular, Harbor Steps points the City Council to Taxpayer’s initial Appeal
42
43 Petition, *Frye* motion, Closing Brief submitted at the close of its case-in-chief (dated
44
45
46
47

1 4/16/2020), and supplemental Closing Statement submitted at the close of the City's case-in-
2 chief (dated 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 105-106, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22,
8 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
9 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
10 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7,
11 IV.C.8, IV.C.9, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$4,511,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
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11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
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15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
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27 **Legal Requirement:** Benefits must be special, not general
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30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
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35 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
36 or conjectural"
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38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
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20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
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34 **Legal Requirement:** Cannot prematurely commit to build
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36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
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3 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
4
5 statement below.
6

7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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18 The proposed assessments are presumed correct, “unless overcome by clear, cogent
19 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
20 than the heightened presumption of correctness on judicial appeal because “applying these
21 elevated standards at the municipal hearing would afford unwarranted deference to a report
22 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
23 presumption is not evidence and its efficacy is lost when the other party adduces credible
24 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
25 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
26 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
27 presented credible evidence showing that the City’s proposed assessment is arbitrary,
28 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
29 to the City to prove the assessments are actual, measurable, special, non-speculative and
30 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

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7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV. C.7–9. This is contrary to law.
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7 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
8 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
9 IV.C.11.
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12
13 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
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15 4. RCW 35.43.040 provides cities and towns authority for ordering local
16 improvements and for levying and collecting special assessments “on property specially
17 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
18 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
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21 5. No analysis of general benefits. Special assessments have been “held valid
22 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
23 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
24 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
25 they are for the construction of local improvements that are appurtenant to specific land and
26 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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29 6. Harbor Steps' property is not specially benefited by the LID Improvements.
30 The primary purpose and effect of the LID Improvements are to benefit “members of the
31 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
32 library is for the benefit of the members of the whole community individually and
33 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
34 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference, Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
3 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
4 is proximity to their places of employment and other amenities downtown. See 3/5/2020 (E.
5 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
6 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
7 benefit from increased connectivity from being four to five blocks from the Overlook Walk
8 even though the properties currently have direct access to the waterfront via the Harbor
9 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; see also B. Scott Decl., ¶ 7. Mr. Leigh testified that
10 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
11 measurable portion of waterfront-bound pedestrian traffic moved north to the market. See
12 also B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
13 traffic being pulled away towards new amenities). Even if the City could assess for a view
14 change (and it has promised not to assess for viaduct removal), the fair market value of
15 Harbor Steps' property has not changed because the LID Improvements have not improved
16 the property's waterfront view or access to the waterfront, nor will they when the City
17 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
38 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
39 owners for removal and cleanup of underground storage tanks discovered during the
40 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
41 testified that property values may in fact be negatively impacted by the LID Improvements
42 due to loss of parking, increased traffic and noise, and increased potential for crime,
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1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. See 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
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5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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17 10. Likewise, there was no analysis of the risks associated with disamenities such
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19 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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21 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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23 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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25 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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27 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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29 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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31 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
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33 the maintenance agreement. *Id.* at 13:4-14:2.
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35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 benefits calculations are inherently speculative, Washington's eminent domain statute
2 specifically allows condemnees to postpone special benefits assessments until improvements
3 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
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6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
10 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
11 II.25, IV.B.8, and IV.B.9.
12

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14 12. Special benefit estimate is speculative. When calculating a special benefit,
15 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
16 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
17 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
18 P.2d 1078 (1958)).
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21 13. Assuming without conceding that one day, the City's planned LID
22 Improvements might increase the value of neighboring properties to some extent, that
23 potential benefit is many years away and speculative. While appraisers tolerate some degree
24 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
25 far too speculative to satisfy industry practices and standards.
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28 14. Although LIDs are sometimes finalized prior to completion of improvements,
29 this is typically just six month or a year prior, and the assessments are otherwise supported
30 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
31 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
32 will not be realized for four or five years. In the meantime, there is permitting risk,
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1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
5 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
6 testified: "I just don't know what the market value would be as of the date the project would
7 be finally constructed" because "[t]here could be a lot of elements in the market that did
8 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
9 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
10 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
22 accrue to these properties in four years (if any), we do know that there are no actual benefits
23 now. The LID improvements provide no immediate special benefit to property owners
24 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
25 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
26 sewer system for future users). For example, notwithstanding the questionable hypothesis
27 that apartments will benefit from an expected increase in tenant interest when the
28 improvements are complete, it is undisputed that tenants are not coming in larger numbers
29 and paying higher rental rates now because of something happening five years down the
30 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
31 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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42 16. Further, there are no "plans and specifications" on file with the Clerk's Office
43 for the LID Improvements, and it is unlawful to move to final assessments without such
44 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*
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1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
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5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.*, 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
26
27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
28
29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
38
39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
42
43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfo4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
3 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
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21 26. But even the assumption that the LID improvements would deliver benefits
22 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
23 on. Rather, those studies demonstrate that a discount period of five years is conservative.
24 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
25 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
26 indicates that during the construction period, the Greenway district "significantly" lagged in
27 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
28 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
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10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$424,936.20. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$166,574.99.
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21 28. Attachment C includes two Excel spreadsheets applying these discounting
22 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
23 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
24 demonstrates that discounting the City's hypothetical October 2019 special benefits to
25 present value would reduce Taxpayer's assessment to \$606,410, exclusive of any other
26 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
27 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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7 the time it takes for the improvements to capture property value.) After such reductions,
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9 Taxpayer's assessment would be just \$465,940 (for the 5-year discount) or \$128,025 (for the
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11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
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15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
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23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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25 Wn.2d at 97.

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27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
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29 testimony from the owner, where the objector's expert establishes that the assessment was
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31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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35 31. The City's appraiser purports to utilize the income method of valuation but
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37 relied on inaccurate revenue and market data, as discussed further below.

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39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
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43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
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47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
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7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
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16 Macauley did not calculate the actual market value of LID properties in October 2019 and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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26 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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28 Petition) at 3-4. Without any documented basis or support, Mr. Macauley simply “ma[de] a
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30 judgment a call” on what occupancy and rates would have been for the commercial
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32 properties assuming all of the WSDOT Improvements are completed as of 2019. Macauley
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34 Depo. at 129:19-130:11. For example, Mr. Macauley surmised that Brian O’Connor’s
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36 conclusion that the “Before” value for Harbor Steps was overstated by \$88M was perhaps
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38 due to the fact that Mr. O’Connor was looking at current income numbers and not
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40 accounting for the value of the “Before” conditions. However, when asked whether the
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42 value of the of the “Before” conditions is lower or higher than \$88M, Mr. Macauley had no
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44 clue because he did not do this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright
45
46 omission precludes any independent evaluation of the true market “Before” values. *See*
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1 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards; if an
2 appraiser uses current sales data to infer values, then the appraiser must explain how he
3 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
4 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
5 other road, pedestrian and landscaping improvements WSDOT had already committed to
6 make.
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12 34. However, because Mr. Macaulay testified that he did include some WSDOT-
13 related value-lift in the “Before” values, it follows that part of the special assessment
14 improperly is based on value attributable to the WSDOT Improvements. As shown by
15 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
16 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
17 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
18 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
19 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
20 to properly exclude the value of Before Improvements from the assessments. For these
21 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
22 Sections II.19, II.29, and IV.B.11(a)(ii)
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25 35. Special benefits were assigned rather than measured. Mr. Macaulay
26 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
27 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
28 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
29 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
30 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
31 on hypothesized very small increases to property revenue and very small reductions to cap
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1 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.

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3 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
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5 “professional judgment” that are neither shown nor replicable.

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7 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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9 Recommendation: Sections II.19, and IV.B.11(a)(iii).

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11 37. Special benefit falls within margin of error. The Final Special Benefit Study
12
13 applies an estimated value enhancement of less than 4%, which is generally within the
14
15 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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17 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
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19 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
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21 of one another, this difference is considered reasonable as it falls within the standard margin
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23 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
24
25 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
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27 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
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29 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
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31 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
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33 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
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35 “Before” values are also based on a hypothetical that adds some unstated incremental value
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37 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
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39 micro-value differences between hypothetical conditions that are so similar (the WSDOT
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41 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
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43 (A. Gibbons) Hrg. Tr. at 89:4-90:7.

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45 38. Even if it were possible to accurately tease out such a miniscule hypothetical
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47 value change due to improvements coming five years later, experts testified that there is no

1 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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3 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
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9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 39. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
13
14 percentage difference between hypothetical Before and After conditions. Throughout his
15
16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
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26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 40. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 41. Special assessment is not supported by comparable studies, data or reports.

25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for residential and commercial combined properties,
30 including Taxpayer’s property. For example, although Mr. Macaulay stated that no single
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
2 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
3 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
4 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
5 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
6 for similarities and differences between these improvements and the comparable parks he
7 looked at).
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10 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
11 assignment of incremental increase of 0.5% to 4% to property values within the LID.
12 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
13 research misinterprets his work in critical ways, including because the LID Improvements
14 manifest the characteristics of a parkway (not a park), and his research indicates that most of
15 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
16 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
17 related value increases are in fact smaller; that estimated increases are “best guesses” rather
18 than predictions of property value increases in a particular city; and that percentages do not
19 account for diminishing returns after taking into account water views, which would be the
20 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
21 topography grants most properties in downtown a water view.
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23 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
24 that this was just one source of information that was not entirely relevant because, among
25 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
26 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
27 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
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1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3
4 Crompton concluded that 500 feet via road from “park” improvements is just one or two
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6 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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8 significantly beyond that which the park study indicated (even if it was legitimate to use the
9
10 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
11
12 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
13
14 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

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16 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
17
18 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
19
20 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
21
22 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
23
24 materials, it was clearly an important—if not *the* most important—source of information for
25
26 estimating special benefits (especially with respect to the condos).⁷ No City witness
27
28 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
29
30 parcel-by-parcel analysis.
31

32
33 45. The destination parks discussed in the Final Special Benefit Study do not
34
35 provide reliable, comparable, and valid support for the calculation of special assessments
36
37 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
38
39 Study were funded by a LID. And in virtually all of those cases, the park improvements
40

41
42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
2
3 two or three blocks of the park.

4
5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
7
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9
10 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
11
12 dissimilar parks in other cities,⁸ making the methodological application to the LID
13
14 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
15
16 conclusion that there would be *no new net visitors* from downtown residents as a result of
17
18 the LID Improvements and could not explain how this impacted his condo analysis.
19
20 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
21
22 Property Values" primarily focused on whether the benefits accrue to the larger community
23
24 rather than properties adjacent to the park. And the 2014 New York City Department of
25
26 Transportation study is not based on real estate transactions and market sales and fails to
27
28 substantiate any link between increased retail sales and property values. Moreover, this
29
30 study only looked at impact either directly abutting the streetscape improvement, or a couple
31
32 hundred feet for plaza-like improvements.
33

34
35 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
36
37 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
38
39 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
2
3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
6
7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
8
9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
10
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
12
13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

16
17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
18
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
28
29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
32
33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
34
35 Gordon uses in doing his limited restricted report").

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37 52. But the difference is not only in reporting—mass appraisal techniques must
38
39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
42
43 parcel approach:

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45 The mass appraisal technique is an appraisal method used to evaluate
46
47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.

3
4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

5
6
7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

15
16
17 54. Regardless of client direction, Mr. Macaulay is required to comply with
18 USPAP. So, if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have
19 been economically feasible because it would have taken "an incredible amount of time and
20 cost" (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
21 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
22 ("performing an individual appraisal of each [condo] parcel would have been cost and time
23 prohibitive").

24
25 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
26 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
27 value, fails to calibrate the model structure to determine the contribution of the individual
28 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
8
9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
11
12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
15
16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
17
18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
27

28
29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
32
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34
35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36
37 relationship between characteristics that affect value, and to calibrate that model to specify how
38
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
40
41 21). The purpose is to rationally determine what characteristics will create value, and by how much.
42
43 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
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45 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
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47 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
include explanation of the model specification, data requirements, calibration methods, and
mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
(o). Without this reporting, it is impossible for users of the appraisal report to determine how the
appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
2
3 and appeals the Examiner's denial of that motion.
4

5 58. Finally, Taxpayer's property is not appurtenant—or even in close
6
7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
8
9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
10
11 close proximity to the property on which expert testimony was given”). As described above,
12
13 the special assessment is overstated because the Final Study makes no attempt to determine
14
15 general benefits, existing amenities for Taxpayer's specific property, or special detriments.
16
17 In addition, it is speculative due to the fact that, as of October 2019, improvements were not
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19 in in place—and, in fact, much of the waterfront is a construction zone following removal of
20
21 the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on
22
23 entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should
24
25 have discounted the special benefit estimates or waited to perform the Study until the
26
27 improvements were at least close to complete.
28

29 **Erroneous Pre-Improvement Valuation**

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31 59. The proposed final assessment erroneously overstates the pre-improvement
32
33 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
34
35 benefit to the Taxpayer's property.
36

37 60. The City's Final Study was used to compute the proposed final assessment of
38
39 Harbor Steps' property. The City's Study purportedly uses data from the King County
40
41 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
42
43

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45 ¹¹ *See, e.g.*, Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment's online “eReal
47 Property” search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$180,511,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$185,880,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 97.1% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$158,511,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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39 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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47

1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
4
5 66.
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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
11

12
13 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
14 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.00% (low)
15 and 3.00% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
16 percentages (2.00% and 3.00%) to increase retail and parking. He then uses this
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.
19
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21
22 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition but changes
24 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.98% (low scenario,
25 creating a bigger value increase) and 4.02% (high scenario, creating a lower value increase).
26
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29 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
30 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.50% due
31 to the LID Improvements.
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35 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
36 and capitalization rates. When asked precisely what the basis is for his special benefit
37 percentage increases to revenue for each commercial property, he could not point to
38 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
39 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
4
5 the basis for his belief that certain factors—liked increased connectivity—will increase
6
7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
8
9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12
13 sources equally even though there was no separate analysis done for food and beverage or
14
15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
16
17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
18
19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
20
21 properties.

22
23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
26
27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
32
33 Before and After conditions, but there is no way to understand how adjustments were made
34
35 because he “didn’t do a separate sales comparison approach where we showed adjustments
36
37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
38
39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

42
43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
46
47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
4 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
5 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
6 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
7 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
8 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
9 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
10 special because it is arbitrarily assigned; and it is too small to realistically be supported by
11 appraisal techniques.

22 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
23 any seller or purchaser that the price was higher because of the LID improvements."
24 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
25 identified any seller or buyer, or any particular property where the existence of the LID
26 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
27 explained that the property has not increased rental rates or revenue due to the forthcoming
28 LID Improvements, because, among other reasons (and apart from COVID), the
29 improvements ABS believes will generate value do not exist and will not for a number of
30 years to come. There are no comparable sales because the LID Improvements are not in
31 place, nor will they be until the end of 2024 if completed on schedule.

42 72. The fair market value of Harbor Steps' property has not changed due to
43 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
44 benefited from installation of new water main and fire hydrant where it was already
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46
47

1 adequately supplied with water and afforded adequate fire protection). And in any event,
2
3 any value attributable to removal of the viaduct was to be excluded from the assessment
4
5 calculation.

6
7 73. There is no special benefit to the Harbor Steps because its apartment demand
8
9 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
10
11 value of Harbor Steps' property by drawing visitors away towards improvements that do not
12
13 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
14
15 App. 493 (testimony of owners' expert that LID actually diminished value of property was
16
17 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
18
19 will be harmed by the LID improvements because the Overlook Walk and Union Street
20
21 connection improvements will likely direct foot traffic away from the Harbor Steps and
22
23 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
24
25 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
26
27 Steps already has a high-quality connectivity to the waterfront and no data was presented to
28
29 justify a value lift based on additional connection points several blocks away. On cross-
30
31 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
32
33 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
34
35 would generally support additional connection points to the waterfront amenities. *See*
36
37 6/23/2020 Hrg. Tr. at 48-50.

38
39 74. Moreover, the assessment formula is an attempt to distribute costs that do not
40
41 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
42
43 "merely a mathematical model that distributes costs").

44
45 75. The Special Benefit Study fails to address whether the \$346,000,000
46
47 estimated LID project cost takes into account the investment that would have occurred in the

1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

5
6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14
15 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
16 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
17 notice procedures because hotel property owners only received notice that their real estate
18 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
19
20

21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
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3 be redone to correct for this error.

4
5 78. The proposed final assessment substantially exceeds the special benefit to the
6
7 property and is grossly disproportionate to similarly situated properties within the LID. For
8
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
10
11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

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14
15 79. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
18
19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20
21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
22
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
26
27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
34
35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
38
39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
40
41 committing to reconstruction of Pier 58 and major street improvements without
42
43 environmental review, or the City's Final Special Study has improperly included and is
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45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
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47 not get built. Either way, it is faulty process.

Due Process Rights

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3 80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing
4 to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments.
5 Because LID assessments involve a deprivation of property, affected owners have the right
6 to a hearing as to whether the improvement resulted (or will result) in special benefits to
7 their properties and whether their assessments are proportionate, which necessarily includes
8 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
9 555, 569–70, 229 P.3d 761 (2010).
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16 81. The LID statute specifies that cities must mail notices giving the time and
17 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
18 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
19 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
20 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
21 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
22 secure their own appraisal), evaluate proportionality of the proposed assessments, and
23 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
24 for anybody to get an appraisal”).
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34 82. The City’s Notice of Assessment was sent on December 30, 2019. And the
35 Final Special Benefit Study has only been available for public review since January 7, 2020.
36 Due to this short time frame, Harbor Steps requested a prehearing conference and
37 scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond
38 to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
39 accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the
40 City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
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erroneously denied that request. For this reason, Taxpayer appeals the following portions of the Examiner's Recommendation: I.B.

VII. Relief Requested

Harbor Steps respectfully requests that the City Council:

1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection and:
 - a. Cancel the Waterfront Local Improvement District No. 6751 proposed final assessment dated December 20, 2019; or
 - b. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the hearing in this matter; or
 - c. Remand the matter to the Hearing Examiner or City appraiser to recalculate and reduce Taxpayer's assessment using recognized appraisal techniques consistent with USPAP and:
 - i. Excluding any property value increase attributable to viaduct removal and other planned WSDOT Improvements;
 - ii. Taking into account the effects of COVID-19 pandemic on the value of Taxpayers property and other relevant developments since October 2019;
 - iii. Accounting for and excluding (1) any special benefits from existing or planning improvements that already provide similar benefits to Taxpayers property, and (2) any special detriments from construction and other anticipated LID-related disamenities;

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- iv. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - v. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vi. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and

2. Grant such further relief as the City Council deems just and proper.

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2 DATED: September 22, 2020
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PERKINS COIE LLP

5 By:



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3:33 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0429
Date: Tuesday, September 22, 2020 2:53:38 PM
Attachments: [CWF-0429.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0429.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0429

A – Master List of Evidence

B – E-106-001 Hyatt Olive 8

C – Discounting for CWF-0429

CWF-0429 Appeal Notice for Hyatt at Olive 8

Kimball Mullins | Perkins Coie LLP**SENIOR PARALEGAL**

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Hyatt at Olive 8

Map Nos.	E-106-001
Tax Parcel Nos.	228513-0010
Property key:	9284
Address	1615 8th Avenue
Zoning:	DOC2 500/300-550
Proximity to park	2,700± feet to park, 13-minute walk (via Pine), less than one block from Pine Street
Ownership	Hedreen Hotel Two, LLC
Sales history:	N/A

Description: 29,160 SF site on the southwest corner of 8th Avenue Olive Way, originally platting parcel condominium (this parcel comprises a 50.0% interest). Zoned DOC2 500/300-550 improved with a 346-room hotel built in 2005, with 280-stall parking structure.

INCOME ANALYSIS Before	Year Built	2005
	Rooms	346
	Parking	280

Revenues					
Occupancy rate: 80.0%					
Occupied rooms: 101,032					
Revenues					
Room revenue	101,032	occupied rooms @	\$335.00	per occupied room	
Food & beverage revenue	101,032	occupied rooms @	\$40.00	per occupied room	
Parking & other income	102,200	occupied rooms @	\$55.00	per occupied room	
Total revenues					
Less: Departmental expenses					
Rooms	101,032	occupied rooms @	29.0%	of room revenue	
Food & beverage	101,032	occupied rooms @	79.0%	of food & beverage revenue	
Parking & other	101,032	occupied rooms @	50.0%	of parking & other income	
Total departmental expenses					
Total departmental net income					

	<u>GBA</u>	<u>NRA</u>			
Retail rental income	0	0	SF NRA @	\$0.00	per SF =
Basement office rental income	0	0	SF NRA @	\$0.00	per SF =
Other rental income	0	0	SF NRA @	\$0.00	per SF =
Total Bldg Area & Gross Income	399,189	287,065	SF NRA @	\$96.46	/SF =

Less: Undistributed expenses		
Admin, marketing, utilities, maintenance, insurance @	\$20,000	per available room
Franchise fees @	7.5%	of room revenue
Management fee @	3.0%	of total revenue
Real estate taxes		
Replacement reserve @	4.0%	of total revenue
Total undistributed expenses		
Total operating expenses	67.7%	of total revenue

Net operating income

Indicated Value

Capitalized @
Indicated value
(R)
Per SF NRA
Per room

Land Value

29,160 total land area

50.0% 14,580 SF @ \$1,800.00 per SF =

Residual Improvements

287,065 SF NRA @ \$561.51 per SF =

399,189 SF GBA @ \$403.79

Special Benefit Summary

	Land		Improved	% Change	Total Estimated Value
	Per SF	Total			
Without LID	\$1,800.00	\$26,244,000	\$161,189,000	N/A	\$187,433,000
With LID					
Scenario A1	\$1,818.00	\$26,506,000	\$162,254,000	0.66%	\$188,760,000
Scenario A2	\$1,818.00	\$26,506,000	\$163,433,000	1.39%	\$189,939,000
Scenario B1	\$1,818.00	\$26,506,000	\$163,460,000	1.41%	\$189,966,000
Scenario B2	\$1,818.00	\$26,506,000	\$162,185,000	0.62%	\$188,691,000
Percent change in land value	1.00%		average \$162,833,000	1.02%	
Summary					
Without LID	\$1,800.00	\$26,244,000	\$161,189,000	N/A	\$187,433,000
With LID	\$1,818.00	\$26,506,000	\$162,800,000	1.00%	\$189,306,000

Hyatt at Olive 8

Scenario A - Rate and Vacancy Changes

at improvements

d into a 2-
00-550, and

INCOME ANALYSIS After		Year Built	2005
Revenues			
			Occupancy
			Occupancy
	Revenues		Per Room
\$33,845,720	Room revenue		\$336.51
\$4,041,280	Food & beverage revenue		\$40.18
\$5,621,000	Parking & other income		\$55.25
\$43,508,000	Total revenues		
	Less: Departmental expenses		
(\$9,815,259)	Rooms	29.0%	of room revenue
(\$3,192,611)	Food & beverage	79.0%	of food & beverage revenue
(\$2,810,500)	Parking & other	50.0%	of parking & other income
(\$15,818,370)	Total departmental expenses		
\$27,689,630	Total departmental net income		
		GBA	NRA
\$0	Retail rental income	0	0
\$0	Basement office rental income	0	0
\$0	Other rental income	0	0
\$27,689,630	Total Bldg Area & Gross Income	399,189	287,065
			SF NRA @
			\$96.89
	Less: Undistributed expenses		
(\$6,920,000)	Admin, marketing, utilities, maintenance, insurance @	\$20,000	per availab
(\$2,538,429)	Franchise fees @	7.5%	of room revenue
(\$1,305,240)	Management fee @	3.0%	of total revenue
(\$1,128,150)	Real estate taxes		
(\$1,740,320)	Replacement reserve @	4.0%	of total revenue
(\$13,632,139)	Total undistributed expenses		
(\$29,450,509)	Total operating expenses		

\$14,057,491	Net operating income		
7.50%	Indicated Values		Cap
\$187,433,213			
\$187,433,000			F
\$652.93			
\$541,714			
	Land Value		
\$26,244,000		14,580	SF @ \$1,818.00
\$161,189,000	Residual Improvements		F
	Special Benefit Summary		

Net operating income			
Indicated Values			
			Cap
			P
Land Value			
	14,580	SF @	\$1,818.00
Residual Improvements			
			P
Special Benefit Summary			

Special Benefit	% Change	
N/A	N/A	
		Per Room
\$1,327,000	0.71%	\$3,835
\$2,506,000	1.34%	\$7,243
\$2,533,000	1.35%	\$7,321
\$1,258,000	0.67%	\$3,636
N/A		
\$1,873,000	1.00%	\$5,413

Hyatt at Olive 8

Scenario B - OAR Changes

	Low	High
Occupancy rate:	80.00%	80.00%
Number of rooms:	101,032	101,032
Per Room	0.45%	0.85%
\$337.85	\$33,998,026	\$34,133,409
\$40.34	\$4,059,466	\$4,075,631
\$55.47	\$5,646,295	\$5,668,779
	\$43,703,786	\$43,877,818
	(\$9,859,427)	(\$9,898,688)
	(\$3,206,978)	(\$3,219,748)
	(\$2,823,147)	(\$2,834,389)
	(\$15,889,553)	(\$15,952,826)
	\$27,814,233	\$27,924,992
Per SF		
\$0.00	\$0	\$0
\$0.00	\$0	\$0
\$0.00	\$0	\$0
\$97.28	\$27,814,233	\$27,924,992
Per room	(\$6,920,000)	(\$6,920,000)
	(\$2,549,852)	(\$2,560,006)
	(\$1,311,114)	(\$1,316,335)
	(\$1,128,150)	(\$1,128,150)
	(\$1,748,151)	(\$1,755,113)
	(\$13,657,267)	(\$13,679,603)
	(\$29,546,820)	(\$29,632,429)

INCOME ANALYSIS After	Year Built
Potential Gross Income	
Revenues	
Room revenue	101,032
Food & beverage revenue	101,032
Parking & other income	102,200
Total revenues	
Less: Departmental expenses	
Rooms	29.0%
Food & beverage	79.0%
Parking & other	50.0%
Total departmental expenses	
Total departmental net income	
	GBA
Retail rental income	0
Basement office rental income	0
Other rental income	0
Total Bldg Area & Gross Income	399,189
Less: Undistributed expenses	
Admin, marketing, utilities, maintenance, insurance	
Franchise fees @	7.5%
Management fee @	3.0%
Real estate taxes	
Replacement reserve @	\$0.04
Total undistributed expenses	
Total operating expenses	

	\$14,156,966	\$14,245,389
Capitalized @	7.50%	7.50%
	\$188,759,552	\$189,938,519
(R) \$188,760,000	\$188,760,000	\$189,939,000
Per SF NRA	\$657.55	\$661.66
Per room	\$545,549	\$548,957
% change	0.71%	1.34%
per SF =	\$26,506,000	\$26,506,000
	\$162,254,000	\$163,433,000
Per SF NRA	\$565.22	\$569.32
	\$1,327,000	\$2,506,000

1.00%

Net operating income
Indicated Values
Land Value
Residual Improvements
Special Benefit Summary

2005					
occupied rooms @ \$335.00 per occupied room					\$33,845,720
occupied rooms @ \$40.00 per occupied room					\$4,041,280
occupied rooms @ \$55.00 per occupied room					\$5,621,000
					\$43,508,000
of room revenue					(\$9,815,259)
of food & beverage revenue					(\$3,192,611)
of parking & other income					(\$2,810,500)
					(\$15,818,370)
					\$27,689,630
<u>NRA</u>					
0	SF NRA @	\$0.00	per SF =		\$0
0	SF NRA @	\$0.00	per SF =		\$0
0	SF NRA @	\$0.00	per SF =		\$0
287,065	SF NRA @	\$96.46	/SF		\$27,689,630
ice @ \$20,000 per available room					(\$6,920,000)
of room revenue					(\$2,538,429)
of total revenue					(\$1,305,240)
					(\$1,128,150)
of total revenue					(\$1,740,320)
					(\$13,632,139)
					(\$29,450,509)

				\$14,057,491		1.00%
				Low	High	
Capitalized @				7.40%	7.45%	
Indicated Value				\$189,966,095	\$188,691,154	
(R) \$189,966,000				\$189,966,000	\$188,691,000	
Per SF NRA				\$661.75	\$657.31	
Per room				\$549,035	\$545,350	
% change				1.35%	0.67%	
14,580	SF @	\$1,818.00	per SF =	\$26,506,000	\$26,506,000	
				\$163,460,000	\$162,185,000	
per SF NRA				\$569.42	\$564.98	
				\$2,533,000	\$1,258,000	

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0429	Hyatt At Olive 8	737 Olive Way	2285130010

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$1,873,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$251,786

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0429	Hyatt At Olive 8	737 Olive Way	2285130010

	BEFORE	Appraiser	Value	
A	Final City Before Value	City	\$187,433,000	excludes personal property
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$118,200,000	
C	COVID 19 Discount and value	-12.5%		
D	(B*(1+C) unless no value for B, then A*(1+C))	Corrected FMV for Assessment	\$103,425,000	

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$1,873,000		
H/A	As Percentage of Final City Before Value	0.999%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$1,033,516		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$354,425	\$97,384
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$138,935	\$38,175

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0429

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON HEDREEN
LLC’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
2285130010

33 Hedreen LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070, Seattle
34 Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office
35 of the City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
36 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
37
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39
40

41 **I. Taxpayer / Appellant**

42 The Taxpayer filing this appeal is:

43
44 Hedreen LLC
45
46
47

1 c/o R C Hedreen Co., PO Box 9006
2 Seattle, WA 98109
3 Zahoor Ahmed
4 206-624-8909
5 ahmed@rchco.com
6

7 **II. Taxpayer's Representatives**

8 Taxpayer's representatives in this matter are:

9
10
11
12 R. Gerard Lutz, WSBA No. 17692
13 JLutz@perkinscoie.com
14 Megan Lin, WSBA No. 53716
15 MLin@perkinscoie.com
16 Perkins Coie LLP
17 10885 N.E. Fourth Street, Suite 700
18 Bellevue, Washington 98004
19 Telephone: 425.635.1400
20 Facsimile: 425.635.2400
21
22

23 Robert L. Mahon, WSBA No. 26523
24 RMahon@perkinscoie.com
25 1201 Third Avenue, Suite 4900
26 Seattle, Washington 98101
27 Telephone: 206.359.8000
28 Facsimile: 206.359.9000
29
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31 **III. Statement of Taxpayer's Interest**

32 Hedreen LLC is the taxpayer for the property that is subject to the proposed final
33 assessment described in Section IV. This property is the Hyatt at Olive 8, a 17-story hotel
34 containing 346 guest rooms and 12,000 square feet of meeting space.
35
36

37 The basis of the proposed assessment is a Final Special Benefit/Proportionate
38 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
39 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
40 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
41 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
42
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Taxpayer appeals the Hearing Examiner’s recommendation to remand Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 2285130010
34 Site Address: 1635 8th Avenue, Seattle, WA 98101¹
35 Proposed Final LID Assessment for Parcel: \$733,883

36
37 See Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
38
39 the evidence and arguments raised before the Hearing Examiner into this appeal. In
40
41 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*

42
43 ¹ Taxpayer’s expert appraisal states that the address is 1635 8th Avenue, Seattle, WA 98101.
44 See EXHIBIT 7. The Assessment Notice states that the address is 737 Olive Way, Seattle,
45 Washington 98101. See EXHIBIT 1. King County Department of Assessments’ states that the site
46 address is 1615 8th Ave, Seattle, WA 98101. See
47 <https://blue.kingcounty.com/Assessor/eRealProperty/Dashboard.aspx?ParcelNbr=2285130010>.

1 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
2 supplemental Closing Statement submitted at the close of the City’s case-in-chief (dated
3 7/7/2020).²
4

5
6 As discussed more fully below, Taxpayer specifically appeals the following Findings
7 and Recommendations in the Hearing Examiner’s September 8, 2020 Recommendation:
8
9 Pages 61-62, 106, Sections II.6, II.7, II.12, II.14, II.16, II.17, II.18, II.19, II.20, II.21, II.22,
10 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
11 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
12 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5,
13 IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14, and IV.C.18.
14
15

16 Taxpayer also appeals the Hearing Examiner’s failure to make findings of fact or
17 recommendations on material issues raised during Taxpayer’s appeal that were supported by
18 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
19 requirements of a LID assessment study, and the Examiner’s Recommendation ignores the
20 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
21 recommended anything other than denial of objectors’ appeals were where the City’s
22 appraiser confessed error. The appraiser’s proposed assessments, and the Examiner’s
23 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
24 special assessments based on “fundamentally wrong methods.”
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40 ² Because the City has not provided “metered index numbers,” our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee’s consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner’s electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

23
24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$1,873,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
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11 **Legal Requirement:** Must comply with appraisal standards
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13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
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21 **Legal Requirement:** Actual and measurable special benefit
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23 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
24 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
25 on a host of "micro-judgments" that are not supported by any documentation, nor capable
26 of replication or quality assurance/quality control. The assessments are undocumented,
27 unreliable, and not supported by empirical studies, data, or reports.
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30 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
31 supported by empirical evidence
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33 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
34 value of parks and other public amenities and on whom ABS purported to rely, testified
35 that ABS had completely misapplied his work and dramatically overstated both the
36 distance to which economic benefits might extend from the LID Improvements and the
37 extent of any anticipated benefit within the potentially benefited area.
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40 **Legal Requirement:** Actual special benefit—Must take into account potential
41 disamenities
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43 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
44 construction, as well as other potential disamenities associated with public places.
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1 **Legal Requirement:** Cannot prematurely commit to build

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3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
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10 In addition to these general objections, there are property-specific issues raised by
11 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
12 statement below.
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17 **V. Standard of Review**

18 “When considering the assessment roll, the city council sits ‘as a board of
19 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
20 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
21 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
22 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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25 The proposed assessments are presumed correct, “unless overcome by clear, cogent
26 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
27 than the heightened presumption of correctness on judicial appeal because “applying these
28 elevated standards at the municipal hearing would afford unwarranted deference to a report
29 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
30 presumption is not evidence and its efficacy is lost when the other party adduces credible
31 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
32 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
33 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
34 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
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5 **VI. Grounds for Appeal**

6 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
7 following grounds.
8

9 **Taxpayer Not Required to Provide A Special Benefit Study**

10 1. Contrary to the Examiner's findings and recommendations, there is no
11 requirement that experts or property owners provide an alternative special benefit
12 calculation under these circumstances—to do so would also require the same improper
13 speculation the City's expert engaged in, given the timing and information provided. *See*,
14 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
15 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
16 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
17 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
18 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
19 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
20 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
21 provided expert opinion showing that improvements actually diminished value of the
22 property). In fact, no independent evidence is required at all if, for example, objectors show
23 that the assessment was grounded on a fundamentally wrong basis due to an error in the
24 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
25 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
26 a property owner could simply point out that the square footage assumed in the City's
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1 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
2 Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8,
3 and IV.C.11.
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7 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
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9 2. RCW 35.43.040 provides cities and towns authority for ordering local
10 improvements and for levying and collecting special assessments "on property specially
11 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
12 upon all the property in accordance with the special benefits conferred thereon." RCW
13 35.44.010.
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17 3. No analysis of general benefits. Special assessments have been "held valid
18 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
19 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
20 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
21 they are for the construction of local improvements that are appurtenant to specific land and
22 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
23
24

25 4. Taxpayer's property is not specially benefited by the LID Improvements.
26 The primary purpose and effect of the LID Improvements are to benefit "members of the
27 whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public
28 library is for the benefit of the members of the whole community individually and
29 collectively who may be served by it"). Mr. Macaulay's own chapter of the LID Manual
30 states clearly that appraisers should "[c]onsider general benefits as well as special benefits"
31 (Hrg. Exhibit 117 (LID Manual) at 58³) and he admits that "general benefits probably accrue
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46 ³ "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
47 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil

1 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
2 that if an appraiser “identifies both general and special benefits, these benefits should be
3 clearly distinguished and explained, and only special benefits should be included in the
4 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
6 183:4; P. Shorett January 30, 2020 Appraisal Review (attached to Appeal Petition) at
7 Attachment p. 15 (explaining the examples in the Final Study only provide information
8 about general benefits and Study does not use proper measure of analysis to show special
9 benefits).

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19 5. It is undisputed that Mr. Macaulay did not analyze or measure general
20 benefits, including those arising from construction necessary to meet basic design standards.
21 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
22 construction costs related to meeting design standards which may be general benefits as
23 distinct from construction costs emanating from requirements of the LID project”). To the
24 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
25 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
26 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
27 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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35 6. LID Improvements not necessary. Unlike typical LID projects, the
36 Waterfront LID improvements are largely unnecessary to the functionality of any particular
37 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d

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 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
 Taxpayer has attached a master list of the hearing exhibits and evidence presented as Attachment A
 to this appeal notice.

1 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
2 held invalid where owners would have benefitted equally from increase of only 9 feet);
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4 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
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6 intersection for new water main for hydrant held invalid because land was already afforded
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8 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
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10 not necessary to their hotel business, which caters primarily to business travelers attending
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12 conventions and meetings and visiting Seattle companies. Hrg. Exhibit 114 (Decl. of Z.
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14 Ahmed) at ¶¶ 44, 51, 52. For this reason, the Hyatt at Olive 8 does not expect the LID
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16 Improvements to increase impact on demand for rooms or room rates. *Id.*

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18 7. The fact that there is no case law differentiating between binary
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20 improvements and parks does not change the law prohibiting assessments on properties
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22 already adequately served by existing amenities. *See* Examiner's Recommendation at
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24 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
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26 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
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28 reasoning excuse the City's failure to account for existing amenities as part of the special
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30 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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32 the incremental effect of new park improvements on the value of properties, much like
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34 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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36 (Crompton's Report) at 12-13.

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38 8. To the extent benefits can be considered "special" as opposed to general, they
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40 are nominal or nonexistent for many properties even in the Central Waterfront, which
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42 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
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44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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46 change due to expansion of sewer service *near* owners' parcel which were already
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1 connected). Even if the City could assess for a view change (and it has promised not to
2 assess for viaduct removal), the fair market value of Taxpayer's property has not changed
3 because the LID Improvements have not improved the property's waterfront view or access
4 to the waterfront, nor will they when the City anticipates completion in 2024. For these
5 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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7 Sections IV.C.3, IV.B.9, and IV.C.3.
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12 9. No analysis of special detriments. The Final Study fails to properly account
13 for special detriments. *See Kuskys*, 85 Wn. App. at 501 (city failed to consider the costs to
14 owners for removal and cleanup of underground storage tanks discovered during the
15 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
16 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
17 of how lost parking might be a detriment, and no property-specific parking analysis in any
18 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
19 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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23 10. Likewise, there was no analysis of the risks associated with disamenities such
24 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
25 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
26 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
27 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
28 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
29 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.⁴ And if
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45 ⁴ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
2 the maintenance agreement. *Id.* at 13:4-14:2.

3
4 11. There was also no consideration of negative impacts from another four-plus
5 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
6 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
7 law allowing him to dismiss these actual, non-speculative impacts. Because future special
8 benefits calculations are inherently speculative, Washington’s eminent domain statute
9 specifically allows condemnees to postpone special benefits assessments until improvements
10 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
11 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
12 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
13 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
14 Greenway, the Greenway district “significantly” lagged in value).
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16 12. Meanwhile, Mr. Ahmed testified that the assessment is an immediate expense
17 for the Hyatt at Olive 8 that comes with no immediate increase in revenue, thereby
18 decreasing property values. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed), ¶ 52. Mr. Ahmed
19 further testified that the Hyatt at Olive 8 will receive no special benefit from the proposed
20 improvements, and in fact the property is more valuable without the proposed LID
21 improvements and the corresponding assessment. *Id.*, ¶¶ 53, 54. For these reasons,
22 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
23 II.25, IV.B.8, and IV.B.9.
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25 13. Special benefit estimate is speculative. When calculating a special benefit,
26 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
27 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
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1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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4 14. Assuming without conceding that one day, the City’s planned LID
5 Improvements might increase the value of neighboring properties to some extent, that
6 potential benefit is many years away and speculative. While appraisers tolerate some degree
7 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
8 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
9 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
10 the level of precision implied in the Final Study due to the size of the LID and use of
11 hypotheticals).
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20 15. Although LIDs are sometimes finalized prior to completion of improvements,
21 this is typically just six month or a year prior, and the assessments are otherwise supported
22 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
23 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
24 will not be realized for four or five years. In the meantime, there is permitting risk,
25 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
26 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
27 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
28 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
29 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
30 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
31 market value would be as of the date the project would be finally constructed” because
32 “[t]here could be a lot of elements in the market that did occur between now and then that
33 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
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1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

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5 16. The record is clear that while no one can know what “special benefit” might
6 accrue to these properties in four years (if any), we do know that there are no actual benefits
7 now. The LID improvements provide no immediate special benefit to property owners
8 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
10 sewer system for future users). For example, notwithstanding the questionable hypothesis
11 that hotels will benefit from an expected increase in tourism (higher room rates or
12 occupancy) when the improvements are complete, it is undisputed that tourists are not
13 coming in larger numbers and paying higher room rates now because of something
14 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23;
15 O’Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased today for 18
16 months would rent at a higher rate due to improvements coming in 2024).

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19 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
20 for the LID Improvements, and it is unlawful to move to final assessments without such
21 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
22 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
23 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
24 dollars on projects still early in the design process. *See* Washington Attorney General
25 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
26 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
27 of programs and included “only so much of the overall costs” that took place within and
28 benefitted the assessed properties).

1 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
2 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
3 anticipated to be delivered five years later. Even before COVID, it was speculative to
4 assume that market highs experienced in October 2019¹ would be sustained through 2024,
5 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
6 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
7 my analysis in October 2019, who would have thought that this COVID issue would
8 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
9 process was that the market was going to continue to go up”—in fact, it did not for
10 Taxpayer’s property. *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that
11 downtown hotel values had already dropped an estimated 10-15% from their October 2019
12 levels, and occupancy rates were at zero or in single digits. *See* Gordon Decl. (dated
13 4/21/2020) at ¶ 9. Hotels without guests will derive no benefit, special or otherwise, from
14 the planned LID Improvements. And even assuming hotels recover prior to 2024, there is
15 no basis for assuming that values hypothesized in October 2019 will remain relevant; they
16 are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020).
17 Although COVID does not change actual values as of October 2019 (*see* Examiner’s
18 Recommendation at 109), the pandemic has impacted *current* values and rendered the
19 hypothetical October 2019 Final Study valuations outdated.

20 19. As another example of how future events could affect the accuracy and
21 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
22 Examiner re-open the record to allow the City to explain whether the assessments against
23 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁵ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁶ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 20. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁵ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.
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45 ⁶ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 22. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 23. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 25. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
2 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
3 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 26. Applying the Q19 Korpacz rates and assuming arguendo that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
19
20

21 27. But even the assumption that the LID improvements would deliver benefits
22 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
23 on. Rather, those studies demonstrate that a discount period of five years is conservative.
24 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
25 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
26 indicates that during the construction period, the Greenway district "significantly" lagged in
27 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
28 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline.
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5 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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7 Improvements take a similarly long period of time after they are complete to start producing
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9 tangible property value benefits, each additional year of delay results in further discount to
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11 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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13 A.
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17 28. Applying the same discounting methods described above and in Mr. Gibbons
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19 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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21 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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23 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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25 100% assessment should be no more than \$176,436. Anything more would permit the City
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27 to assess Taxpayer based on a hypothetical assumption that these improvements are in place
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29 and providing benefit, and ignore the risks, construction disamenity, and time value of
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31 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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33 would counsel that the assessment should be only 39.2% of that assessment cap, or \$69,163.
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35 29. Attachment C includes two Excel spreadsheets applying these discounting
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37 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
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39 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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41 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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43 present value would reduce Taxpayer's assessment to \$251,786, exclusive of any other
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45 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
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47 reductions after taking into account: (1) Taxpayer's experts' estimated "Before" value based

1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
4 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
5 the time it takes for the improvements to capture property value). After such reductions,
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7 Taxpayer's assessment would be just \$138,935 (for the 5-year discount) or \$38,175 (for the
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9 10-year discount). Further, the spreadsheet concludes a "zero" benefit for this property
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11 because, based on Dr. Crompton's testimony, Taxpayer's property is more than 2,000 feet
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13 from the core "park" improvements and therefore too distant to receive any special benefit.
14
15 Neither of these spreadsheets address other issues raised by Taxpayer's appeal, but are
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17 intended to help demonstrate how unfair and inflated the City's proposed hypothetical
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19 assessment is. The Hearing Examiner's Recommendation simply dismisses Taxpayer's
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21 discounting argument without legal or factual analysis; that failure is error.
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23

24 **Appraisal and Assessment Calculation Methods Are Flawed**

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26 30. The "general rule is that each lot, piece, or parcel of land should be assessed
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28 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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30 Wn.2d at 97.
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33 31. It is proper to sustain a challenge to an assessment, even without the appraisal
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35 testimony from the owner, where the objector's expert establishes that the assessment was
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37 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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39 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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41 32. The City's appraiser purports to utilize the income method of valuation but
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43 relied on inaccurate revenue and market data, as discussed further below.
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45 33. The City's appraiser purports to utilize the comparable sales method of
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47 valuation, but no City witness attempted "to characterize any one, or all of them, as

1 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
2 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
3 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
4 characterize any one, or all of them, as comparable to any particular property within the LID").
5 And no City witness could explain how specific adjustments were made to these sales to
6 account for value increases due to the hypothesized Before and After Improvements. For this
7 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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15 34. Special assessment improperly includes value lift from the Before
16 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
17 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
18 Improvements, which WSDOT had independently committed to fund. However, Mr.
19 Macaulay did not calculate the actual market value of LID properties in October 2019, and
20 did not separately analyze the hypothetical increase to property values attributable to
21 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
22 current value and then separately calculate a hypothetical "With WSDOT" Before value);
23 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
24 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
25 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
26 documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
27 occupancy and rates would have been for the commercial properties assuming all of the
28 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
29 outright omission precludes any independent evaluation of the true market "Before" values.
30 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
31 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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1 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
2 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
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4 other road, pedestrian and landscaping improvements WSDOT had already committed to
5
6 make.
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9 35. However, because Mr. Macaulay testified that he did include some WSDOT-
10 related value-lift in the “Before” values, it follows that part of the special assessment
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12 improperly is based on value attributable to the WSDOT Improvements. As shown by
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14 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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16 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
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18 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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20 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
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22 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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24 to properly exclude the value of Before Improvements from the assessments. For these
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26 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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28 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)
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31 36. Special benefits were assigned rather than measured. Mr. Macaulay
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33 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
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35 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
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37 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 3/3/2020 (A. Gibbons) Hrg Tr. at
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39 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay used to
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41 analyze the commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based
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43 adjustments on hypothesized very small increases to property revenue and very small
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45 reductions to cap rates to “calculate” an “After” value due to the coming 2024 LID
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1 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
2 based on “professional judgment” that are neither shown nor replicable.
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5 37. For these reasons, Taxpayer appeals the following portions of the Examiner’s
6 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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9 38. Special benefit falls within margin of error. The Final Special Benefit Study
10 applies an estimated value enhancement of less than 4%, which is generally within the
11 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
12 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
13 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
14 of one another, this difference is considered reasonable as it falls within the standard margin
15 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
16 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay’s micro-special benefit
17 percentages fall far below that 5% margin, “there is no way of authenticating” such
18 incremental changes because “[m]arket forces completely obliterate any tiny little noise
19 factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
20 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25.
21 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
22 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
23 appraiser to discern the micro-value differences between hypothetical conditions that are so
24 similar (the WSDOT improvements compared to the LID improvements) “verges on being
25 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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28 39. Even if it were possible to accurately tease out such a miniscule hypothetical
29 value change due to improvements coming five years later, experts testified that there is no
30 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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1 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
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3 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
8
9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 40. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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14 percentage difference between hypothetical Before and After conditions. Throughout his
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16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
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26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 41. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁷ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 42. Special assessment is not supported by comparable studies, data or reports.
25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for the commercial properties, including Taxpayer’s
30 property. For example, although Mr. Macaulay stated that no single report or study was
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41 ⁷ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
2 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
3 parcel-by-parcel analysis other than to say that the studies generally provided “some
4 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
5 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
6 similarities and differences between these improvements and the comparable parks he
7 looked at).

14 43. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
15 assignment of incremental increase of 0.5% to 4% to property values within the LID.
16 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
17 research misinterprets his work in critical ways, including because the LID Improvements
18 manifest the characteristics of a parkway (not a park), and his research indicates that most of
19 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
20 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
21 related value increases are in fact smaller; that estimated increases are “best guesses” rather
22 than predictions of property value increases in a particular city; and that percentages do not
23 account for diminishing returns after taking into account water views, which would be the
24 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
25 topography grants most properties in downtown a water view.

38 44. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
39 that this was just one source of information that was not entirely relevant because, among
40 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
41 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
42 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
4 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
5 significantly beyond that which the park study indicated (even if it was legitimate to use the
6 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
7 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
8 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
9 Taxpayer’s property is not even within 2,000 road network feet from the “park”
10 improvements. *See* Hrg. Exhibits 104 (Ellen Kersten Decl.) at Exs. E, F; 114 (Decl. of Z.
11 Ahmed) at ¶ 50.

12 45. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
13 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
14 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
15 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
16 materials, it was clearly an important—if not *the* most important—source of information for
17 estimating special benefits (especially with respect to the condos).⁸ No City witness
18 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
19 parcel-by-parcel analysis.

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⁸ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr. at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a park (or streetscape) improvement—other studies estimated premiums for real estate only much closer or cited to Dr. Crompton.

1 46. The destination parks discussed in the Final Special Benefit Study do not
2 provide reliable, comparable, and valid support for the calculation of special assessments
3 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
4 critique of every case study cited concludes the changes to those “dwarf the difference
5 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
6 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
7 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
8 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
9 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
10 funded by a LID. And in virtually all of those cases, the park improvements dramatically
11 restored unimproved or blighted areas, and properties evaluated were within two or three
12 blocks of the park.
13

14 47. ABS’s claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁹ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
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22 ⁹ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
23 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
24 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
25 expected tourists visiting the LID park was calculated using data from only from New York City, a
26 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
27 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
28 how hotel visitors actually select hotels to stay in.
29

1 the LID Improvements and could not explain how this impacted his condo analysis.
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3 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
4 Property Values” primarily focused on whether the benefits accrue to the larger community
5 rather than properties adjacent to the park. And the 2014 New York City Department of
6 Transportation study is not based on real estate transactions and market sales and fails to
7 substantiate any link between increased retail sales and property values. Moreover, this
8 study only looked at impact either directly abutting the streetscape improvement, or a couple
9 hundred feet for plaza-like improvements.
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12 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
13 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
14 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
15 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
16 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
17 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
18 asked whether he considered that HR&A’s estimated LID impact is six times greater than
19 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
20 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
21 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
22 assumptions to account for this difference, which may be partly explained by the fact that
23 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
24 approximately 3.44% of King County tourists visit Seattle primarily because of the city
25 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
26 waterfront improvements.
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1 49. Although proximity to the improvements is a key factor in all of these
2 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
3 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
4 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
5 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
7 Improvements is approximate 20 acres and it is not a community park.¹⁰

8 50. There is no explanation in the Final Study or the supporting materials of how
9 the studies or comparable sales were used to derive values for Taxpayer's property. For
10 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
11 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

12 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
13 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
14 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
15 recognized) for developing the MAI standards for mass appraisals, testified that the Final
16 Study does not meet mass appraisal standards nor allow for independent assessment of the
17 accuracy of Mr. Macauley's conclusions.

18 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
21 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's

22 ¹⁰ *See*
23 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
24 connecting Seattle's central waterfront to downtown.").

1 testimony suggests that he incorrectly believed that the only difference between direct
2 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
3
4 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
5
6 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
7
8 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
9
10 Gordon uses in doing his limited restricted report”).
11

12
13 53. But the difference is not only in reporting—mass appraisal techniques must
14
15 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
16
17 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
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19 parcel approach:

20
21 The mass appraisal technique is an appraisal method used to evaluate
22
23 a group of properties that are subject to similar market forces as of a
24
25 certain date through the use of market data, statistical analysis and
26
27 testing. As a result, the mass appraisal technique does not require or
28
29 involve analysis of each individual property’s specific data.

30
31 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

32
33 54. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
34
35 universe of properties as a given date using standard methodology, employing common data,
36
37 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
38
39 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
40
41 model” is “a mathematical expression of how supply and demand factors interact in a
42
43 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
44
45 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
46
47 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

1 55. Regardless of client direction, Mr. Macaulay is required to comply with
2
3 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
4
5 economically feasible because it would have taken “an incredible amount of time and cost”
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7 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
8
9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).

12 56. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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14 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
15
16 value, fails to calibrate the model structure to determine the contribution of the individual
17
18 characteristics affecting value, and does not review the mass appraisal results against actual
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20 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
21
22 217:1;¹¹ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

23 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
24
25 proximity to the elements, the increase in market rent, market vacancy changes,
26
27 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
28
29 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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33
34 ¹¹ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
47

1 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
2 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
3 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
4 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
5 values were hypothetical, it was not possible to identify matched pair sales and no City
6 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
7 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
8 requires him to explain his model structure.
9

10
11 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
12 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
13 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
14 and appeals the Examiner’s denial of that motion.
15

16
17 59. Finally, Taxpayer’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, the Hyatt at
21 Olive 8 is more than a 3/4 of a mile walk—approximately 2,700 feet as a crow flies—from
22 Pier 58 and the core “park” improvements. Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 50.
23 And, as described above, the special assessment is overstated because the Final Study makes
24 no attempt to determine general benefits, existing amenities for Taxpayer’s specific
25 property, or special detriments. In addition, it is speculative due to the fact that, as of
26 October 2019, improvements were not in place—and, in fact, much of the waterfront is a
27 construction zone following removal of the viaduct and now Pier 58 demolition. Under
28 these circumstances, rather than relying on entirely imaginary income and shaky
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1 hypotheticals, Mr. Macaulay at the very least should have discounted the special benefit
2 estimates or waited to perform the Study until the improvements were at least close to
3 complete.
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6 **Erroneous Pre-Improvement Valuation**

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9 60. The proposed final assessment erroneously overstates the pre-improvement
10 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
11 benefit to the Taxpayer's property.
12

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14 61. The City's Final Study was used to compute the proposed final assessment of
15 Taxpayer's property. The City's Study purportedly uses data from the King County
16 Department of Assessments,¹² but the pre-improvement valuation information in the Final
17 Study does not accurately reflect this data. For example, the City's Study values Taxpayer's
18 property at \$187,443,000 as of October 1, 2019. However, the King County assessor
19 determined the true and fair value of the property to be \$152,046,700, valued in 2019 for tax
20 year 2020. In other words, the Final Special Benefit Study's valuation is 123% of King
21 County's assessed value. The Final Special Benefit Study does not explain this difference—
22 or any differences—between its pre-improvement valuation and its supposed source for
23 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
24 Recommendation.
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26

27 62. Further, the City's analysis was based on unreliable market data. For the
28 hotels, Mr. Macaulay's decision to rely on inaccurate market data notably deviates from
29 standard appraisal practices because more reliable data in the form of STR reports are
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45 ¹² See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 readily available. Examiner Recommendation at Section IV.C.10; 3/12/2020 (J. Gordon)
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3 Hrg. Tr. at 196:5-197:12; 215:9-18. Without the STR reports or actual input from the hotels,
4
5 Mr. Macaulay's "Before" valuations are drastically overstated in large part because he relies
6
7 on publicly available "room rack rates" to estimate hotel income. *See id.* (J. Gordon) at
8
9 162:3-18; 170:16-171:13; 179:25-180:14; 192:15-22. As the Examiner found, "Mr. Gordon
10
11 is a specialist expert in appraising hotels and his expert opinion, in addition to the specific
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13 information he relied on for that opinion, is superior to the opinion and supporting data of
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15 the City in its valuation." Examiner's Recommendation at II.16. The Examiner concluded
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17 that Mr. Gordon's valuations were more reliable "due to the specialist nature of Mr.
18
19 Gordon's background and the specificity of the valuation data upon which he relied"—
20
21 namely STR reports or actual revenue data from the hotel. *Id.* at IV.C.10. Therefore, "the
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23 valuation of [this] property should be remanded for recalculation by the City appraiser based
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25 on the information provided by [this] Objector." *Id.*

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27 63. Specifically, the evidence and testimony presented showed that the actual
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29 average daily room rate (ADR) for this property in 2019 was \$225. However, Mr. Macaulay
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31 incorrectly estimated an ADR of \$335 for this property which is 49% higher than actual
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33 ADR, far exceeds the most optimistic assumptions about future growth in hotel room rates
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35 for the Hyatt at Olive 8, and is not a reasonable assumption in valuing a hotel of this type in
36
37 the downtown Seattle market. Additionally, the Hyatt at Olive 8 has significantly reduced
38
39 operations as a result of the COVID-19 outbreak.

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41 64. Due to these errors alone, Mr. Macaulay artificially raised the property's
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43 Before value; Mr. Gordon valued the property at \$118,200,000 (without personal property),
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45 which is \$67,243,000 (or about 37%) less than ABS Valuation's estimate. Setting aside that
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47 ABS Valuation's inclusion of personal property when valuing hotels is disproportionate and

1 flawed, Mr. Gordon's estimate of value including personal property is \$123,400,000, which
2 is still significantly lower than ABS Valuation's estimate (\$187,433,000). *See* Fourth Decl.
3 of Gordon, at ¶ 5 (dated 7/7/2020).
4

5
6 65. Taxpayer expects an opportunity to respond to the revised assessment once
7 that is provided (*see* Examiner's Recommendation at V) and appeals the remainder of
8 Section IV.C.10 of the Examiner's Recommendation rejecting Taxpayer's other bases for
9 reducing the assessment. For example, Taxpayer disagrees with the Examiner's conclusion
10 that one of the reasons Mr. Gordon's appraisals concludes a lower value for this property is
11 because he was not valuing the properties in the "Before" condition. Examiner's
12 Recommendation at Section II.16. This does not explain the 49% difference between ABS
13 Valuation's estimate and actual average room rates for the Hyatt at Olive 8. Further, Mr.
14 Lukens—who reviewed ABS's valuation estimates for reasonableness—was not even aware
15 that the Before values were supposed to include the WSDOT Improvements. 6/26/2020
16 Hrg. Tr. at 165:2-166:22.
17

18
19 66. Thus, aside from multiple other reasons why computation of the special
20 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
21 improvement values that do not accurately reflect market data. For these reason, Taxpayer
22 appeals Section II.16 of the Examiner's Recommendation.
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Erroneous Computation of Special Benefit

67. "Special benefit" is "the increase in fair market value attributable to the local
improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
may receive by reason of the improvement is not measured alone by the physical character
or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is

1 the particular tract or property benefited by the entire improvement, and is it assessed
2 proportionately with the other property included within the assessment district?” *Id.* 165–
3
4 66.

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6 68. The proposed final assessment erroneously overstates the special benefit of
7
8 LID improvements in a number of ways.
9

10 69. Overstated Before value led to overstated special benefit. ABS Valuation’s
11 overstated Before value resulted in an inflated special benefit estimate and assessment after
12
13 Mr. Macaulay made micro adjustments to “Before” revenue and capitalization rates to
14
15 calculate an After value. Mr. Macaulay conceded that using his methods and his
16
17 spreadsheets, changing the room rate alone would change the special assessment. 6/25/2020
18
19 Hrg. Tr. at 42:21-43:15 (explaining that changing the room rate will result in a different
20
21 assessment and the same is true for every hotel); *see also* 6/23/2020 Hrg. Tr. at 111:9-11,
22
23 132:12-133:10, 140:20-141:9. And he agreed that if Mr. Gordon’s numbers are accurate—
24
25 and there is no evidence they are not—then ABS would need to redo the appraisal for the
26
27 Hyatt at Olive 8 to determine if adjustments are needed. *Cf. id.* 109:17-110:2 (discussing
28
29 the Hyatt Regency), 137:20-138:13 (discussing Grand Hyatt).
30
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32 70. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
33
34 the Hyatt at Olive 8, Mr. Macaulay assumed room/rental rates would increase by 0.45%
35
36 (low) and 0.85% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it
37
38 is not possible to accurately conclude that the reason for this level of percentage increase
39
40 would be due to the LID Improvements, and there appears to be no support for assignment
41
42 of these percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these
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44 same percentages (0.45% and 0.85%) to increase food and beverage revenue, and parking
45
46 and other income. He then uses this hypothesized increased revenue to calculate a new net
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1 operating income for the commercial properties and capitalizes that to come up with an
2 “After” valuation.
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5 71. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
6 operating income remains the same as in the hypothetical “Before” condition, but changes
7 the cap rate. For the Hyatt at Olive 8, the cap rate goes from 7.50% to 7.40% (low scenario,
8 creating a bigger value increase) and 7.45% (high scenario, creating a lower value increase).
9 Mr. Gordon likewise explained that cap rate changes of 0.10% or 0.05%% are not typically
10 measurable, and there appears to be no support for these changes in the Final Study or any
11 of its supporting materials.
12
13

14
15 72. Mr. Macaulay then averages his four “After” values to arrive at a final special
16 benefit conclusion. For the Hyatt at Olive 8, this is an increase in property value of 1.00%
17 due to the LID Improvements.
18

19
20 73. Mr. Macaulay offered little justification for his micro adjustments to revenue
21 and capitalization rates. When asked precisely what the basis is for his special benefit
22 percentage increases to revenue for each commercial property, he could not point to
23 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
24 is nothing in the report to allow a reader to understand how he came up with these
25 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
26 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
27 the basis for his belief that certain factors—liked increased connectivity—will increase
28 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
29 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
30 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
31 sources equally even though there was no separate analysis done for food and beverage or
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1 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
2 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
3 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
4 properties.
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6

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8 74. When asked the basis for making such adjustments, Mr. Macaulay pointed to
9 “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7 (“Mr. Lukens helped
10 significantly in that regard in helping, you know, look at probable adjustments”). However,
11 Mr. Lukens testified that he did not review the percentage increases. *See* 6/25/2020 Hrg. Tr.
12 at 170:24-172:20.¹³ And he did not review any work or data to determine whether the
13 revenue percentage adjustments in the spreadsheets were reasonable, nor did he ever find
14 them to be unreasonable or suggest any changes. *Id.* at 172:3-20. Instead, he appeared to be
15 considering them for the first time on cross examination, testifying that the adjustments
16 “appear to be a kind of sensitivity analysis” and “appear to be a very minor change.” *Id.* at
17 170:18-172:13. Likewise, he had no understanding of what factors went into determining
18 the change in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1. And he did not
19 know how ABS Valuation reconciled the four scenarios to come to final estimated special
20 benefit. *Id.* at 174:22-175:4.
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38 ¹³ As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different
39 special benefit and capitalization rate increases to the parking and retail parcels associated with the
40 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
41 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special
42 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
43 parcels). When asked whether this was a matter of coincidence, his answer was that is “just our
44 estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
45 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
46 though it is one block closer to the waterfront.
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1 75. Mr. Macaulay testified that he used comparable sales as a reasonableness
2 check for commercial properties. But as explained above, no City witness has explained
3 how anyone, or all, of the sales are comparable to any particular commercial property within
4 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
5 in order to make sales “comparable,” he would have had to make adjustments to account for
6 Before and After conditions, but there is no way to understand how adjustments were made
7 because he “didn’t do a separate sales comparison approach where we showed adjustments
8 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
9 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
10 *Id.* at 127:10-128:24.

21 76. It also bears noting that any “internal review” of the special benefit estimates
22 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
23 error. Indeed, given all the same information, he seemed to suggest that it would be
24 perfectly reasonable for another experienced appraiser to come up with special benefit
25 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
26 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
27 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
28 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
29 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
30 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
31 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
32 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
33 special because it is arbitrarily assigned; and it is too small to realistically be supported by
34 appraisal techniques.

1 77. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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3 any seller or purchaser that the price was higher because of the LID improvements.”
4
5 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
6
7 identified any seller or buyer, or any particular property where the existence of the LID
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9 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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11 explained that the property has not increased rental rates or revenue due to the forthcoming
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13 LID Improvements, because, among other reasons (and apart from COVID), the
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15 improvements ABS believes will generate value do not exist, and will not for a number of
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17 years to come. There are no comparable sales because the LID Improvements are not in
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19 place, nor will they be until the end of 2024 if completed on schedule. Notably, this
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21 property is further than 2,000 feet from the core waterfront improvement, making any basis
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23 for finding a special benefit extremely tenuous given Dr. Crompton’s testimony and reports.

24 78. The fair market value of Taxpayer’s property has not changed due to
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26 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
27
28 benefited from installation of new water main and fire hydrant where it was already
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30 adequately supplied with water and afforded adequate fire protection). And in any event,
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32 any value attributable to removal of the viaduct was to be excluded from the assessment
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34 calculation.

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36 79. There is no special benefit because LID improvements in fact diminish the
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38 value of Taxpayer’s property by drawing visitors away towards improvements that do not
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40 abut the property. *See Kusky*, 85 Wn. App. 493 (testimony of owners’ expert that LID
41
42 actually diminished value of property was sufficient to rebut presumption that assessment
43
44 was proper).

1 80. Moreover, the assessment formula is an attempt to distribute costs that do not
2 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
3 “merely a mathematical model that distributes costs”).
4

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6 81. The Special Benefit Study fails to address whether the \$346,000,000
7 estimated LID project cost takes into account the investment that would have occurred in the
8 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
9 invested. This is a critical component of estimating which properties receive a direct benefit
10 from the improvements, versus more incidental benefits further from the park.
11

12 82. Assessments are disproportionate. Taxpayer also presented evidence
13 showing that the assessments are disproportionate. For example, the City disproportionately
14 assessed hotels a greater percentage of the cost of the Improvements even though there no
15 evidence that hotel properties will in fact benefit. And even within the hotels, the
16 assessments are disproportionate. Mr. Gordon testified that the differences between the
17 special benefit increases for the Hyatt at Olive 8, the Grand Hyatt, and Hyatt Regency—
18 which are all very close together—made little sense and raised doubts as to proportionality.
19

20 83. Mr. Macaulay also included personal property in his valuation of hotels even
21 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
22 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
23 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
24 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
25 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
26 receiving a disproportionately high LID assessment in comparison to other property types,
27 since hotels were the only property type subject to personal property LID assessments.
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29 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
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1 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
2 notice procedures because hotel property owners only received notice that their real estate
3 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
4

5
6 84. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
7 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
8 a television at the waterfront Marriott is assigned a greater special benefit than the same
9 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
10 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
11 unreasonable to assign a value lift to personal property that is replaceable at the same cost
12 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
13 Shorett ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
14 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
15 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
16 for this error.
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18
19 85. The only evidence the City provided specific to this property was to rebut
20 Mr. Gordon's "Before" valuation. But the Hearing Examiner has already found that Mr.
21 Gordon's valuation is more reliable. The remainder of the City's evidence and testimony
22 regarding this property provides general responses which have already been rebutted by
23 Objectors in their case-in-chief and cross-examination. Second Decl. of Bird (dated
24 6/26/2020), at ¶¶ 97-103.
25

26
27 86. The proposed final assessment substantially exceeds the special benefit to the
28 property and is grossly disproportionate to similarly situated properties within the LID. For
29 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
30 Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.10.
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State Environmental Policy Act and Other Environmental Permitting

87. While this appeal is not challenging the City's environmental review and permitting processes, those processes are relevant in determining the legality of the assessments, and to assessing the delivery risk, the present value of the City's plans, and ultimately the amount of the assessment. If the roll is finalized, the City will commit to pursue projects that have not yet undergone environmental review (thus limiting the choice of reasonable alternatives to those projects). For example, if the roll is finalized, the City is committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63) is just beginning. Further, the City has segmented environmental review, and still has a gauntlet of federal, state and tribal review processes to complete before it will be clear what the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b), SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and committing to reconstruction of Pier 58 and major street improvements without environmental review, or the City's Final Special Study has improperly included and is proposing to assess the Taxpayer the costs and special benefits of improvements that may not get built. Either way, it is faulty process.

Due Process Rights

88. The City's failed to notify Taxpayer sufficiently in advance of the hearing to allow Taxpayer to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes

1 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
2 555, 569–70, 229 P.3d 761 (2010).

3
4 89. The LID statute specifies that cities must mail notices giving the time and
5 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
6 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
7 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
8 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
9 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
10 secure their own appraisal), evaluate proportionality of the proposed assessments, and
11 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
12 for anybody to get an appraisal”).

13
14 90. The City’s Notice of Assessment was sent on December 30, 2019. And the
15 Final Special Benefit Study has only been available for public review since January 7, 2020.
16 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
17 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
18 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
19 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
20 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
21 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
22 the Examiner’s Recommendation: I.B.

23 **VII. Relief Requested**

24 Taxpayer respectfully requests that the City Council:

- 25 1. Cancel the Waterfront Local Improvement District No. 6751 proposed
26 final assessment dated December 30, 2019; or
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1 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
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3 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
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5 hearing in this matter; or

6 3. Grant the Examiner's recommended remand but with instructions recalculate
7
8 and reduce Taxpayer's assessment using recognized appraisal techniques consistent with
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10 USPAP and

- 11 a. Excluding any property value increase attributable to viaduct removal and
12
13 other planned WSDOT Improvements;
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15 b. Excluding any value attributable to personal property;
16
17 c. Taking into account the effects of the COVID-19 pandemic on the value of
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19 Taxpayer's property and other relevant developments since October 2019;
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21 d. Accounting for and excluding (1) any special benefits from existing or
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23 planned improvements that already provide similar benefits to Taxpayer's
24
25 property, and (2) any special detriments from construction and other
26
27 anticipated LID-related disamenities;
28
29 e. Accounting for and including only those actual benefits anticipated to accrue
30
31 to Taxpayer's property based on its location relative to Pier 58, Overlook
32
33 Walk, and the Promenade, and specific elements of the LID Improvements;
34
35 f. Discounting anticipated special benefits to present value, based on reliable
36
37 estimates regarding when special benefits will start accruing following
38
39 completion of the LID Improvements; and
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41 g. Accounting for such other issues specific to Taxpayer's property relevant to
42
43 calculation of such assessment; and
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45

46 3. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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9

PERKINS COIE LLP

By:



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Attorneys for Hedreen LLC

3:59 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0429
Date: Tuesday, February 16, 2021 3:40:07 PM
Attachments: [Hyatt at Olive 8 Amended LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Hyatt at Olive 8 Amended LID Appeal before City Council.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0429

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON HEDREEN
LLC’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
2285130010

33
34 HEDREEN LLC (“Taxpayer”), also referred to as the Hyatt at Olive 8, files this
35
36 amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of
37
38 Seattle Resolution 31915, City of Seattle Resolution 31979, the notice of the Seattle Office
39
40 of the City Clerk dated December 30, 2019, the notice of the Seattle Office of the City Clerk
41
42 dated February 1, 2021, the Hearing Examiner’s Findings and Recommendation issued
43
44 September 8, 2020 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings
45
46 and Recommendation issued February 1, 2021.
47

1 **I. Hedreen LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 HEDREEN LLC
6 c/o R C Hedreen CO., PO Box 9006
7 Seattle, WA 98109
8 Zahoor ahmed
9 206-624-8909
10 ahmed@rchco.com
11

12 **II. Hedreen LLC's Representatives**

13 HEDREEN LLC'S representatives in this matter are:

14
15
16
17 R. Gerard Lutz, WSBA No. 17692
18 JLutz@perkinscoie.com
19 Perkins Coie LLP
20 10885 N.E. Fourth Street, Ste 700
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24
25
26 **III. Statement of Hedreen LLC's Interest and Incorporation of Prior Arguments**

27 HEDREEN LLC is the taxpayer for the property that is subject to the proposed final
28 assessment described in Section IV.
29

30
31 Hedreen LLC is amending its appeal as authorized in City of Seattle Resolution
32 31979 to include additional arguments relevant to the revised Final Recommendations of the
33 Hearing Examiner issued on February 1, 2021. On February 4, 2020, Hedreen LLC timely
34 filed an objection to the assessment, which was based on the Final Study. Hedreen LLC
35 further timely filed an appeal of the Hearing Examiner's 2020 recommendations to the City
36 Council. Hedreen LLC maintains and incorporates all objections and arguments raised in its
37 appeal filed with the City Clerk on September 22, 2020. This amendment is a supplement
38 to be read together with Hedreen LLC's appeal filed on September 22, 2020. Hedreen LLC
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1 incorporates by reference all filings, evidence, and pleadings filed by any party before the
2
3 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
4
5 records pertaining to the November 2020 through February 2021 remand hearing ordered by
6
7 Council.
8

9 **IV. Amended Arguments on Appeal**

10 HEDREEN LLC supplements its appeal of the Hearing Examiner's recommendation
11
12 to deny in part and revise on remand in part Hedreen LLC's objection to the City of Seattle's
13
14 Waterfront Local Improvement District No. 6751 proposed final assessment dated
15
16 December 30, 2019 against the following property:
17

18 King County Parcel No. 2285130010
19 Site Address: 1635 8th Ave., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$683,338
21

22 To avoid repetition, Hedreen LLC incorporates the evidence and arguments raised
23
24 before the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
25
26 amended appeal.
27

28
29 **A. The Anticipated Special Benefits to Hedreen LLC's Property should be**
30 **Discounted to Present Value and Assessments Adjusted as Appropriate**
31

32 On remand, the City's appraiser acknowledged that special benefits to parcels can be
33
34 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
35
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
37
38 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
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40 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
41
42 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
43
44 accepted that recommendation. The City's appraiser further acknowledged that benefit
45
46 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
47

1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
13
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefits are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
9

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17 **B. The City's Appraiser's Disregard of Hotel STR Report Performance**
18 **Data is Another Example of How His Analysis is Unreliable, Not**
19 **Admissible under Frye or ER 702, and His Proposed Special**
20 **Assessments are not based on Actual, Measurable and Special Value**
21 **Increases from the anticipated LID Improvements.**
22

23 The City's appraiser was provided actual performance data for the remanded hotels,
24 including their average daily room rates, from which he had been instructed to "recalculate"
25 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
26 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
27 would be "too low." Instead, he divined an alternative value from "comparable sales", and
28 then worked backwards to calculate small adjustments to his average daily room rate
29 assumptions, substituting them in his "income spreadsheets," and thereby correlating his
30 income analysis to his preconceived value estimate. His remand analysis demonstrates that
31 his whole "income approach to valuation", used for both hotels and other commercial
32 properties, is contrived speculation on speculation. The City's appraiser disregarded these
33 hotels' actual net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J.
34 Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on
35 Remand for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436). Taxpayer's
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1 appraiser submitted an appraisal with room rates much closer to the actual performance of
2 the hotel and should be incorporated. *See* Declaration of John D. Gordon in City Council's
3 LID Remand, (Jan. 8, 2021).
4

5
6 For example, compare the room rate and valuation for the appraisals in the table
7 below, where the actual average daily room rate for 2019 was \$225. Hedreen LLC testified
8 that the City Appraiser's assumed room rate was too high - it not only had not been
9 achieved, but even pre-Covid, was not reasonably achievable.
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Hyatt at Olive 8 CWF-0429	City's Revised Appraisal	Hedreen LLC's Appraisal
Hotel Value	\$179,822,000	\$123,400,000
Less Personal Property	\$5,200,000	\$5,200,000
Real Estate Value	\$174,622,000	\$118,200,000
Benefit Ratio	1.00%	1.00%
Special Benefit	\$1,744,000	\$1,180,000
Levy Ratio	39.18%	39.18%
LID Levy	\$683,338	\$462,350
Average Room Rate	\$325	\$235
Daily RevPAR	\$260	\$198

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33 To correct the "before value" alone, the City Council should instead adopt Hedreen
34 LLC's valuation, which was developed using actual data, and otherwise applying the City
35 appraiser's assessment formula:
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Hyatt at Olive 8 CWF-0429	Appraisal Amount
Hotel Value	\$111,519,000
Less Personal Property	\$5,200,000
Real Estate Value	\$106,319,000
Benefit Ratio	1.00%
Special Benefit	\$1,062,000
Levy Ratio	39.18%
LID Levy	\$416,115

The City's appraiser only slightly reduced his original values in ways that are still entirely inconsistent with historical performance data. The City's appraisal and analysis is speculative and should be rejected. The City Council should at least adopt Hedreen LLC's "before values" and resultant LID assessments.

C. In Light of Covid's Continuing Impact on Hedreen LLC and other Downtown Property Owners and other Material Changes Since October 2019, the LID Should be Cancelled, or at Least Assessments Recalculated, to take Into Account Property Value Reductions

In Hedreen LLC's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e] into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019." When Washington's first COVID restrictions were imposed in March and April 2020, there was an assumption that they would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover for another 5 years. Retail stores are boarded up. Homelessness and related challenges have gotten much worse. The City has already imposed higher minimum wages and taxes on businesses to try to fund recovery. The West Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is

1 several years from completion, as a best case. In current circumstances, a downtown tax to
2 fund new, non-essential park improvements against financially strapped taxpayers, and
3 likely passed through to financially strapped tenants and customers would be unfair to
4 taxpayers and a misallocation of city resources. COVID threw everyone for a loop. But as
5 the City rethinks its budget priorities for the next few years, and its potentially funding
6 sources, Taxpayer respectfully requests that the City dissolve the assessment, at least until it
7 (and property owners) have a chance to recover, and that any assessment take into account
8 the changed circumstances since this appeal process started on February 4, 2020 to avoid
9 unnecessarily and perhaps permanently killing downtown properties and businesses in the
10 name of bettering them.
11

12 **V. Relief Requested**

13 Particularly in light of the Committee's decision not to take further comment from
14 appellants, Taxpayer respectfully request that each Committee member carefully review the
15 full record transmitted to Council before voting on Taxpayer's appeal.
16

17 HEDREEN LLC respectfully reiterates its request from the September 22, 2020
18 appeal that the City Council:
19

20 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
21 assessment dated December 30, 2019; or
22

23 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
24 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
25 hearing in this matter; or
26

27 3. Grant the Examiner's recommended remand but with instructions to
28 recalculate and reduce Taxpayer's assessment using recognized appraisal techniques
29 consistent with USPAP and
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- 1 a. Excluding any property value increase attributable to viaduct removal and
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3 other planned WSDOT Improvements;
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5 b. Taking into account the effects of the COVID-19 pandemic on the value of
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7 Taxpayer's property and other relevant developments since October 2019;
8
9 c. Accounting for and excluding (1) any special benefits from existing or
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11 planned improvements that already provide similar benefits to Taxpayer's property, and (2)
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13 any special detriments from construction and other anticipated LID-related disamenities;
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15 d. Accounting for and including only those actual benefits anticipated to accrue
16
17 to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the
18
19 Promenade, and specific elements of the LID Improvements;
20
21 e. Discounting anticipated special benefits to present value, based on reliable
22
23 estimates regarding when special benefits will start accruing following completion of the
24
25 LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property relevant to
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29 calculation of such assessment; and
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31 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

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22 Attorneys for HEDREEN LLC
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24
25
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3:41 pm, Tue, September 22, 2020

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case Nos. CWF-0430 and 0431
Date: Tuesday, September 22, 2020 2:55:39 PM
Attachments: [CWF-0430 and 0431.zip](#)

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Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case Nos. CWF-0430 and 0431.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins
Zip enclosures:
CWF-430 and 0431
A – Master List of Evidence
B– Discounting for CWF-0430 and 0431
CWF-0430 and 0431 Appeal Notice

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

Attachment B

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0430	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3800	2538831460

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$105,265	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$14,151

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0431	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3802	2538831480

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$112,509	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$15,124

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0430	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3800	2538831460

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$3,898,700
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value	?	
D			
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C)			\$3,898,700

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$105,265		
H/A	As Percentage of Final City Before Value		2.700%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$105,265		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$36,099	\$9,919
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$14,151	\$3,888

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		N/A	N/A	N/A

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0431	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3802	2538831480

	BEFORE	Appraiser	Value
A	Final City Before Value	City	\$4,167,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value	?	
D			
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$4,279,509

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City		
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$112,509		
H/A	As Percentage of Final City Before Value	2.700%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$115,547		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$39,625	\$10,888
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$15,533	\$4,268

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0430 and
CWF-0431

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON RRRR
INVESTMENTS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
2538831460 and 2538831480

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34 RRRR Investment LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070,
35 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
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37 Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
38
39 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
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43 **I. Taxpayer / Appellant**

44 The Taxpayer filing this appeal is:
45
46

47 RRRR INVESTMENTS LLC

1 PO BOX 21749 SEATTLE WA 98111
2 Bryon Madsen
3 206-689-2457
4 bryon@obcx.com
5

6 **II. Taxpayer's Representatives**

7 Taxpayer's representatives in this matter are:
8
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
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18 Facsimile: 425.635.2400
19
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22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27
28

29 **III. Statement of Taxpayer's Interest**

30 RRRR Investment LLC is the taxpayer for the properties that are subject to the
31 proposed final assessment described in Section IV. The properties are two high-end
32 residential condominiums at 1521 2nd Avenue, Seattle, WA.
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35 The basis of the proposed assessment is a Final Special Benefit/Proportionate
36 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
37 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
38 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
39 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
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11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Taxpayer appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 2538831460
34 Site Address: 1521 2nd Ave., Seattle, Unit 3800, Washington 98101
35 Proposed Final LID Assessment for Parcel: \$41,245

36
37 King County Parcel No. 2538831480
38 Site Address: 1521 2nd Ave., Seattle, Unit 3802, Washington 98101
39 Proposed Final LID Assessment for Parcel: \$44,084

40
41 *See* Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
42
43 the evidence and arguments raised before the Hearing Examiner into this appeal. In
44
45 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
46
47 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 106, Sections II.6, II.7, II.12, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
8 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
9 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
11 IV.C.12, IV.C.14, IV.C.15, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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39 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
40 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
41 Public Works committee secure and provide appellants with such a record, so that the appeals can
42 then be supplemented with that additional information, so as to make the Committee's consideration
43 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
44 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
45 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
46 retained by Perkins Coie are part of this case file.
47

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$105,265 for Unit 3800 and \$115,547 for
34 Unit 3802, assuming the LID Improvements were in place and providing benefit in
35 October 2019. However, the LID Improvements will not be completed until the end of
36 2024 if the City meets its current schedule, and many of WSDOT’s alternative
37 improvements will not be built. The present value of future improvements deliverable in
38 five years is significantly lower than the current value of improvements that already exist.
39 Further, ABS’s own materials show that benefits may not accrue for at least five years
40 after they are completed, in 2029. If the hypothesized special benefits are discounted to
41 present value, the assessments materially exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

7
8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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5

6
7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
15

16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
12 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
13 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
14 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
15 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
16 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
17 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
18 provided expert opinion showing that improvements actually diminished value of the
19 property). In fact, no independent evidence is required at all if, for example, objectors show
20 that the assessment was grounded on a fundamentally wrong basis due to an error in the
21 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
22 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
23 a property owner could simply point out that the square footage assumed in the City's
24 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
25 Examiner's Recommendation: Sections II.12, II.14, IV.A, IV.B.11(a), IV.C.2, IV.C.8, and
26 IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
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4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
6
7 upon all the property in accordance with the special benefits conferred thereon.” RCW
8
9 35.44.010.
10

11 3. No analysis of general benefits. Special assessments have been “held valid
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13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14
15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
16
17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
18
19 they are for the construction of local improvements that are appurtenant to specific land and
20
21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
22
23

24 4. Taxpayer’s properties are not specially benefited by the LID Improvements.
25
26 The primary purpose and effect of the LID Improvements are to benefit “members of the
27
28 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
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30 library is for the benefit of the members of the whole community individually and
31
32 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
33
34 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
35
36 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
37
38 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 that if an appraiser “identifies both general and special benefits, these benefits should be
2 clearly distinguished and explained, and only special benefits should be included in the
3 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
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5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
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7 183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
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9 including those arising from construction necessary to meet basic design standards. *See*
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11 Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
12
13 construction costs related to meeting design standards which may be general benefits as
14
15 distinct from construction costs emanating from requirements of the LID project”). To the
16
17 extent Taxpayer’s properties may benefit from the LID improvements, the benefit is general
18
19 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
20
21 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
22
23 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
24
25

26 5. LID Improvements not necessary. Unlike typical LID projects, the
27
28 Waterfront LID improvements are largely unnecessary to the functionality of any particular
29
30 property, including Taxpayer’s properties. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
31
32 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
33
34 held invalid where owners would have benefitted equally from increase of only 9 feet);
35
36 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
37
38 intersection for new water main for hydrant held invalid because land was already afforded
39
40 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
41
42 not necessary their properties, which already have sufficient access to the waterfront,
43
44 downtown restaurants, and other amenities. *See* 3/12/2020 Hrg. Tr. (B. Madsen) at 107:15-
45
46 108:12. Specifically, waterfront access is readily available via Pike’s Place or the walkway
47

1 at the Four Seasons. *Id.* And the testimony established that the building already owns the air
2 space to the west and the units are on the 38th floor, so adding a streetscape/park along the
3 waterfront does little to add to their western view which looks toward the water and the
4 Olympic mountains. *Id.* at 105:8-17.
5
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7
8 6. The fact that there is no case law differentiating between binary
9 improvements and parks does not change the law prohibiting assessments on properties
10 already adequately served by existing amenities. *See* Examiner's Recommendation at
11 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
12 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
13 reasoning excuse the City's failure to account for existing amenities as part of the special
14 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
15 the incremental effect of new park improvements on the value of properties, much like
16 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
17 (Crompton's Report) at 12-13.
18
19

20 7. To the extent benefits can be considered "special" as opposed to general, they
21 are nominal or nonexistent for many properties even in the Central Waterfront, which
22 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
23 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
24 change due to expansion of sewer service *near* owners' parcel which were already
25 connected). Here, as mentioned above, the views from these units is already protected and
26 Taxpayer testified that during the years of construction, there could in fact be a tremendous
27 devaluation in the views. 3/12/2020 Hrg. Tr. (B. Madsen) at 108:13-23. Even if the City
28 could assess for a view change (and it has promised not to assess for viaduct removal), the
29 fair market values of Taxpayer's properties have not changed because the LID
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1 Improvements have not improved the properties' waterfront view or access to the
2 waterfront, nor will they when the City anticipates completion in 2024. For these reasons,
3 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
4 IV.C.3, IV.B.9, and IV.C.3.
5
6

7
8 8. No analysis of special detriments. The Final Study fails to properly account
9 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
10 owners for removal and cleanup of underground storage tanks discovered during the
11 improvement project). Mr. Madsen testified that the only potential impacts from the LID
12 Improvements are negative—e.g., noise and disruption from four years of construction,
13 increased potential for crime and homelessness, and increased congestion from tourism and
14 loss of parking. 3/12/2020 Hrg. Tr. (B. Madsen) at 109:3-111:21. And Mr. Shorett
15 explained that the property value of these units are not likely to increase due to the LID
16 Improvements because buyers of luxury residential properties are more concerned with the
17 amenities of the property itself, including the views which are already protected. *Id.* at
18 15:12-16:8.
19
20

21 9. Although Mr. Macaulay claims he analyzed impacts on the City's planned
22 elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how
23 lost parking might be a detriment, and no property-specific parking analysis in any of his
24 materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg. Tr. at
25 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
26
27

28 10. Likewise, there was no analysis of the risks associated with disamenities such
29 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
30 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
31 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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1 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
2 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
3 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
4 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
5 the maintenance agreement. *Id.* at 13:4-14:2.
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10 11. There was also no consideration of negative impacts from another four-plus
11 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
12 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
13 law allowing him to dismiss these actual, non-speculative impacts. Because future special
14 benefits calculations are inherently speculative, Washington's eminent domain statute
15 specifically allows condemnees to postpone special benefits assessments until improvements
16 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
17 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
18 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
19 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
20 Greenway, the Greenway district "significantly" lagged in value).
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32 12. For these reasons, Taxpayer appeals the following portions of the Examiner's
33 Recommendation: Sections II.25, IV.B.8, and IV.B.9.
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37 13. Special benefit estimate is speculative. When calculating a special benefit,
38 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
39 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
3

4
5 14. Assuming without conceding that one day, the City’s planned LID
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7 Improvements might increase the value of neighboring properties to some extent, that
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9 potential benefit is many years away and speculative. While appraisers tolerate some degree
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11 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
12
13 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
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15 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
16
17 the level of precision implied in the Final Study due to the size of the LID and use of
18
19 hypotheticals).
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21 15. Although LIDs are sometimes finalized prior to completion of improvements,
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23 this is typically just six month or a year prior, and the assessments are otherwise supported
24
25 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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27 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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29 will not be realized for four or five years. In the meantime, there is permitting risk,
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31 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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33 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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35 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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37 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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39 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
40
41 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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43 market value would be as of the date the project would be finally constructed” because
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45 “[t]here could be a lot of elements in the market that did occur between now and then that
46
47 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if

1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

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5 16. The record is clear that while no one can know what “special benefit” might
6 accrue to these properties in four years (if any), we do know that there are no actual benefits
7 now. The LID improvements provide no immediate special benefit to property owners
8 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
10 sewer system for future users). For example, notwithstanding the questionable hypothesis
11 that residential condominiums will benefit from an expected increase in tourism (higher
12 room rates or occupancy) when the improvements are complete, it is undisputed that tourists
13 are not coming in larger numbers now because of something happening five years down the
14 road. *Cf. O’Connor Decl. ISO Closing Stmt.*, ¶ 7 (dated 7/7/2020) (no apartment leased
15 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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18 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
19 for the LID Improvements, and it is unlawful to move to final assessments without such
20 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
21 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
22 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
23 dollars on projects still early in the design process. *See* Washington Attorney General
24 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
25 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
26 of programs and included “only so much of the overall costs” that took place within and
27 benefitted the assessed properties).
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1 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
2 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
3 anticipated to be delivered five years later. Even before COVID, it was speculative to
4 assume that market highs experienced in October 2019¹ would be sustained through 2024,
5 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
6 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
7 my analysis in October 2019, who would have thought that this COVID issue would
8 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
9 process was that the market was going to continue to go up.” *Id.* There is no basis for
10 assuming that values hypothesized in October 2019 will remain relevant; they are already
11 irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although
12 COVID does not change actual values as of October 2019 (*see* Examiner’s
13 Recommendation at 109), the pandemic has impacted *current* values and rendered the
14 hypothetical October 2019 Final Study valuations outdated.

15 19. As another example of how future events could affect the accuracy and
16 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
17 Examiner re-open the record to allow the City to explain whether the assessments against
18 property owners within the LID are, in fact, being used by the City to fund the emergency
19 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use

20 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
21 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
22 58 (Waterfront Park) Emergency Demolition Project, *available at*
23 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=>; *see also* Aug. 13, 2020 Ltr. from H.
24 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,

1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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10 20. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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32 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
33 he could not point to a single one where the assessment roll was finalized five years in
34 advance of the anticipated project completion. See 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
35 he has never recommended final special assessments based on designs less than 30 percent
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42 available at
43 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
44 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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5 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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7 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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11 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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13 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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15 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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17 68:11-18.

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19 22. The City has cited no authority—and Taxpayer is aware of none—that
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21 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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23 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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25 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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27 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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29 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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35 IV.C.14, and IV.C.18.

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37 23. Failure to discount special benefit estimates to account for risks and present
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39 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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41 have accounted for risks associated with delivery of the improvements (including permitting
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43 risk, construction risk, general economic risk) and any special damages associated with
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45 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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47 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the

1 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
2 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
3 the impact of future conditions [through] discounted cash flow analysis.”).
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6 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
7 future condition not in place at the date of valuation and can discount for the time value of
8 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
9 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
10 Discounting would also have been consistent with his approach for analyzing special
11 benefits to vacant land. He testified that the difference between similarly situated vacant
12 sites slated for development and already developed sites was that the labor, capital and risks
13 associated with development had not yet been borne for those vacant sites. Therefore, the
14 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
15 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
16 fully permitted, has not completed environmental review, and has not reached full design is
17 presently worth significantly less.
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30 25. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
31 present value, an appraiser would consider discount rates for land development to account
32 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
33 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
34 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
35 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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43 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley’s
44 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
45 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
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1 Ex. A. Notably, this is lower than the City’s proposed \$171,000,000 assessment. Thus,
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3 ignoring momentarily all of the other methodological and other flaws discussed here and in
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5 Taxpayer’s case-in-chief, and assuming that the LID Improvements provide special benefits
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7 as soon as they are complete in 2024, Mr. Macaulay’s hypothetical assessment materially
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9 exceeds special benefits when reduced to present value. Further, to the extent the City is
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11 arguing that because they are permitted to assess 100% of the special benefit, the special
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13 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
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15 is again wrong. After applying proper discounting, the City’s proposed special benefit
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17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
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19 100% of the total estimated special benefit.

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21 27. But even the assumption that the LID improvements would deliver benefits
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23 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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25 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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27 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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29 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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31 indicates that during the construction period, the Greenway district “significantly” lagged in
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33 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
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35 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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37 30-31 (discussing New York City High Line and San Francisco Embarcadero
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39 improvements). Given the lengthy delay, any prediction of future special benefits is
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41 speculative, especially during the construction phase where values are likely to decline.
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43 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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45 Improvements take a similarly long period of time after they are complete to start producing
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47 tangible property value benefits, each additional year of delay results in further discount to

1 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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3 A.

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5 28. Applying the same discounting methods described above and in Mr. Gibbons
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7 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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9 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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11 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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13 100% assessment should be no more than \$9,915 for 1521 2nd Avenue Unit 3800 (CWF-
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15 0430) and \$10,884 for 1521 2nd Avenue Unit 3802 (CWF-0431). Anything more would
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17 permit the City to assess Taxpayer based on a hypothetical assumption that these
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19 improvements are in place and providing benefit, and ignore the risks, construction
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21 disamenity, and time value of money that normal appraisal principles would take into
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23 account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be only 39.2%
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25 of that assessment cap, or \$3,887 for CWF-0430 and \$4,266 for CWF-0431.

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27 29. Attachment B includes four Excel spreadsheets applying these discounting
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29 methods to Taxpayer's assessments. It is undisputed that special benefits will not actually
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31 accrue until the LID Improvements are complete in 2024. Accordingly, the first two
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33 spreadsheets demonstrate that discounting the City's hypothetical October 2019 special
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35 benefits to present value would reduce Taxpayer's assessment to \$14,151 for Unit 3800
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37 (CWF-0430) and \$15,124 for Unit 3802 (CWF-0431), exclusive of any other flaws in the
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39 City's proposed assessment. The third and fourth spreadsheets shows even more drastic
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41 reductions after taking into account discounting to present value for 10 years (*i.e.*, from 2029
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43 to account for the time it takes for the improvements to capture property value). After such
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45 reductions, Taxpayer's assessment would be just \$3,888 (for CWF-0430) and \$4,268 (for
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47 CWF-0431). These spreadsheets do not address other issues raised by Taxpayer's appeal,

1 but are intended to help demonstrate how unfair and inflated the City's proposed
2 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
3 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
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7 **Appraisal and Assessment Calculation Methods Are Flawed**
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9 30. The "general rule is that each lot, piece, or parcel of land should be assessed
10 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
11 Wn.2d at 97.
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14 31. It is proper to sustain a challenge to an assessment, even without the appraisal
15 testimony from the owner, where the objector's expert establishes that the assessment was
16 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
17 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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20 32. The City's appraiser purports to utilize the income method of valuation but
21 relied on inaccurate revenue and market data, as discussed further below.
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23 33. The City's appraiser purports to utilize the comparable sales method of
24 valuation, but no City witness attempted "to characterize any one, or all of them, as
25 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
26 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
27 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
28 characterize any one, or all of them, as comparable to any particular property within the LID").
29 And no City witness could explain how specific adjustments were made to these sales to
30 account for value increases due to the hypothesized Before and After Improvements. For this
31 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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34 34. Special assessment improperly includes value lift from the Before
35 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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1 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
2 Improvements, which WSDOT had independently committed to fund. However, Mr.
3 Macaulay did not calculate the actual market value of LID properties in October 2019, and
4 did not separately analyze the hypothetical increase to property values attributable to
5 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
6 current value and then separately calculate a hypothetical "With WSDOT" Before value);
7 *see also* Hamel Decl., ¶¶ 11, 12 (explaining that for condos, the "first task" was to determine
8 current values but not explaining how they included the value of the hypothetical "WITH
9 WSDOT" Before Improvements); Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020);
10 *see also* Gibbons 1/30/2020 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018
11 Letter (attached to Appeal Petition) at 3-4; Shorett Appraisal Review (attached to Appeal
12 Petition) at 2-14. Without any documented basis or support, Mr. Macaulay simply "ma[de]
13 a judgment a call" on what occupancy and rates would have been for the commercial
14 properties assuming all of the WSDOT Improvements are completed as of 2019. Macaulay
15 Depo. at 129:19-130:11. This outright omission precludes any independent evaluation of
16 the true market "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet
17 professional appraisal standards; if an appraiser uses current sales data to infer values, then
18 the appraiser must explain how he analyzed that data and other information to come up with
19 the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not
20 just removal of the viaduct, but also other road, pedestrian and landscaping improvements
21 WSDOT had already committed to make.

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43 35. However, because Mr. Macaulay testified that he did include some WSDOT-
44 related value-lift in the "Before" values, it follows that part of the special assessment
45 improperly is based on value attributable to the WSDOT Improvements. As shown by
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1 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
2 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
3 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
4 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
5 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
6 to properly exclude the value of Before Improvements from the assessments. For these
7 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
8 Sections II.19, II.29, and IV.B.11(a)(ii)
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17 36. Special benefits were assigned rather than measured. Mr. Macaulay
18 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
19 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
20 Shorette) Hrg. Tr. at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13.
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25 37. For condos, ABS applied a uniform special benefit percentage to every unit
26 within a condominium building, notwithstanding individual differences among the units.
27 For example, he relied solely on King County Assessor data for information regarding each
28 condo, but for Taxpayer's properties, there was no information about views. Incredulously,
29 at the same time he insisted that the After value for each condo was calculated "parcel-by-
30 parcel" and that the special benefit percentage was simply a reflection of the difference
31 between Before and After values. In fact, there is no real way to check this work or verify
32 his methods because the analysis does not exist either within his report or in the backup data.
33 However, the simple fact that every single condo within a building received the exact same
34 special benefit percentage increase is evidence enough that Mr. Macaulay did not make an
35 individual parcel-by-parcel special benefit analysis. *See* Gibbons Decl. ISO Closing Stmt., ¶
36 6 (dated 7/7/2020).
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1 38. For these reasons, Taxpayer appeals the following portions of the Examiner's
2 Recommendation: Sections II.19, IV.B.11(a)(iii), and IV.C.15.
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4 39. Special benefit falls within margin of error. The Final Special Benefit Study
5 applies an estimated value enhancement of less than 4%, which is generally within the
6 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
7 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
8 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
9 of one another, this difference is considered reasonable as it falls within the standard margin
10 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
11 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
12 percentages fall far below that 5% margin, "there is no way of authenticating" such
13 incremental changes because "[m]arket forces completely obliterate any tiny little noise
14 factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
15 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Yet,
16 Additionally, the fact that "Before" values are also based on a hypothetical that adds some
17 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
18 appraiser to discern the micro-value differences between hypothetical conditions that are so
19 similar (the WSDOT improvements compared to the LID improvements) "verges on being
20 ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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22 40. Even if it were possible to accurately tease out such a miniscule hypothetical
23 value change due to improvements coming five years later, experts testified that there is no
24 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
25 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (P. Shorett) Hrg. Tr. at
26 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at 88:21-88:24 ("you cannot measure one percent
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1 difference in a high-rise building for this kind of a medium ... it's simply assigned to a
2 before value"). For these reasons, Taxpayer appeals the following portions of the
3 Examiner's Recommendation: II.27 and IV.B.4.
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6 41. No analysis of value increase attributable to individual components of the
7 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
8 percentage difference between hypothetical Before and After conditions. Throughout his
9 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
10 descriptions in the Addenda even though he testified that he relied on these to calculate
11 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
12 someone might be able to determine how he attributed value to After conditions described in
13 the Addenda, he answered that that was "not the scope of the assignment" because he was
14 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
15 that the six components were not actually a continuous project, that he was viewing them
16 together because the City asked him to, and that if he were to view them independently,
17 there was a low probability that properties in the north would specially benefit from
18 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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21 42. Not only did he fail to analyze benefits from each of these non-contiguous
22 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
23 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
24 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
25 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
26 objectives that guided regulators' assessment of architectural plans for buildings along a
27 "signature street" were so vague that they amounted to ad hoc review based on the
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1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.
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22 43. Special assessment is not supported by comparable studies, data or reports.
23 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
24 that the LID Improvements will lead to meaningfully increased real estate values for
25 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
26 comparable sales or information from the "over twenty-five studies and reports" to arrive at
27 very precise special benefit increases for the residential condominiums, including
28 Taxpayer's properties. For example, although Mr. Macaulay stated that no single report or
29 study was directly on point due to the unique nature of the LID Improvements (*see, e.g.,*
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments
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3 in his parcel-by-parcel analysis other than to say that the studies generally provided “some
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5 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
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7 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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9 similarities and differences between these improvements and the comparable parks he
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11 looked at).

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13 44. Ms. Hamel also explained that after considering the “over 25 studies and
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15 reports” as background, ABS concluded that there was “no consensus among the many
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17 reports reviewed as to a set block or foot radius that should be utilized.” Hamel Decl. at ¶
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19 33. So, they “took that information and calibrated it to the LID improvements and
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21 conditions in Seattle[.]” *Id.* However, there is no analysis and no documentation on how
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23 general principles articulated in the studies translated into specific property value increases.
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25 ABS does not explain what the studies indicate should be an outer limit on impacts to
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27 property value, and do not explain *how* the different streetscape and “park-like” elements
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29 were treated—only that they were treated differently.

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31 45. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
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33 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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35 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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37 research misinterprets his work in critical ways, including because the LID Improvements
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39 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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41 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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43 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
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45 related value increases are in fact smaller; that estimated increases are “best guesses” rather
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47 than predictions of property value increases in a particular city; and that percentages do not

1 account for diminishing returns after taking into account water views, which would be the
2 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
3 topography grants most properties in downtown a water view.
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6 46. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
7 that this was just one source of information that was not entirely relevant because, among
8 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
9 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
10 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
11 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
12 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
13 Crompton concluded that 500 feet via road from “park” improvements is just one or two
14 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
15 significantly beyond that which the park study indicated (even if it was legitimate to use the
16 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
17 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
18 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
19 Taxpayer’s properties are not within 500 road network feet from the “park” improvements.
20 See Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
21

22 47. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
23 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
24 six LID components together as one entity. See 6/23/2020 Hrg. Tr. at 167:15-180:16. And
25 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
26 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
3 parcel-by-parcel analysis.
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6 48. Ms. Hamel’s testimony that Crompton’s report is “one of the first studies to
7 look at various correlations between parks and real estate values” and that “his study was
8 cited in many of the research studies and economic reports we reviewed” suggests that
9 without this study, ABS would have little to no basis for the special benefit estimates for
10 condos. Hamel Decl. at ¶ 37 (dated 6/26/2020).
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13 49. The destination parks discussed in the Final Special Benefit Study do not
14 provide reliable, comparable, and valid support for the calculation of special assessments
15 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
16 critique of every case study cited concludes the changes to those “dwarf the difference
17 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
18 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
19 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
20 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
21 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
22 funded by a LID. And in virtually all of those cases, the park improvements dramatically
23 restored unimproved or blighted areas, and properties evaluated were within two or three
24 blocks of the park.
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 50. ABS’s claimed reliance on three economic studies to support property value
2 increase is also flawed. The HR&A study does not inform what value increases are
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4 expected from the LID Improvements because it projects increases to tourism from *all* of the
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6 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
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8 dissimilar parks in other cities,⁸ making the methodological application to the LID
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10 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
11
12 conclusion that there would be *no new net visitors* from downtown residents as a result of
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14 the LID Improvements and could not explain how this impacted his condo analysis.
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16 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
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18 Property Values” primarily focused on whether the benefits accrue to the larger community
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20 rather than properties adjacent to the park. And the 2014 New York City Department of
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22 Transportation study is not based on real estate transactions and market sales and fails to
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24 substantiate any link between increased retail sales and property values. Moreover, this
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26 study only looked at impact either directly abutting the streetscape improvement, or a couple
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28 hundred feet for plaza-like improvements.
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30 51. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
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32 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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34 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
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36 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
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38 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
2 asked whether he considered that HR&A's estimated LID impact is six times greater than
3 TLP's assessment of Seattle's entire park system, his surmised that it was because the
4 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
5 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
6 assumptions to account for this difference, which may be partly explained by the fact that
7 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
8 approximately 3.44% of King County tourists visit Seattle primarily because of the city
9 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
10 waterfront improvements.

20 52. Although proximity to the improvements is a key factor in all of these
21 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
22 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
23 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
24 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
25 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
26 Improvements is approximate 20 acres and it is not a community park.⁹

34 53. There is no explanation in the Final Study or the supporting materials of how
35 the studies or comparable sales were used to derive values for Taxpayer's properties. For
36 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
37 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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43 ⁹ *See*
44 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
45 connecting Seattle's central waterfront to downtown.").

1 54. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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3 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
4 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
5 recognized) for developing the MAI standards for mass appraisals, testified that the Final
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7 Study does not meet mass appraisal standards nor allow for independent assessment of the
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9 accuracy of Mr. Macauley's conclusions.
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12 55. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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14 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
15 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
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17 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
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19 testimony suggests that he incorrectly believed that the only difference between direct
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21 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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23 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
24
25 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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27 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
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29 Gordon uses in doing his limited restricted report").
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32 56. But the difference is not only in reporting—mass appraisal techniques must
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34 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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36 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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38 parcel approach:
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40 The mass appraisal technique is an appraisal method used to evaluate
41 a group of properties that are subject to similar market forces as of a
42 certain date through the use of market data, statistical analysis and
43 testing. As a result, the mass appraisal technique does not require or
44 involve analysis of each individual property's specific data.
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1 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

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3 57. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
4 universe of properties as a given date using standard methodology, employing common data,
5 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
6 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
7 model" is "a mathematical expression of how supply and demand factors interact in a
8 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
9 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
10 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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12 58. Regardless of client direction, Mr. Macaulay is required to comply with
13 USPAP. So if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
14 economically feasible because it would have taken "an incredible amount of time and cost"
15 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
16 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
17 individual appraisal of each [condo] parcel would have been cost and time prohibitive").

18
19 59. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
20 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
21 value, fails to calibrate the model structure to determine the contribution of the individual
22 characteristics affecting value, and does not review the mass appraisal results against actual
23 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
24 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the relationship between characteristics that affect value, and to calibrate that model to specify how individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-21). The purpose is to rationally determine what characteristics will create value, and by how much.

1 60. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. There is no documentation of the “internal
9 review process” for the condos. 6/25/2020 Hrg. Tr. at 165:13-18. And because both the
10 Before and After values were hypothetical, it was not possible to identify matched pair sales
11 and no City witness explained how ABS Valuation made adjustments to “comparable” sales
12 in order to check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6
13 which requires him to explain his model structure.
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15 61. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
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39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

62. Finally, Taxpayer’s properties are not appurtenant—or even in close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of proving special benefit” shifted to the City because the protestors’ parcels merely stood “in close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s properties are not even within 500 road network feet from the core “park” improvements. And, as described above, the special assessment is overstated because the Final Study makes no attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or special detriments. In addition, it is speculative due to the fact that, as of October 2019, improvements were not in place—and, in fact, much of the waterfront is a construction zone following removal of the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have discounted the special benefit estimates or waited to perform the Study until the improvements were at least close to complete.

Erroneous Pre-Improvement Valuation

63. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's properties as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's properties.

64. The City's Final Study was used to compute the proposed final assessment of Taxpayer's properties. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final

¹¹ See, e.g., Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet (providing a “County Link” to the King County Department of Assessment’s online “eReal Property” search tool).

1 Study does not accurately reflect this data. The Final Special Benefit Study does not explain
2 this difference—or any differences—between its pre-improvement valuation and its
3 supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the
4 Examiner’s Recommendation.
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8 65. Further, the City’s analysis was based on unreliable market data. There was
9 no information about views from 1521 2nd Avenue Units 3800 and 3802, (CWF-0430 and
10 CWF-0431) on King County Assessor’s site even though there are significant views from
11 these properties.¹² This is problematic given that other objectors’ cross-examinations—in
12 particular regarding the Waterfront Landing condos—effectively demonstrated that ABS
13 Valuation made incorrect assumptions about views for a significant number of properties.
14 *See, e.g.*, 6/25/2020 Hrg. Tr. at 87:18-88:1; 89:7-91:23; 95:2-10; 97:2-99:14; 100:24-101:13
15 (for the Waterfront Landing, ABS Valuation did not discount for view blockages in the
16 Before condition as a result of the Pine Street Connector and instead simply assigned per
17 square foot values in \$25 increments based on incorrect assumptions about corner units and
18 units on higher floors).
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21 66. Thus, aside from multiple other reasons why computation of the special
22 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
23 improvement values that do not accurately reflect market data. For these reason, Taxpayer
24 appeals the Examiner’s recommended denials on page 106 of the Examiner’s
25 Recommendation.
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45 ¹² *See*
46 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>;
47 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>.

Erroneous Computation of Special Benefit

67. “Special benefit” is “the increase in fair market value attributable to the local improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?” *Id.* 165–66.

68. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

69. Arbitrary assignment of special benefit. The City’s Study computed the proposed final assessment by multiplying the market value of the property without the LID improvements by 2.7%, which the City contends represents the estimated special benefit of the LID improvements applicable to all condo owners in Taxpayer’s building. However, there is no analysis and no documentation on how general principles articulated in the studies translated into the specific property value increase for Taxpayer’s properties.

70. It also bears noting that any “internal review” of the special benefit estimates would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of error. Indeed, given all the same information, he seemed to suggest that it would be perfectly reasonable for another experienced appraiser to come up with special benefit estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact same quality of data to be 50% off). Ultimately, his repeated insistence that there is no

1 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
2 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
3 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
4 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
5 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
6 special because it is arbitrarily assigned; and it is too small to realistically be supported by
7 appraisal techniques.
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10 71. No evidence of special benefit. Meanwhile, there is “no actual evidence from
11 any seller or purchaser that the price was higher because of the LID improvements.”
12 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
13 identified any seller or buyer, or any particular property where the existence of the LID
14 improvements had an effect on the market price.” *Id.* at 410-11. Taxpayer has explained
15 that the property has not increased in value due to the forthcoming LID Improvements,
16 because, among other reasons, the improvements ABS believes will generate value do not
17 exist, and will not for a number of years to come. There are no comparable sales because
18 the LID Improvements are not in place, nor will they be until the end of 2024 if completed
19 on schedule.
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22 72. The fair market values of Taxpayer’s properties have not changed due to
23 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
24 benefited from installation of new water main and fire hydrant where it was already
25 adequately supplied with water and afforded adequate fire protection). As explained above,
26 both units face west and already have full westerly views. And because the building
27 purchased the space to the west, the view is protected from further development. Unit 3802
28 also has a south-facing view of Mt. Rainer, the stadiums, and south Seattle. Unit 3800 has a
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1 north-facing view as well. Instead of increasing waterfront views, the Waterfront LID
2 improvements may actually decrease value of these units due to worse looking views during
3 construction and more difficult views for the future due to lighting.
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6 73. There is no special benefit because LID improvements in fact diminish the
7 value of Taxpayer's properties due to construction, increased traffic, decreased access to
8 existing businesses and restaurants (especially during construction), potential increase in
9 crime and sanitation issues due to the City's failure to maintain the park, and decreased
10 parking availability. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert that LID
11 actually diminished value of property was sufficient to rebut presumption that assessment
12 was proper). Moreover, for Taxpayer's properties, the improvements will more than likely
13 make waterfront access worse, first during the years of construction and then further by
14 creating structures, trees, etc., where access is currently unimpeded.
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17 74. The assessment formula is an attempt to distribute costs that do not relate to
18 special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be "merely a
19 mathematical model that distributes costs").
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22 75. The Special Benefit Study fails to address whether the \$346,000,000
23 estimated LID project cost takes into account the investment that would have occurred in the
24 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
25 invested. This is a critical component of estimating which properties receive a direct benefit
26 from the improvements, versus more incidental benefits further from the park.
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29 76. The proposed final assessment substantially exceeds the special benefit to the
30 property and is disproportionate to similarly situated properties within the LID. For these
31 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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47 Sections II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.15.

State Environmental Policy Act and Other Environmental Permitting

77. While this appeal is not challenging the City's environmental review and permitting processes, those processes are relevant in determining the legality of the assessments, and to assessing the delivery risk, the present value of the City's plans, and ultimately the amount of the assessment. If the roll is finalized, the City will commit to pursue projects that have not yet undergone environmental review (thus limiting the choice of reasonable alternatives to those projects). For example, if the roll is finalized, the City is committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63) is just beginning. Further, the City has segmented environmental review, and still has a gauntlet of federal, state and tribal review processes to complete before it will be clear what the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b), SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and committing to reconstruction of Pier 58 and major street improvements without environmental review, or the City's Final Special Study has improperly included and is proposing to assess the Taxpayer the costs and special benefits of improvements that may not get built. Either way, it is faulty process.

Due Process Rights

78. The City's failed to notify Taxpayer sufficiently in advance of the hearing to allow Taxpayer to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes

1 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
2 555, 569–70, 229 P.3d 761 (2010).
3

4 79. The LID statute specifies that cities must mail notices giving the time and
5 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
6 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
7 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
8 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
9 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
10 secure their own appraisal), evaluate proportionality of the proposed assessments, and
11 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
12 for anybody to get an appraisal”).
13
14

15 80. The City’s Notice of Assessment was sent on December 30, 2019. And the
16 Final Special Benefit Study has only been available for public review since January 7, 2020.
17 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
18 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
19 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
20 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
21 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
22 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
23 the Examiner’s Recommendation: I.B.
24
25

26 **VII. Relief Requested**

27 Taxpayer respectfully requests that the City Council:

- 28 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
29
30 and
31
32

- 1 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
2 assessment dated December 30, 2019; or
3
4
5 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
6 proposed final assessment to \$0 (zero), or such amount as Taxpayer
7 establishes at the hearing in this matter; or
8
9
10 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
11 and reduce Taxpayer's assessment using recognized appraisal techniques
12 consistent with USPAP and:
13
14
15 i. Excluding any property value increase attributable to viaduct removal
16 and other planned WSDOT Improvements;
17
18 ii. Taking into account the effects of the COVID-19 pandemic on the
19 value of Taxpayer's property and other relevant developments since
20 October 2019;
21
22 iii. Accounting for and excluding (1) any special benefits from existing
23 or planned improvements that already provide similar benefits to
24 Taxpayer's property, and (2) any special detriments from construction
25 and other anticipated LID-related disamenities;
26
27 iv. Accounting for and including only those actual benefits anticipated to
28 accrue to Taxpayer's property based on its location relative to Pier 58,
29 Overlook Walk, and the Promenade, and specific elements of the LID
30 Improvements;
31
32 v. Discounting anticipated special benefits to present value, based on
33 reliable estimates regarding when special benefits will start accruing
34 following completion of the LID Improvements; and
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1 vi. Accounting for such other issues specific to Taxpayer's property
2
3 relevant to calculation of such assessment; and
4

5 2. Grant such further relief as the City Council deems just and proper.
6

7 DATED: September 22, 2020
8

PERKINS COIE LLP
9

10
11
12
13 By: 

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Attorneys for RRRR Investments LLC
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FILED

4:14 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0430 and 0431
Date: Tuesday, February 16, 2021 3:48:19 PM
Attachments: [RRRR Investment LLC Amended LID Appeal before City Council CWF 0430 and 0431.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

RRRR Investment LLC Amended LID Appeal before City Council CWF 0430 and 0431.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0430 and
CWF-0431

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON RRRR
INVESTMENT LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
2538831460 and 2538831480

33
34 RRRR Investment LLC (“Taxpayer”) files this amended appeal pursuant to RCW
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of
36 Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated December
37
38 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the
39
40 Hearing Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
41
42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
45
46
47

1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 RRRR Investment LLC
6 PO BOX 21749 SEATTLE WA 98111
7 Bryon Madsen
8 206-689-2457
9 bryon@obcx.com
10

11
12
13 **II. Taxpayer's Representatives**

14 RRRR Investment LLC representatives in this matter are:

15
16
17 R. Gerard Lutz, WSBA No. 17692
18 JLutz@perkinscoie.com
19 Perkins Coie LLP
20 10885 N.E. Fourth Street, Ste 700
21 Bellevue, Washington 98004
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Facsimile: 206.359.9000

24
25
26 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

27 RRRR Investment LLC is the taxpayer for the property that is subject to the
28
29 proposed final assessment described in Section IV.
30

31 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34 objection to the assessment, which was based on the Final Study. Taxpayer further timely
35 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
36
37 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
38 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
39 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
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1 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
2 as authorized by the Hearing Examiner, including without limitation all records pertaining to
3 the November 2020 through February 2021 remand hearing ordered by Council.
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6
7 **IV. Amended Arguments on Appeal**
8

9 RRRR Investment LLC supplements its appeal of the Hearing Examiner's
10 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
11 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
12 the following property:
13
14
15

16 King County Parcel No. 2538831460
17 Site Address: 1521 2nd Ave., Unit 3800 Seattle, Washington 98101
18 Proposed Final LID Assessment for Parcel: \$41,245
19

20 King County Parcel No. 2538831480
21 Site Address: 1521 2nd Ave., Unit 3802, Seattle, Washington 98101
22 Proposed Final LID Assessment for Parcel: \$44,084
23
24

25 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
26 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
27 amended appeal.
28
29

30
31 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
32 **Discounted to Present Value and Assessments Adjusted as Appropriate**
33

34 On remand, the City's appraiser acknowledged that special benefits to parcels can be
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
37 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
38 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
39 the theatre parcel is too remote to support a current assessment. *Id.* The Examiner accepted
40 that recommendation. The City's appraiser further acknowledged that benefit reductions
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1 due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined by
2 discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
3
4 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
5 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
6
7 calculations to present value because the general benefits are not anticipated from the LID
8
9 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
10
11 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
12
13 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
14
15 benefit calculation, and related assessments, to account for the delay between the assessment
16
17 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
18
19 standard appraisal practice, and renders the other proposed Waterfront LID special
20
21 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
22
23 “fundamentally wrong methods.”
24
25

26 All special benefit taxes assessed by a municipality must be based on “actual,
27
28 physical and material [special benefits that are] not merely speculative or conjectural.”
29
30 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
31
32 Additionally, the assessments may not materially exceed the actual special benefit conferred
33
34 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
35
36 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
37
38 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
39
40 discount benefits the City estimated would accrue to the properties from improvements to be
41
42 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
43
44 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
45
46 property while treating all or most others (including Taxpayer’s) differently, and
47

1 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
2 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
3 for some properties because the benefits are too distant, while assessing other properties as
4 though distant benefits have already been secured. As Taxpayer identified in its September
5 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
6 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8 reject the improper calculation of the benefit or remand and require the appraiser to discount
9 the benefits to net present value.
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19 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
20 **Downtown Property Owners and other Material Changes Since October**
21 **2019, the LID Should be Cancelled, or at Least Assessments**
22 **Recalculated, to take Into Account Property Value Reductions**
23

24 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
25 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
26 other relevant developments since October 2019." When Washington's first COVID
27 restrictions were imposed in March and April 2020, there was an assumption that they
28 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
29 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
30 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
31 gotten much worse. Residential values have also dropped. Specifically, Taxpayer's Parcel
32 No. 2538831480, after a real estate appraisal and pocket listing the property in July 2020,
33 the value has gone down over \$1 million US Dollars. Concerns of safety and overall
34 vacancy rates, both residential and commercial, have been cited as the cause. The City has
35 already imposed higher minimum wages and taxes on businesses to try to fund recovery.
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1 The West Seattle Bridge and other bridges are in immediate need of repairs and
2 maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's
3 appraisal to exist as of October 2019, collapsed, and is several years from completion, as a
4 best case. In current circumstances, a downtown tax to fund new, non-essential park
5 improvements against financially strapped taxpayers, and likely passed through to
6 financially strapped tenants and customers would be unfair to taxpayers and a misallocation
7 of city resources. COVID threw everyone for a loop. But as the City rethinks its budget
8 priorities for the next few years, and its potentially funding sources, Taxpayer respectfully
9 requests that the City dissolve the assessment, at least until property owners and businesses
10 have a chance to recover, and that any assessment take into account the changed
11 circumstances since this appeal process started on February 4, 2020 to avoid unnecessarily
12 and perhaps permanently killing downtown properties and businesses in the name of
13 bettering them.
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27 **V. Relief Requested**

28 Particularly in light of the Committee's decision not to take further comment from
29 appellants, Taxpayer respectfully request that each Committee member carefully review the
30 full record transmitted to Council before voting on Taxpayer's appeal.
31
32
33

34 RRRR Investment LLC respectfully reiterates its request from the September 22,
35 2020 appeal that the City Council:
36
37

- 38 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
39
40 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
41 final assessment dated December 30, 2019; or
42
43 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
44 proposed final assessment to \$0 (zero), or such amount as Taxpayer
45
46
47

1 establishes at the hearing in this matter; or

2
3 c. Remand the matter to the Hearing Examiner or City appraiser to
4 recalculate and reduce Taxpayer's assessment using recognized appraisal
5 techniques consistent with USPAP and:
6
7

- 8
9 i. Excluding any property value increase attributable to viaduct
10 removal and other planned WSDOT Improvements;
11
12 ii. Taking into account the effects of the COVID-19 pandemic on
13 the value of Taxpayer's property and other relevant
14 developments since October 2019;
15
16 iii. Accounting for and excluding (1) any special benefits from
17 existing or planned improvements that already provide similar
18 benefits to Taxpayer's property, and (2) any special detriments
19 from construction and other anticipated LID-related
20 disamenities;
21
22 iv. Accounting for and including only those actual benefits
23 anticipated to accrue to Taxpayer's property based on its
24 location relative to Pier 58, Overlook Walk, and the
25 Promenade, and specific elements of the LID Improvements;
26
27 v. Discounting anticipated special benefits to present value,
28 based on reliable estimates regarding when special benefits
29 will start accruing following completion of the LID
30 Improvements; and
31
32 vi. Accounting for such other issues specific to Taxpayer's
33 property relevant to calculation of such assessment; and
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1 2. Grant such further relief as the City Council deems just and proper.
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7 DATED: February 16, 2021
8
9

PERKINS COIE LLP

10 By:

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27 Attorneys for RRRR Investment LLC
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3:41 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case Nos. CWF-0430 and 0431
Date: Tuesday, September 22, 2020 2:55:39 PM
Attachments: [CWF-0430 and 0431.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case Nos. CWF-0430 and 0431.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins
Zip enclosures:
CWF-430 and 0431
A – Master List of Evidence
B– Discounting for CWF-0430 and 0431
CWF-0430 and 0431 Appeal Notice

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

Attachment B

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0430	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3800	2538831460

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$105,265	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$14,151

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0431	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3802	2538831480

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$112,509	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$15,124

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0430	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3800	2538831460

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$3,898,700
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value	?	
D			
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C)			\$3,898,700

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$105,265		
H/A	As Percentage of Final City Before Value	2.700%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$105,265		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$36,099	\$9,919
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$14,151	\$3,888

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0431	Fifteen Twenty-One Second Avenue Condominiums	1521 2nd Avenue Units 3802	2538831480

	BEFORE	Appraiser	Value
A	Final City Before Value	City	\$4,167,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value	?	
D			
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$4,279,509

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$112,509		
H/A	As Percentage of Final City Before Value	2.700%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$115,547		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$39,625	\$10,888
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$15,533	\$4,268

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0430 and
CWF-0431

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON RRRR
INVESTMENTS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
2538831460 and 2538831480

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34 RRRR Investment LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070,
35 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
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Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).

I. Taxpayer / Appellant

The Taxpayer filing this appeal is:

RRRR INVESTMENTS LLC

1 PO BOX 21749 SEATTLE WA 98111
2 Bryon Madsen
3 206-689-2457
4 bryon@obcx.com
5

6 **II. Taxpayer's Representatives**
7

8 Taxpayer's representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
16 Bellevue, Washington 98004
17 Telephone: 425.635.1400
18 Facsimile: 425.635.2400
19

20
21
22 Robert L. Mahon, WSBA No. 26523
23 RMahon@perkinscoie.com
24 1201 Third Avenue, Suite 4900
25 Seattle, Washington 98101
26 Telephone: 206.359.8000
27 Facsimile: 206.359.9000
28

29
30 **III. Statement of Taxpayer's Interest**
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32 RRRR Investment LLC is the taxpayer for the properties that are subject to the
33 proposed final assessment described in Section IV. The properties are two high-end
34 residential condominiums at 1521 2nd Avenue, Seattle, WA.
35

36
37 The basis of the proposed assessment is a Final Special Benefit/Proportionate
38 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
39 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
40 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
41 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
22
23 was based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Taxpayer appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 2538831460
34 Site Address: 1521 2nd Ave., Seattle, Unit 3800, Washington 98101
35 Proposed Final LID Assessment for Parcel: \$41,245

36
37 King County Parcel No. 2538831480
38 Site Address: 1521 2nd Ave., Seattle, Unit 3802, Washington 98101
39 Proposed Final LID Assessment for Parcel: \$44,084

40
41 *See* Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
42
43 the evidence and arguments raised before the Hearing Examiner into this appeal. In
44
45 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
46
47 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4
5 As discussed more fully below, Taxpayer specifically appeals the following Findings
6 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
7
8 Pages 61-62, 106, Sections II.6, II.7, II.12, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
9 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
10 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
11 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
12 IV.C.12, IV.C.14, IV.C.15, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$105,265 for Unit 3800 and \$115,547 for
34 Unit 3802, assuming the LID Improvements were in place and providing benefit in
35 October 2019. However, the LID Improvements will not be completed until the end of
36 2024 if the City meets its current schedule, and many of WSDOT’s alternative
37 improvements will not be built. The present value of future improvements deliverable in
38 five years is significantly lower than the current value of improvements that already exist.
39 Further, ABS’s own materials show that benefits may not accrue for at least five years
40 after they are completed, in 2029. If the hypothesized special benefits are discounted to
41 present value, the assessments materially exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

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11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
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26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

7
8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
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16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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5

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7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
15

16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
12 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
13 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
14 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
15 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
16 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
17 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
18 provided expert opinion showing that improvements actually diminished value of the
19 property). In fact, no independent evidence is required at all if, for example, objectors show
20 that the assessment was grounded on a fundamentally wrong basis due to an error in the
21 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
22 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
23 a property owner could simply point out that the square footage assumed in the City's
24 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
25 Examiner's Recommendation: Sections II.12, II.14, IV.A, IV.B.11(a), IV.C.2, IV.C.8, and
26 IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
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4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
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7 upon all the property in accordance with the special benefits conferred thereon.” RCW
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9 35.44.010.
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11 3. No analysis of general benefits. Special assessments have been “held valid
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13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
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15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
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17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
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19 they are for the construction of local improvements that are appurtenant to specific land and
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21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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23 4. Taxpayer’s properties are not specially benefited by the LID Improvements.
24
25 The primary purpose and effect of the LID Improvements are to benefit “members of the
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27 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
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29 library is for the benefit of the members of the whole community individually and
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31 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
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33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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35 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
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37 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 that if an appraiser “identifies both general and special benefits, these benefits should be
2 clearly distinguished and explained, and only special benefits should be included in the
3 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
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5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
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7 183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
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9 including those arising from construction necessary to meet basic design standards. *See*
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11 Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
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13 construction costs related to meeting design standards which may be general benefits as
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15 distinct from construction costs emanating from requirements of the LID project”). To the
16
17 extent Taxpayer’s properties may benefit from the LID improvements, the benefit is general
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19 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
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21 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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23 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
24
25

26 5. LID Improvements not necessary. Unlike typical LID projects, the
27
28 Waterfront LID improvements are largely unnecessary to the functionality of any particular
29
30 property, including Taxpayer’s properties. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
31
32 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
33
34 held invalid where owners would have benefitted equally from increase of only 9 feet);
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36 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
37
38 intersection for new water main for hydrant held invalid because land was already afforded
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40 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
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42 not necessary their properties, which already have sufficient access to the waterfront,
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44 downtown restaurants, and other amenities. *See* 3/12/2020 Hrg. Tr. (B. Madsen) at 107:15-
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46 108:12. Specifically, waterfront access is readily available via Pike’s Place or the walkway
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1 at the Four Seasons. *Id.* And the testimony established that the building already owns the air
2 space to the west and the units are on the 38th floor, so adding a streetscape/park along the
3 waterfront does little to add to their western view which looks toward the water and the
4 Olympic mountains. *Id.* at 105:8-17.
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8 6. The fact that there is no case law differentiating between binary
9 improvements and parks does not change the law prohibiting assessments on properties
10 already adequately served by existing amenities. *See* Examiner's Recommendation at
11 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
12 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
13 reasoning excuse the City's failure to account for existing amenities as part of the special
14 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
15 the incremental effect of new park improvements on the value of properties, much like
16 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
17 (Crompton's Report) at 12-13.
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21 7. To the extent benefits can be considered "special" as opposed to general, they
22 are nominal or nonexistent for many properties even in the Central Waterfront, which
23 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
24 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
25 change due to expansion of sewer service *near* owners' parcel which were already
26 connected). Here, as mentioned above, the views from these units is already protected and
27 Taxpayer testified that during the years of construction, there could in fact be a tremendous
28 devaluation in the views. 3/12/2020 Hrg. Tr. (B. Madsen) at 108:13-23. Even if the City
29 could assess for a view change (and it has promised not to assess for viaduct removal), the
30 fair market values of Taxpayer's properties have not changed because the LID
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1 Improvements have not improved the properties' waterfront view or access to the
2 waterfront, nor will they when the City anticipates completion in 2024. For these reasons,
3 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
4 IV.C.3, IV.B.9, and IV.C.3.
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8 8. No analysis of special detriments. The Final Study fails to properly account
9 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
10 owners for removal and cleanup of underground storage tanks discovered during the
11 improvement project). Mr. Madsen testified that the only potential impacts from the LID
12 Improvements are negative—e.g., noise and disruption from four years of construction,
13 increased potential for crime and homelessness, and increased congestion from tourism and
14 loss of parking. 3/12/2020 Hrg. Tr. (B. Madsen) at 109:3-111:21. And Mr. Shorett
15 explained that the property value of these units are not likely to increase due to the LID
16 Improvements because buyers of luxury residential properties are more concerned with the
17 amenities of the property itself, including the views which are already protected. *Id.* at
18 15:12-16:8.
19
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21 9. Although Mr. Macaulay claims he analyzed impacts on the City's planned
22 elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how
23 lost parking might be a detriment, and no property-specific parking analysis in any of his
24 materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg. Tr. at
25 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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28 10. Likewise, there was no analysis of the risks associated with disamenities such
29 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
30 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
31 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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1 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
2 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
3 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
4 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
5 the maintenance agreement. *Id.* at 13:4-14:2.
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10 11. There was also no consideration of negative impacts from another four-plus
11 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
12 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
13 law allowing him to dismiss these actual, non-speculative impacts. Because future special
14 benefits calculations are inherently speculative, Washington's eminent domain statute
15 specifically allows condemnees to postpone special benefits assessments until improvements
16 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
17 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
18 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
19 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
20 Greenway, the Greenway district "significantly" lagged in value).
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32 12. For these reasons, Taxpayer appeals the following portions of the Examiner's
33 Recommendation: Sections II.25, IV.B.8, and IV.B.9.
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37 13. Special benefit estimate is speculative. When calculating a special benefit,
38 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
39 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
3

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5 14. Assuming without conceding that one day, the City’s planned LID
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7 Improvements might increase the value of neighboring properties to some extent, that
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9 potential benefit is many years away and speculative. While appraisers tolerate some degree
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11 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
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13 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
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15 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
16
17 the level of precision implied in the Final Study due to the size of the LID and use of
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19 hypotheticals).
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21 15. Although LIDs are sometimes finalized prior to completion of improvements,
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23 this is typically just six month or a year prior, and the assessments are otherwise supported
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25 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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27 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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29 will not be realized for four or five years. In the meantime, there is permitting risk,
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31 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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33 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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35 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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37 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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39 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
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41 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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43 market value would be as of the date the project would be finally constructed” because
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45 “[t]here could be a lot of elements in the market that did occur between now and then that
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47 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if

1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

3
4
5 16. The record is clear that while no one can know what “special benefit” might
6 accrue to these properties in four years (if any), we do know that there are no actual benefits
7 now. The LID improvements provide no immediate special benefit to property owners
8 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
10 sewer system for future users). For example, notwithstanding the questionable hypothesis
11 that residential condominiums will benefit from an expected increase in tourism (higher
12 room rates or occupancy) when the improvements are complete, it is undisputed that tourists
13 are not coming in larger numbers now because of something happening five years down the
14 road. *Cf. O’Connor Decl. ISO Closing Stmt.*, ¶ 7 (dated 7/7/2020) (no apartment leased
15 today for 18 months would rent at a higher rate due to improvements coming in 2024).
16

17
18 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
19 for the LID Improvements, and it is unlawful to move to final assessments without such
20 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
21 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
22 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
23 dollars on projects still early in the design process. *See* Washington Attorney General
24 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
25 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
26 of programs and included “only so much of the overall costs” that took place within and
27 benefitted the assessed properties).
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18. The COVID-19 crisis highlights how fundamentally speculative and unfair it would be to base a special benefit assessment on twin 2019 hypotheticals for improvements anticipated to be delivered five years later. Even before COVID, it was speculative to assume that market highs experienced in October 2019¹ would be sustained through 2024, after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was that the market was going to continue to go up.” *Id.* There is no basis for assuming that values hypothesized in October 2019 will remain relevant; they are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and rendered the hypothetical October 2019 Final Study valuations outdated.

19. As another example of how future events could affect the accuracy and reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing Examiner re-open the record to allow the City to explain whether the assessments against property owners within the LID are, in fact, being used by the City to fund the emergency dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use

⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier 58 (Waterfront Park) Emergency Demolition Project, available at <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdalfpJXX0C+FjfKT5/OpyMkto74=>; *see also* Aug. 13, 2020 Ltr. from H. Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,

1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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10 20. There is also no certainty the improvements will be delivered on time. Mr.
11 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
12 delay in construction schedule would not constitute a “material change” under the City
13 Council’s ordinance authorizing the improvements. In other words, the City cannot
14 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
15 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
16 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
17 potential delays and project changes inherent in those processes, that call into question the
18 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
20 Decl., dated 4/15/2020).
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32 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
33 he could not point to a single one where the assessment roll was finalized five years in
34 advance of the anticipated project completion. See 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
35 he has never recommended final special assessments based on designs less than 30 percent
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42 available at
43 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
44 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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3 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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5 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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7 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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11 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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13 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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15 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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17 68:11-18.

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19 22. The City has cited no authority—and Taxpayer is aware of none—that
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21 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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23 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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25 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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27 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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29 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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35 IV.C.14, and IV.C.18.

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37 23. Failure to discount special benefit estimates to account for risks and present
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39 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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41 have accounted for risks associated with delivery of the improvements (including permitting
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43 risk, construction risk, general economic risk) and any special damages associated with
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45 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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47 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the

1 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
2 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
3 the impact of future conditions [through] discounted cash flow analysis.”).
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6 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
7 future condition not in place at the date of valuation and can discount for the time value of
8 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
9 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
10 Discounting would also have been consistent with his approach for analyzing special
11 benefits to vacant land. He testified that the difference between similarly situated vacant
12 sites slated for development and already developed sites was that the labor, capital and risks
13 associated with development had not yet been borne for those vacant sites. Therefore, the
14 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
15 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
16 fully permitted, has not completed environmental review, and has not reached full design is
17 presently worth significantly less.
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30 25. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
31 present value, an appraiser would consider discount rates for land development to account
32 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
33 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
34 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
35 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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43 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley’s
44 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
45 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
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1 Ex. A. Notably, this is lower than the City’s proposed \$171,000,000 assessment. Thus,
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3 ignoring momentarily all of the other methodological and other flaws discussed here and in
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5 Taxpayer’s case-in-chief, and assuming that the LID Improvements provide special benefits
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7 as soon as they are complete in 2024, Mr. Macaulay’s hypothetical assessment materially
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9 exceeds special benefits when reduced to present value. Further, to the extent the City is
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11 arguing that because they are permitted to assess 100% of the special benefit, the special
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13 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
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15 is again wrong. After applying proper discounting, the City’s proposed special benefit
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17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
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19 100% of the total estimated special benefit.

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21 27. But even the assumption that the LID improvements would deliver benefits
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23 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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25 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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27 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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29 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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31 indicates that during the construction period, the Greenway district “significantly” lagged in
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33 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
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35 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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37 30-31 (discussing New York City High Line and San Francisco Embarcadero
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39 improvements). Given the lengthy delay, any prediction of future special benefits is
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41 speculative, especially during the construction phase where values are likely to decline.
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43 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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45 Improvements take a similarly long period of time after they are complete to start producing
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47 tangible property value benefits, each additional year of delay results in further discount to

1 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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3 A.

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5 28. Applying the same discounting methods described above and in Mr. Gibbons
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7 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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9 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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11 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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13 100% assessment should be no more than \$9,915 for 1521 2nd Avenue Unit 3800 (CWF-
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15 0430) and \$10,884 for 1521 2nd Avenue Unit 3802 (CWF-0431). Anything more would
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17 permit the City to assess Taxpayer based on a hypothetical assumption that these
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19 improvements are in place and providing benefit, and ignore the risks, construction
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21 disamenity, and time value of money that normal appraisal principles would take into
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23 account. *Id.*, ¶ 20. Proportionality would counsel that the assessment should be only 39.2%
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25 of that assessment cap, or \$3,887 for CWF-0430 and \$4,266 for CWF-0431.

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27 29. Attachment B includes four Excel spreadsheets applying these discounting
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29 methods to Taxpayer's assessments. It is undisputed that special benefits will not actually
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31 accrue until the LID Improvements are complete in 2024. Accordingly, the first two
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33 spreadsheets demonstrate that discounting the City's hypothetical October 2019 special
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35 benefits to present value would reduce Taxpayer's assessment to \$14,151 for Unit 3800
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37 (CWF-0430) and \$15,124 for Unit 3802 (CWF-0431), exclusive of any other flaws in the
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39 City's proposed assessment. The third and fourth spreadsheets shows even more drastic
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41 reductions after taking into account discounting to present value for 10 years (*i.e.*, from 2029
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43 to account for the time it takes for the improvements to capture property value). After such
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45 reductions, Taxpayer's assessment would be just \$3,888 (for CWF-0430) and \$4,268 (for
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47 CWF-0431). These spreadsheets do not address other issues raised by Taxpayer's appeal,

1 but are intended to help demonstrate how unfair and inflated the City's proposed
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3 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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5 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
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7 **Appraisal and Assessment Calculation Methods Are Flawed**
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9 30. The "general rule is that each lot, piece, or parcel of land should be assessed
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11 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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13 Wn.2d at 97.
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15 31. It is proper to sustain a challenge to an assessment, even without the appraisal
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17 testimony from the owner, where the objector's expert establishes that the assessment was
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19 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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21 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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23 32. The City's appraiser purports to utilize the income method of valuation but
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25 relied on inaccurate revenue and market data, as discussed further below.
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27 33. The City's appraiser purports to utilize the comparable sales method of
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29 valuation, but no City witness attempted "to characterize any one, or all of them, as
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31 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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33 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
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35 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
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37 characterize any one, or all of them, as comparable to any particular property within the LID").
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39 And no City witness could explain how specific adjustments were made to these sales to
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41 account for value increases due to the hypothesized Before and After Improvements. For this
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43 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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45 34. Special assessment improperly includes value lift from the Before
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47 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any

1 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
2 Improvements, which WSDOT had independently committed to fund. However, Mr.
3 Macaulay did not calculate the actual market value of LID properties in October 2019, and
4 did not separately analyze the hypothetical increase to property values attributable to
5 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
6 current value and then separately calculate a hypothetical "With WSDOT" Before value);
7 *see also* Hamel Decl., ¶¶ 11, 12 (explaining that for condos, the "first task" was to determine
8 current values but not explaining how they included the value of the hypothetical "WITH
9 WSDOT" Before Improvements); Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020);
10 *see also* Gibbons 1/30/2020 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018
11 Letter (attached to Appeal Petition) at 3-4; Shorett Appraisal Review (attached to Appeal
12 Petition) at 2-14. Without any documented basis or support, Mr. Macaulay simply "ma[de]
13 a judgment a call" on what occupancy and rates would have been for the commercial
14 properties assuming all of the WSDOT Improvements are completed as of 2019. Macaulay
15 Depo. at 129:19-130:11. This outright omission precludes any independent evaluation of
16 the true market "Before" values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet
17 professional appraisal standards; if an appraiser uses current sales data to infer values, then
18 the appraiser must explain how he analyzed that data and other information to come up with
19 the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not
20 just removal of the viaduct, but also other road, pedestrian and landscaping improvements
21 WSDOT had already committed to make.

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43 35. However, because Mr. Macaulay testified that he did include some WSDOT-
44 related value-lift in the "Before" values, it follows that part of the special assessment
45 improperly is based on value attributable to the WSDOT Improvements. As shown by
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1 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
2 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
3 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
4 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
5 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
6 to properly exclude the value of Before Improvements from the assessments. For these
7 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
8 Sections II.19, II.29, and IV.B.11(a)(ii)
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17 36. Special benefits were assigned rather than measured. Mr. Macaulay
18 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
19 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
20 Shorette) Hrg. Tr. at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-91:13.
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25 37. For condos, ABS applied a uniform special benefit percentage to every unit
26 within a condominium building, notwithstanding individual differences among the units.
27 For example, he relied solely on King County Assessor data for information regarding each
28 condo, but for Taxpayer's properties, there was no information about views. Incredulously,
29 at the same time he insisted that the After value for each condo was calculated "parcel-by-
30 parcel" and that the special benefit percentage was simply a reflection of the difference
31 between Before and After values. In fact, there is no real way to check this work or verify
32 his methods because the analysis does not exist either within his report or in the backup data.
33 However, the simple fact that every single condo within a building received the exact same
34 special benefit percentage increase is evidence enough that Mr. Macaulay did not make an
35 individual parcel-by-parcel special benefit analysis. *See* Gibbons Decl. ISO Closing Stmt., ¶
36 6 (dated 7/7/2020).
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1 38. For these reasons, Taxpayer appeals the following portions of the Examiner's
2 Recommendation: Sections II.19, IV.B.11(a)(iii), and IV.C.15.
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4 39. Special benefit falls within margin of error. The Final Special Benefit Study
5 applies an estimated value enhancement of less than 4%, which is generally within the
6 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
7 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
8 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
9 of one another, this difference is considered reasonable as it falls within the standard margin
10 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
11 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
12 percentages fall far below that 5% margin, "there is no way of authenticating" such
13 incremental changes because "[m]arket forces completely obliterate any tiny little noise
14 factor like that." *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
15 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Yet,
16 Additionally, the fact that "Before" values are also based on a hypothetical that adds some
17 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
18 appraiser to discern the micro-value differences between hypothetical conditions that are so
19 similar (the WSDOT improvements compared to the LID improvements) "verges on being
20 ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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22 40. Even if it were possible to accurately tease out such a miniscule hypothetical
23 value change due to improvements coming five years later, experts testified that there is no
24 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
25 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (P. Shorett) Hrg. Tr. at
26 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at 88:21-88:24 ("you cannot measure one percent
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1 difference in a high-rise building for this kind of a medium ... it's simply assigned to a
2 before value"). For these reasons, Taxpayer appeals the following portions of the
3 Examiner's Recommendation: II.27 and IV.B.4.
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6 41. No analysis of value increase attributable to individual components of the
7 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
8 percentage difference between hypothetical Before and After conditions. Throughout his
9 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
10 descriptions in the Addenda even though he testified that he relied on these to calculate
11 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
12 someone might be able to determine how he attributed value to After conditions described in
13 the Addenda, he answered that that was "not the scope of the assignment" because he was
14 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
15 that the six components were not actually a continuous project, that he was viewing them
16 together because the City asked him to, and that if he were to view them independently,
17 there was a low probability that properties in the north would specially benefit from
18 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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21 42. Not only did he fail to analyze benefits from each of these non-contiguous
22 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
23 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
24 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
25 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
26 objectives that guided regulators' assessment of architectural plans for buildings along a
27 "signature street" were so vague that they amounted to ad hoc review based on the
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1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.
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22 43. Special assessment is not supported by comparable studies, data or reports.
23 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
24 that the LID Improvements will lead to meaningfully increased real estate values for
25 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
26 comparable sales or information from the "over twenty-five studies and reports" to arrive at
27 very precise special benefit increases for the residential condominiums, including
28 Taxpayer's properties. For example, although Mr. Macaulay stated that no single report or
29 study was directly on point due to the unique nature of the LID Improvements (*see, e.g.,*
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments
2 in his parcel-by-parcel analysis other than to say that the studies generally provided “some
3 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
4 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
5 similarities and differences between these improvements and the comparable parks he
6 looked at).

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12 44. Ms. Hamel also explained that after considering the “over 25 studies and
13 reports” as background, ABS concluded that there was “no consensus among the many
14 reports reviewed as to a set block or foot radius that should be utilized.” Hamel Decl. at ¶
15 33. So, they “took that information and calibrated it to the LID improvements and
16 conditions in Seattle[.]” *Id.* However, there is no analysis and no documentation on how
17 general principles articulated in the studies translated into specific property value increases.
18 ABS does not explain what the studies indicate should be an outer limit on impacts to
19 property value, and do not explain *how* the different streetscape and “park-like” elements
20 were treated—only that they were treated differently.

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25 45. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
26 assignment of incremental increase of 0.5% to 4% to property values within the LID.
27 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
28 research misinterprets his work in critical ways, including because the LID Improvements
29 manifest the characteristics of a parkway (not a park), and his research indicates that most of
30 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
31 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
32 related value increases are in fact smaller; that estimated increases are “best guesses” rather
33 than predictions of property value increases in a particular city; and that percentages do not
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1 account for diminishing returns after taking into account water views, which would be the
2 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
3 topography grants most properties in downtown a water view.
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6 46. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
7 that this was just one source of information that was not entirely relevant because, among
8 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
9 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
10 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
11 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
12 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
13 Crompton concluded that 500 feet via road from "park" improvements is just one or two
14 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
15 significantly beyond that which the park study indicated (even if it was legitimate to use the
16 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
17 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
18 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
19 Taxpayer's properties are not within 500 road network feet from the "park" improvements.
20 See Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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22 47. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
23 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
24 six LID components together as one entity. See 6/23/2020 Hrg. Tr. at 167:15-180:16. And
25 based on the attention given to Dr. Crompton's work in the Final Study and supporting
26 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
3 parcel-by-parcel analysis.
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6 48. Ms. Hamel's testimony that Crompton's report is "one of the first studies to
7 look at various correlations between parks and real estate values" and that "his study was
8 cited in many of the research studies and economic reports we reviewed" suggests that
9 without this study, ABS would have little to no basis for the special benefit estimates for
10 condos. Hamel Decl. at ¶ 37 (dated 6/26/2020).
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13 49. The destination parks discussed in the Final Special Benefit Study do not
14 provide reliable, comparable, and valid support for the calculation of special assessments
15 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett's
16 critique of every case study cited concludes the changes to those "dwarf the difference
17 between the before-after condition of the property with LID"); Gibbons 5/2/2018 Letter at 4;
18 Hrg. Exhibit 49 (P. Shorett's Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
19 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
20 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
21 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
22 funded by a LID. And in virtually all of those cases, the park improvements dramatically
23 restored unimproved or blighted areas, and properties evaluated were within two or three
24 blocks of the park.
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42 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 50. ABS’s claimed reliance on three economic studies to support property value
2 increase is also flawed. The HR&A study does not inform what value increases are
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4 expected from the LID Improvements because it projects increases to tourism from *all* of the
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6 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
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8 dissimilar parks in other cities,⁸ making the methodological application to the LID
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10 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
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12 conclusion that there would be *no new net visitors* from downtown residents as a result of
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14 the LID Improvements and could not explain how this impacted his condo analysis.
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16 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
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18 Property Values” primarily focused on whether the benefits accrue to the larger community
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20 rather than properties adjacent to the park. And the 2014 New York City Department of
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22 Transportation study is not based on real estate transactions and market sales and fails to
23
24 substantiate any link between increased retail sales and property values. Moreover, this
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26 study only looked at impact either directly abutting the streetscape improvement, or a couple
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28 hundred feet for plaza-like improvements.
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30 51. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
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32 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
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34 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
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36 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
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38 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
2 asked whether he considered that HR&A's estimated LID impact is six times greater than
3 TLP's assessment of Seattle's entire park system, his surmised that it was because the
4 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
5 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
6 assumptions to account for this difference, which may be partly explained by the fact that
7 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
8 approximately 3.44% of King County tourists visit Seattle primarily because of the city
9 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
10 waterfront improvements.

20 52. Although proximity to the improvements is a key factor in all of these
21 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
22 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
23 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
24 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
25 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
26 Improvements is approximate 20 acres and it is not a community park.⁹

34 53. There is no explanation in the Final Study or the supporting materials of how
35 the studies or comparable sales were used to derive values for Taxpayer's properties. For
36 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
37 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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43 ⁹ *See*
44 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
45 connecting Seattle's central waterfront to downtown.").

1 54. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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3 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
4 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
5 recognized) for developing the MAI standards for mass appraisals, testified that the Final
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7 Study does not meet mass appraisal standards nor allow for independent assessment of the
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9 accuracy of Mr. Macauley's conclusions.
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12 55. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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14 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
15 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
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17 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
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19 testimony suggests that he incorrectly believed that the only difference between direct
20
21 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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23 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
24
25 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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27 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
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29 Gordon uses in doing his limited restricted report").
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32 56. But the difference is not only in reporting—mass appraisal techniques must
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34 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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36 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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38 parcel approach:
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40 The mass appraisal technique is an appraisal method used to evaluate
41 a group of properties that are subject to similar market forces as of a
42 certain date through the use of market data, statistical analysis and
43 testing. As a result, the mass appraisal technique does not require or
44 involve analysis of each individual property's specific data.
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1 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).

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3 57. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
4 universe of properties as a given date using standard methodology, employing common data,
5 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
6 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
7 model" is "a mathematical expression of how supply and demand factors interact in a
8 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
9 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
10 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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12 58. Regardless of client direction, Mr. Macaulay is required to comply with
13 USPAP. So if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have been
14 economically feasible because it would have taken "an incredible amount of time and cost"
15 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
16 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 ("performing an
17 individual appraisal of each [condo] parcel would have been cost and time prohibitive").

18
19 59. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
20 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
21 value, fails to calibrate the model structure to determine the contribution of the individual
22 characteristics affecting value, and does not review the mass appraisal results against actual
23 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
24 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

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¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the relationship between characteristics that affect value, and to calibrate that model to specify how individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-21). The purpose is to rationally determine what characteristics will create value, and by how much.

1 60. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. There is no documentation of the “internal
9 review process” for the condos. 6/25/2020 Hrg. Tr. at 165:13-18. And because both the
10 Before and After values were hypothetical, it was not possible to identify matched pair sales
11 and no City witness explained how ABS Valuation made adjustments to “comparable” sales
12 in order to check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6
13 which requires him to explain his model structure.
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15 61. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
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39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

62. Finally, Taxpayer’s properties are not appurtenant—or even in close proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of proving special benefit” shifted to the City because the protestors’ parcels merely stood “in close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s properties are not even within 500 road network feet from the core “park” improvements. And, as described above, the special assessment is overstated because the Final Study makes no attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or special detriments. In addition, it is speculative due to the fact that, as of October 2019, improvements were not in place—and, in fact, much of the waterfront is a construction zone following removal of the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should have discounted the special benefit estimates or waited to perform the Study until the improvements were at least close to complete.

Erroneous Pre-Improvement Valuation

63. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's properties as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's properties.

64. The City's Final Study was used to compute the proposed final assessment of Taxpayer's properties. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final

¹¹ See, e.g., Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet (providing a “County Link” to the King County Department of Assessment’s online “eReal Property” search tool).

1 Study does not accurately reflect this data. The Final Special Benefit Study does not explain
2 this difference—or any differences—between its pre-improvement valuation and its
3 supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the
4 Examiner’s Recommendation.
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8 65. Further, the City’s analysis was based on unreliable market data. There was
9 no information about views from 1521 2nd Avenue Units 3800 and 3802, (CWF-0430 and
10 CWF-0431) on King County Assessor’s site even though there are significant views from
11 these properties.¹² This is problematic given that other objectors’ cross-examinations—in
12 particular regarding the Waterfront Landing condos—effectively demonstrated that ABS
13 Valuation made incorrect assumptions about views for a significant number of properties.
14 *See, e.g.*, 6/25/2020 Hrg. Tr. at 87:18-88:1; 89:7-91:23; 95:2-10; 97:2-99:14; 100:24-101:13
15 (for the Waterfront Landing, ABS Valuation did not discount for view blockages in the
16 Before condition as a result of the Pine Street Connector and instead simply assigned per
17 square foot values in \$25 increments based on incorrect assumptions about corner units and
18 units on higher floors).
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30 66. Thus, aside from multiple other reasons why computation of the special
31 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
32 improvement values that do not accurately reflect market data. For these reason, Taxpayer
33 appeals the Examiner’s recommended denials on page 106 of the Examiner’s
34 Recommendation.
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45 ¹² *See*
46 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>;
47 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>.

Erroneous Computation of Special Benefit

67. “Special benefit” is “the increase in fair market value attributable to the local improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?” *Id.* 165–66.

68. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

69. Arbitrary assignment of special benefit. The City’s Study computed the proposed final assessment by multiplying the market value of the property without the LID improvements by 2.7%, which the City contends represents the estimated special benefit of the LID improvements applicable to all condo owners in Taxpayer’s building. However, there is no analysis and no documentation on how general principles articulated in the studies translated into the specific property value increase for Taxpayer’s properties.

70. It also bears noting that any “internal review” of the special benefit estimates would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of error. Indeed, given all the same information, he seemed to suggest that it would be perfectly reasonable for another experienced appraiser to come up with special benefit estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact same quality of data to be 50% off). Ultimately, his repeated insistence that there is no

1 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
2 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
3 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
4 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
5 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
6 special because it is arbitrarily assigned; and it is too small to realistically be supported by
7 appraisal techniques.
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10 71. No evidence of special benefit. Meanwhile, there is “no actual evidence from
11 any seller or purchaser that the price was higher because of the LID improvements.”
12 *Bellevue Plaza, Inc*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
13 identified any seller or buyer, or any particular property where the existence of the LID
14 improvements had an effect on the market price.” *Id.* at 410-11. Taxpayer has explained
15 that the property has not increased in value due to the forthcoming LID Improvements,
16 because, among other reasons, the improvements ABS believes will generate value do not
17 exist, and will not for a number of years to come. There are no comparable sales because
18 the LID Improvements are not in place, nor will they be until the end of 2024 if completed
19 on schedule.
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22 72. The fair market values of Taxpayer’s properties have not changed due to
23 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
24 benefited from installation of new water main and fire hydrant where it was already
25 adequately supplied with water and afforded adequate fire protection). As explained above,
26 both units face west and already have full westerly views. And because the building
27 purchased the space to the west, the view is protected from further development. Unit 3802
28 also has a south-facing view of Mt. Rainer, the stadiums, and south Seattle. Unit 3800 has a
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1 north-facing view as well. Instead of increasing waterfront views, the Waterfront LID
2 improvements may actually decrease value of these units due to worse looking views during
3 construction and more difficult views for the future due to lighting.
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6 73. There is no special benefit because LID improvements in fact diminish the
7 value of Taxpayer's properties due to construction, increased traffic, decreased access to
8 existing businesses and restaurants (especially during construction), potential increase in
9 crime and sanitation issues due to the City's failure to maintain the park, and decreased
10 parking availability. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert that LID
11 actually diminished value of property was sufficient to rebut presumption that assessment
12 was proper). Moreover, for Taxpayer's properties, the improvements will more than likely
13 make waterfront access worse, first during the years of construction and then further by
14 creating structures, trees, etc., where access is currently unimpeded.
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17 74. The assessment formula is an attempt to distribute costs that do not relate to
18 special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be "merely a
19 mathematical model that distributes costs").
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22 75. The Special Benefit Study fails to address whether the \$346,000,000
23 estimated LID project cost takes into account the investment that would have occurred in the
24 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
25 invested. This is a critical component of estimating which properties receive a direct benefit
26 from the improvements, versus more incidental benefits further from the park.
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29 76. The proposed final assessment substantially exceeds the special benefit to the
30 property and is disproportionate to similarly situated properties within the LID. For these
31 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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47 Sections II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.15.

State Environmental Policy Act and Other Environmental Permitting

77. While this appeal is not challenging the City's environmental review and permitting processes, those processes are relevant in determining the legality of the assessments, and to assessing the delivery risk, the present value of the City's plans, and ultimately the amount of the assessment. If the roll is finalized, the City will commit to pursue projects that have not yet undergone environmental review (thus limiting the choice of reasonable alternatives to those projects). For example, if the roll is finalized, the City is committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63) is just beginning. Further, the City has segmented environmental review, and still has a gauntlet of federal, state and tribal review processes to complete before it will be clear what the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b), SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and committing to reconstruction of Pier 58 and major street improvements without environmental review, or the City's Final Special Study has improperly included and is proposing to assess the Taxpayer the costs and special benefits of improvements that may not get built. Either way, it is faulty process.

Due Process Rights

78. The City's failed to notify Taxpayer sufficiently in advance of the hearing to allow Taxpayer to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes

1 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
2 555, 569–70, 229 P.3d 761 (2010).
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4 79. The LID statute specifies that cities must mail notices giving the time and
5 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
6 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
7 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
8 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
9 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
10 secure their own appraisal), evaluate proportionality of the proposed assessments, and
11 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
12 for anybody to get an appraisal”).
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15 80. The City’s Notice of Assessment was sent on December 30, 2019. And the
16 Final Special Benefit Study has only been available for public review since January 7, 2020.
17 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
18 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
19 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
20 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
21 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
22 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
23 the Examiner’s Recommendation: I.B.
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26 **VII. Relief Requested**

27 Taxpayer respectfully requests that the City Council:

- 28 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
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30 and
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- 1 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
2 assessment dated December 30, 2019; or
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5 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
6 proposed final assessment to \$0 (zero), or such amount as Taxpayer
7 establishes at the hearing in this matter; or
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10 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
11 and reduce Taxpayer's assessment using recognized appraisal techniques
12 consistent with USPAP and:
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15 i. Excluding any property value increase attributable to viaduct removal
16 and other planned WSDOT Improvements;
17
18 ii. Taking into account the effects of the COVID-19 pandemic on the
19 value of Taxpayer's property and other relevant developments since
20 October 2019;
21
22 iii. Accounting for and excluding (1) any special benefits from existing
23 or planned improvements that already provide similar benefits to
24 Taxpayer's property, and (2) any special detriments from construction
25 and other anticipated LID-related disamenities;
26
27 iv. Accounting for and including only those actual benefits anticipated to
28 accrue to Taxpayer's property based on its location relative to Pier 58,
29 Overlook Walk, and the Promenade, and specific elements of the LID
30 Improvements;
31
32 v. Discounting anticipated special benefits to present value, based on
33 reliable estimates regarding when special benefits will start accruing
34 following completion of the LID Improvements; and
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1 vi. Accounting for such other issues specific to Taxpayer's property
2
3 relevant to calculation of such assessment; and
4

5 2. Grant such further relief as the City Council deems just and proper.
6

7 DATED: September 22, 2020
8

PERKINS COIE LLP
9

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11
12
13 By: 

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Attorneys for RRRR Investments LLC
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FILED

4:14 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0430 and 0431
Date: Tuesday, February 16, 2021 3:48:19 PM
Attachments: [RRRR Investment LLC Amended LID Appeal before City Council CWF 0430 and 0431.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

RRRR Investment LLC Amended LID Appeal before City Council CWF 0430 and 0431.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0430 and
CWF-0431

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON RRRR
INVESTMENT LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
2538831460 and 2538831480

33
34 RRRR Investment LLC (“Taxpayer”) files this amended appeal pursuant to RCW
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of
36 Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated December
37
38 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the
39
40 Hearing Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
41
42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
45
46
47

1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 RRRR Investment LLC
6 PO BOX 21749 SEATTLE WA 98111
7 Bryon Madsen
8 206-689-2457
9 bryon@obcx.com
10

11
12
13 **II. Taxpayer's Representatives**

14 RRRR Investment LLC representatives in this matter are:

15
16
17 R. Gerard Lutz, WSBA No. 17692
18 JLutz@perkinscoie.com
19 Perkins Coie LLP
20 10885 N.E. Fourth Street, Ste 700
21 Bellevue, Washington 98004
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Facsimile: 206.359.9000

24
25
26 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

27 RRRR Investment LLC is the taxpayer for the property that is subject to the
28
29 proposed final assessment described in Section IV.
30

31 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34 objection to the assessment, which was based on the Final Study. Taxpayer further timely
35 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
36
37 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
38 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
39 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
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1 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
2 as authorized by the Hearing Examiner, including without limitation all records pertaining to
3 the November 2020 through February 2021 remand hearing ordered by Council.
4
5

6
7 **IV. Amended Arguments on Appeal**
8

9 RRRR Investment LLC supplements its appeal of the Hearing Examiner's
10 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
11 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
12 the following property:
13
14
15

16 King County Parcel No. 2538831460
17 Site Address: 1521 2nd Ave., Unit 3800 Seattle, Washington 98101
18 Proposed Final LID Assessment for Parcel: \$41,245
19

20 King County Parcel No. 2538831480
21 Site Address: 1521 2nd Ave., Unit 3802, Seattle, Washington 98101
22 Proposed Final LID Assessment for Parcel: \$44,084
23
24

25 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
26 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
27 amended appeal.
28
29

30
31 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
32 **Discounted to Present Value and Assessments Adjusted as Appropriate**
33

34 On remand, the City's appraiser acknowledged that special benefits to parcels can be
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
37 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
38 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
39 the theatre parcel is too remote to support a current assessment. *Id.* The Examiner accepted
40 that recommendation. The City's appraiser further acknowledged that benefit reductions
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1 due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined by
2 discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
3
4 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
5 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
6
7 calculations to present value because the general benefits are not anticipated from the LID
8
9 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
10
11 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
12
13 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
14
15 benefit calculation, and related assessments, to account for the delay between the assessment
16
17 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
18
19 standard appraisal practice, and renders the other proposed Waterfront LID special
20
21 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
22
23 “fundamentally wrong methods.”
24
25

26 All special benefit taxes assessed by a municipality must be based on “actual,
27
28 physical and material [special benefits that are] not merely speculative or conjectural.”
29
30 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
31
32 Additionally, the assessments may not materially exceed the actual special benefit conferred
33
34 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
35
36 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
37
38 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
39
40 discount benefits the City estimated would accrue to the properties from improvements to be
41
42 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
43
44 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
45
46 property while treating all or most others (including Taxpayer’s) differently, and
47

1 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
2 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
3 for some properties because the benefits are too distant, while assessing other properties as
4 though distant benefits have already been secured. As Taxpayer identified in its September
5 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
6 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8 reject the improper calculation of the benefit or remand and require the appraiser to discount
9 the benefits to net present value.
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19 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
20 **Downtown Property Owners and other Material Changes Since October**
21 **2019, the LID Should be Cancelled, or at Least Assessments**
22 **Recalculated, to take Into Account Property Value Reductions**
23

24 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
25 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
26 other relevant developments since October 2019." When Washington's first COVID
27 restrictions were imposed in March and April 2020, there was an assumption that they
28 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
29 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
30 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
31 gotten much worse. Residential values have also dropped. Specifically, Taxpayer's Parcel
32 No. 2538831480, after a real estate appraisal and pocket listing the property in July 2020,
33 the value has gone down over \$1 million US Dollars. Concerns of safety and overall
34 vacancy rates, both residential and commercial, have been cited as the cause. The City has
35 already imposed higher minimum wages and taxes on businesses to try to fund recovery.
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1 The West Seattle Bridge and other bridges are in immediate need of repairs and
2 maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's
3 appraisal to exist as of October 2019, collapsed, and is several years from completion, as a
4 best case. In current circumstances, a downtown tax to fund new, non-essential park
5 improvements against financially strapped taxpayers, and likely passed through to
6 financially strapped tenants and customers would be unfair to taxpayers and a misallocation
7 of city resources. COVID threw everyone for a loop. But as the City rethinks its budget
8 priorities for the next few years, and its potentially funding sources, Taxpayer respectfully
9 requests that the City dissolve the assessment, at least until property owners and businesses
10 have a chance to recover, and that any assessment take into account the changed
11 circumstances since this appeal process started on February 4, 2020 to avoid unnecessarily
12 and perhaps permanently killing downtown properties and businesses in the name of
13 bettering them.
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27 **V. Relief Requested**

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29 Particularly in light of the Committee's decision not to take further comment from
30 appellants, Taxpayer respectfully request that each Committee member carefully review the
31 full record transmitted to Council before voting on Taxpayer's appeal.
32
33

34
35 RRRR Investment LLC respectfully reiterates its request from the September 22,
36 2020 appeal that the City Council:
37

- 38
39 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
40
41 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
42 final assessment dated December 30, 2019; or
43
44 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
45 proposed final assessment to \$0 (zero), or such amount as Taxpayer
46
47

1 establishes at the hearing in this matter; or

2
3 c. Remand the matter to the Hearing Examiner or City appraiser to
4 recalculate and reduce Taxpayer's assessment using recognized appraisal
5 techniques consistent with USPAP and:
6
7

- 8
9 i. Excluding any property value increase attributable to viaduct
10 removal and other planned WSDOT Improvements;
11
12 ii. Taking into account the effects of the COVID-19 pandemic on
13 the value of Taxpayer's property and other relevant
14 developments since October 2019;
15
16 iii. Accounting for and excluding (1) any special benefits from
17 existing or planned improvements that already provide similar
18 benefits to Taxpayer's property, and (2) any special detriments
19 from construction and other anticipated LID-related
20 disamenities;
21
22 iv. Accounting for and including only those actual benefits
23 anticipated to accrue to Taxpayer's property based on its
24 location relative to Pier 58, Overlook Walk, and the
25 Promenade, and specific elements of the LID Improvements;
26
27 v. Discounting anticipated special benefits to present value,
28 based on reliable estimates regarding when special benefits
29 will start accruing following completion of the LID
30 Improvements; and
31
32 vi. Accounting for such other issues specific to Taxpayer's
33 property relevant to calculation of such assessment; and
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1 2. Grant such further relief as the City Council deems just and proper.
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7 DATED: February 16, 2021
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9

PERKINS COIE LLP

10 By:

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13 Perkins Coie LLP
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27 Attorneys for RRRR Investment LLC
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3:46 pm, Tue, September 22, 2020

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0432
Date: Tuesday, September 22, 2020 2:57:41 PM
Attachments: [CWF-0432.zip](#)

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Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0432.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0432
A – Master List of Evidence
B – B-218 4 Seasons
C – Discounting for CWF-0432
CWF-0432 Appeal Notice for SHG Garage

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Four Seasons Garage

Map Nos.: B-218-001
Tax Parcel No.: 609467-0010
Property key: 4271
Address: 99 Union Street
Zoning: DMC 240/290-440
Previous sale: N/A
Proximity to park: ½ block from park, one block south of Pike Street improvements
Ownership: SHG GARAGE SPE

Description: 21,800 SF site on the southwest corner of 1st Avenue and Union Street (Post Alley and Union Street) improved with three commercial condominium (not included in this analysis). APN 609467-0010 (13.95%) 52,281 SF parking structure with 134 stalls (34 allocated to the hotel and the condominium plat). APN 609467-0020 (0.80% interest) comprise a condominium. APN 609467-0030 (51.72% interest) is developed with 134 guest rooms and 13 suites. All the improvements were built

INCOME ANALYSIS Before		Year Built	2006			
		Parking	34	hotel	100	residences
Potential Gross Income						
	Units	SF NRA	Total NRA	Rent	Rent/SF	
Studio			0		\$0.00	
1-bedroom			0		\$0.00	
2-bedroom			0		\$0.00	
3-bedroom			0		\$0.00	
Total apartments	0	0	0	\$0	\$0.00	
	GBA	NRA				
Office				SF NRA @	\$0.00	
Retail				SF NRA @	\$0.00	
Restaurant				SF NRA @	\$0.00	
Other	0	0		SF NRA @	\$0.00	
Subtotals	0	0				
Daily parking			34	stalls @	\$35.00	
Monthly parking			100	stalls @	\$350.00	
Total Parking Area/Stalls			134	stalls @		
Basement	0	0		SF NRA @	\$0.00	
Other	0	0		SF NRA @	\$0.00	
Other				0.0%	of PGI	
Total Bldg Area & Gross Income	52,281	52,281		SF GBA @	\$16.34	

Less: Vacancy/credit allowance @	4.0%	of apartment revenue		
	5.0%	of commercial revenue		
	5.0%	of parking revenue		
Total vacancy/credit allowance				
Effective gross income				
Less: Operating expenses				
Management fee @	5.0%	of total EGI		
Parking operating expenses @	10.0%	of parking EGI		
Apartment operating expenses		of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses				
Net operating income				
Indicated Value				
Land Value		21,800		
	13.98%	3,048	SF @	\$1,700.00
Residual Improvements		52,281	SF GBA @	\$116.66

Special Benefit Summary				
	Land		Improved	% Change
	Per SF	Total		
Without LID	\$1,700.00	\$5,181,000	\$6,099,000	N/A
With LID				
Scenario A1	\$1,751.00	\$5,336,000	\$6,232,000	2.18%
Scenario A2	\$1,751.00	\$5,336,000	\$6,347,000	4.07%
Scenario B1	\$1,751.00	\$5,336,000	\$6,333,000	3.84%
Scenario B2	\$1,751.00	\$5,336,000	\$6,234,000	2.21%
Percent change in land value	3.00%		\$6,287,000	3.08%
Overall Summary				
Without LID	\$1,700.00	\$5,181,000	\$6,099,000	N/A
With LID	\$1,751.00	\$5,336,000	\$6,282,000	3.00%

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Net Rentable	0	SF @	#DIV/0!	/SF =	\$0
			(Avg)		
	0	SF @	\$0.00	/SF =	\$0
Total Building Area	0	SF			\$0
Less: Vacancy & credit Loss @			8%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management @	6%	(EGI)			\$0
Bldg. Maint/Reserve	0.20	/SF			\$0
					\$0
NET OPERATING INCOME					\$0
CAPITILIZED @			7.25%		\$0
				R	\$0
CAPITILIZED @			7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$60.00	=	\$0
	0	@	\$65.00	=	\$0
Residual Builing					\$0
					\$0

Four Seasons Garage

Scenario A - Rate and Vacancy Changes

APN	Ownership	Descript
609467-0010	SHG Garage SPE	Garage
609467-0020	SHG Retail SPE LLC	Retail U
609467-0030	SHG Hotel SPE LLC	Hotel U

et (and southeast corner of
 minium units and residential
 08% interest) is improved with a
 and 100 to the residences, per
 is a 2,984 SF retail
 h a 193,429 SF, 147-room hotel
 t in 2006.

		INCOME ANALYSIS After		Year Built	2006
		Potential Gross Income			
			Units	SF NRA	
	\$0	Studio	0	0	
	\$0	1-bedroom	0	0	
	\$0	2-bedroom	0	0	
	\$0	3-bedroom	0	0	
	\$0	Total apartments	0	0	
			GBA	NRA	
per SF =	\$0	Office	0	0	SF
per SF =	\$0	Retail	0	0	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$0	Subtotals	0	0	
/day	\$434,350	Daily parking			34
/month	\$420,000	Monthly parking			100
/month	\$854,350	Total Parking Area/Stalls	0		134
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$0	Other			
/SF =	\$854,350	Total Bldg Area & Gross Income	52,281	52,281	SF

	\$0
	\$0
	(\$42,718)
	(\$42,718)
	\$811,633
	(\$40,582)
	(\$81,163)
	\$0
	(\$13,070)
	(\$134,815)
	\$676,817
Capitalized @	6.00%
Indicated value	\$11,280,290
(R) \$11,280,000	
Per SF GBA	\$216
Per stall	\$84,179
per SF =	\$5,181,000
per SF =	\$6,099,000
per stall	\$45,515

Less: Vacancy/credit allowance		of apartment
		of commercial
		of parking
Total vacancy/credit allowance		
Effective gross income		
Less: Operating expenses		
Management fee @	5.0%	of total EGI
Parking operating expenses @	10.0%	of parking EGI
Apartment operating expenses	0.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		
		3,048
Residual Improvements		52,281 per
Special Benefit Summary		

Total Estimated Value	Special Benefit	% Change	
\$11,280,000	N/A	N/A	
			Per stall
\$11,568,000	\$288,000	2.55%	\$2,149
\$11,683,000	\$403,000	3.57%	\$3,007
\$11,669,000	\$389,000	3.45%	\$2,903
\$11,570,000	\$290,000	2.57%	\$2,164
\$11,280,000	N/A		
\$11,618,000	\$338,000	3.00%	\$2,522

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Net Rentable	0	SF @	#DIV/0!	/SF =	\$0
			(Avg)		
	0	SF @	\$0.00	/SF =	\$0
Total Building	0	SF			\$0
Less: Vacancy & credit Loss	@		6%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management	6%	(EGI)			\$0
Bldg. Maint/Re	0.20	/SF			\$0
					\$0
NET OPERATING INCOME					\$0
CAPITILIZED	@		7.25%		\$0
				R	\$0
CAPITILIZED	@		7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$63.00	=	\$0
	0	@	\$68.00	=	\$0
Residual Building					\$0
					\$0

Four Seasons Garage
Scenario B - OAR Changes

<u>ion</u>	<u>Land %</u>	<u>Land Area</u>	<u>GBA</u>
Unit	13.98%	3,048	52,281
nit	0.80%	174	2,984
nit	51.72%	11,275	193,429
	66.50%	14,497	248,694
Total site area		21,800	

	<u>Per DU</u>	<u>Per DU</u>	Low 0.00%	High 0.00%
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
			0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$0	\$0
	<u>Per Stall</u>	<u>Per Stall</u>	2.50%	3.50%
stalls @	\$35.88	\$36.23	\$445,209	\$449,552
stalls @	\$358.75	\$362.25	\$430,500	\$434,700
stalls @			\$875,709	\$884,252
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
0.0%	of PGI		\$0	\$0
• GBA @	\$16.75	\$16.91	\$875,709	\$884,252

INCOME ANALYSIS After

Potential Gross Income

Studio
1-bedroom
2-bedroom
3-bedroom
Total apartments

Office
Retail
Restaurant
Other
Subtotals

Daily parking
Monthly parking
Total Parking Area/Stalls

Basement
Other
Other

Total Bldg Area & Gross Income

revenue	4.00%	4.00%	\$0	\$0
revenue	5.00%	5.00%	\$0	\$0
revenue	5.00%	5.00%	(\$43,785)	(\$44,213)
			(\$43,785)	(\$44,213)
			\$831,923	\$840,040
			(\$41,596)	(\$42,002)
			(\$83,192)	(\$84,004)
			\$0	\$0
			(\$13,070)	(\$13,070)
			(\$137,859)	(\$139,076)
			\$694,065	\$700,963
Capitalized @			6.00%	6.00%
			\$11,567,743	\$11,682,724
(R)			\$11,568,000	\$11,683,000
Per SF GBA			\$221	\$223
% change			2.55%	3.57%
SF @	\$1,751.00	per SF =	\$5,336,000	\$5,336,000
r SF GBA	\$119.20	\$121.40	\$6,232,000	\$6,347,000
		Per stall	\$46,507	\$47,366
			\$288,000	\$403,000

Less: Vacancy/credit allowance @

Total vacancy/credit allowance

Effective gross income

Less: Operating expenses

Management fee @

Parking operating expenses @

Apartment operating expenses

Structural maintenance/reserve

Total operating expenses

Net operating income

Indicated Value

Land Value

Residual Improvements

Special Benefit Summary

Year Built 2006						
Units	SF NRA	Total NRA	Rent	Rent/SF		
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0					\$0
		34	stalls @	\$35.00	/day	\$434,350
		100	stalls @	\$350.00	/month	\$420,000
0		134	stalls @	\$0.00	/month	\$854,350
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			0.0%	of PGI		\$0
52,281	52,281		SF GBA @	\$16.34	/SF	\$854,350

4.0% of apartment revenue				\$0	
5.0% of commercial revenue				\$0	
5.0% of parking revenue				(\$42,718)	
				(\$42,718)	
				\$811,633	
5.0% of total EGI				(\$40,582)	
10.0% of parking EGI				(\$81,163)	
0.0% of apartment EGI				\$0	
\$0.25 per SF of GBA				(\$13,070)	
				(\$134,815)	
				\$676,817	
				Low	High
Capitalized @				5.80%	5.85%
Indicated Value				\$11,669,265	\$11,569,528
(R)				\$11,669,000	\$11,570,000
Per SF GBA				\$223	\$221
% change				3.45%	2.57%
3,048	SF @	\$1,751.00	per SF =	\$5,336,000	\$5,336,000
	per SF GBA	\$121.13	\$119.24	\$6,333,000	\$6,234,000
			Per stall	\$47,261	\$46,522
				\$389,000	\$290,000

3.00%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0432	Four Seasons Hotel	1321 1st Avenue	6094670010

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$338,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$45,437

Model Input				
Appeal #	Property	Address	Assessor's #	
CWF-0432	Four Seasons Hotel	1321 1st Avenue	6094670010	

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$11,280,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C))		Corrected FMV for Assessment	\$9,870,000

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$338,000		
H/A	As Percentage of Final City Before Value	2.996%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$295,750		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$101,422	\$27,867
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$39,757	\$10,924

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0432

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON SHG GARAGE
SPE’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
6094670010

33
34 SHG GARAGE SPE files this appeal pursuant to RCW 35.44.070, Seattle Municipal
35 Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office of the
36 City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
37 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
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42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:

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45 SHG GARAGE SPE
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47

1 PO Box 334
2 Bellevue, WA 98009-0334
3

4 **II. Taxpayer's Representatives**

5 SHG GARAGE SPE's representatives in this matter are:
6
7

8 Clark R. Nichols, WSBA No. 8662
9 CNichols@perkinscoie.com
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11 JLutz@perkinscoie.com
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16 Telephone: 425.635.1400
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19

20
21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27
28

29 **III. Statement of Taxpayer's Interest**

30 SHG GARAGE SPE owns the property that is subject to the proposed final
31 assessment described in Section IV. The parcel contains the garage that services the Four
32 Seasons Hotel and private residences. The basis of the proposed assessment is a Final
33 Special Benefit/Proportionate Assessment Study for Waterfront Seattle Local Improvement
34 District ("Final Study"), dated October 1, 2019 and prepared by Robert Macaulay with ABS
35 Valuation (the City's appraiser). The Final Study proposes assessments that are purportedly
36 limited to paying for the LID-funded components—namely, the Promenade, Overlook Walk,
37 Pioneer Square Street Improvements, Union Street Pedestrian Connection, Pike/Pine
38 Streetscape Improvements, and Pier 58 (together, the "LID Improvements"). The Final
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1 Study purports to exclude charges for other improvement projects in the Central Waterfront,
2 and specifically those WSDOT had already agreed to pay for and construct: viaduct
3 demolition, the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State
4 Route 99 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces
5 WSDOT planned fronting piers between Pike and Madison (together, the “WSDOT
6 Improvements”). But because construction was not complete on the LID Improvements or
7 the WSDOT Improvements at the time the Final Study was prepared, Mr. Macaulay’s
8 October 1, 2019 “Before” and “After” valuations are both based on hypothetical conditions
9 rather than actual facts. On February 4, 2020, Taxpayer timely filed an objection to the
10 assessment, which was based on the Final Study.
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21 **IV. Matter Under Appeal**

22 SHG GARAGE SPE appeals the Hearing Examiner’s recommendation to deny
23 Taxpayer’s objection to the City of Seattle’s Waterfront Local Improvement District No.
24 6751 proposed final assessment dated December 30, 2019 against the following property:
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29 King County Parcel No. 6094670010
30 Site Address: 1321 1st Ave, Seattle, Washington
31 Proposed Final LID Assessment for Parcel: \$132,435.84
32

33 *See* Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
34 the evidence and arguments raised before the Hearing Examiner into this appeal. In
35 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
36 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
37 supplemental Closing Statement submitted at the close of the City’s case-in-chief (dated
38 7/7/2020).¹
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46 ¹ Because the City has not provided “metered index numbers,” our appeals cannot reference
47 them. *See* SMC 20.04.110. However, as part of the prehearing conference, we recommend that the

1 As discussed more fully below, Taxpayer specifically appeals the following Findings
2 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
3
4 Pages 61-62, 106, Sections II.6, II.7, II.12 , II.13 , II.14, II.16 , II.17 , II.18, II.19, II.20,
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6 II.21, II.22, II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1,
7
8 IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
9
10 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7 ,
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12 IV.C.8, IV.C.10 , IV.C.11, IV.C.12, IV.C.14, IV.C.18
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14 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
15 recommendations on material issues raised during Taxpayer's appeal that were supported by
16 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
17 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
18 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
19 recommended anything other than denial of objectors' appeals were where the City's
20 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
21 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
22 special assessments based on "fundamentally wrong methods."
23

24 The special benefit for which special taxes are assessed must be "actual, physical and
25 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
26 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
27 with the law, the assessments may not materially exceed the actual special benefit conferred
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Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated, citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors retained by Perkins Coie are part of this case file.

1 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
2
3 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
4
5 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
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7 assessment. In this case, the proposed assessment fails each of the legal requirements for
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9 special assessments and must be annulled as arbitrary or capricious, or founded on
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11 fundamentally wrong methods.
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14 **Legal Requirement:** Actual, non-speculative special benefit

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16 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
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18 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
19
20 October 2019 (they were not), and an “After” value purporting to assess the value of
21
22 properties with the LID improvements in place at least five years before anticipated
23 completion.

24 **Legal Requirement:** Cannot materially exceed the special benefit

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26 **ABS Study:** ABS calculates a special benefit of \$338,000 assuming the LID
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28 Improvements were in place and providing benefit in October 2019. However, the LID
29
30 Improvements will not be completed until the end of 2024 if the City meets its current
31
32 schedule, and many of WSDOT’s alternative improvements will not be built. The present
33
34 value of future improvements deliverable in five years is significantly lower than the
35
36 current value of improvements that already exist. Further, ABS’s own materials show that
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38 benefits may not accrue for at least five years after they are completed, in 2029. If the
39
40 hypothesized special benefits are discounted to present value, the assessments materially
41
42 exceed the hypothesized special benefits.
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44 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID

45
46 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
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prepared his Final Study in October 2019, and the City issued its preliminary roll in
December 2019, COVID devastated downtown hotel and retail properties. The Hearing
Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
and must be based on actual special benefits. While that does not mean ABS’s appraisal

was wrong when completed, values and benefits need to be reanalyzed before assessments are finalized in light of the unprecedented changes to the downtown real property market.

Legal Requirement: Actual benefit that cannot materially exceed special benefit—
Assessment cannot include value attributable to future WSDOT Improvements.

ABS Study: The City’s appraiser asserts that the City is not collecting assessments “based on the value of WSDOT’s planned improvements.” *See* Final Study at 3. However, the City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition, the City’s appraiser increased 2019 property market values as though WSDOT had completed its work by 2019. The proposed assessment is against this hypothetical WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent) higher than actual 2019 market values. The City is collecting an assessment against both the 2019 current values and the phantom 2019 WSDOT market value lift, in direct contravention of law and the City’s promise not to impose an assessment based on the value of viaduct demolition and the other components of WSDOT’s planned work.

Legal Requirement: Benefits must be special, not general

ABS Study: The City’s appraiser fails to determine or explain what general benefits arise due to the LID Improvements. However, the far-reaching and public nature of the improvements make any benefit arising from them general—not special.

Legal Requirement: Benefits must be “physical and material and not merely speculative or conjectural”

ABS Study: Not only are the improvements not yet “physical or material,” but environmental review and permitting for the City’s proposed LID Improvements is not complete, and the LID improvements are not anticipated to be complete until the end of 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in a manner consistent the City’s then-current proposals, which were in many respects merely conceptual designs.

Legal Requirement: Must comply with appraisal standards

ABS Study: ABS’s valuation methodology cannot be tested. It is a hybrid of “Individual” and “Mass” appraisal techniques, but fails to meet USPAP requirements for either. Until the Examiner admonished ABS, ABS even asserted its analysis was “confidential and proprietary.” ABS’s analysis and conclusions can neither be tested nor replicated. The Final Study fails to meet basic standards for admissibility and must be remanded.

Legal Requirement: Actual and measurable special benefit

ABS Study: ABS's proposed assessments are assigned rather than measured, as demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based on a host of "micro-judgments" that are not supported by any documentation, nor capable of replication or quality assurance/quality control. The assessments are undocumented, unreliable, and not supported by empirical studies, data, or reports.

Legal Requirement: Actual and measurable special benefit—Park benefits must be supported by empirical evidence

ABS Study: Dr. John Crompton, the world's preeminent expert regarding the economic value of parks and other public amenities and on whom ABS purported to rely, testified that ABS had completely misapplied his work and dramatically overstated both the distance to which economic benefits might extend from the LID Improvements and the extent of any anticipated benefit within the potentially benefited area.

Legal Requirement: Actual special benefit—Must take into account potential disamenities

ABS Study: The appraiser ignores the negative value impact of five years or more of construction, as well as other potential disamenities associated with public places.

Legal Requirement: Cannot prematurely commit to build

ABS Study: The City has not completed NEPA review or other entitlement process for its Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments are being imposed. But finalizing the roll is a commitment by the City to build the improvements, which is a violation of legal process and commits the City to build things it may not secure permission to build.

In addition to these general objections, there are property-specific issues raised by Taxpayer as to which the Examiner also erred, discussed in the course of the appeal statement below.

1 **V. Standard of Review**

2 “When considering the assessment roll, the city council sits ‘as a board of
3 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
4 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
5 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
6 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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10 The proposed assessments are presumed correct, “unless overcome by clear, cogent
11 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
12 than the heightened presumption of correctness on judicial appeal because “applying these
13 elevated standards at the municipal hearing would afford unwarranted deference to a report
14 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
15 presumption is not evidence and its efficacy is lost when the other party adduces credible
16 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
17 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
18 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
19 presented credible evidence showing that the City’s proposed assessment is arbitrary,
20 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
21 to the City to prove the assessments are actual, measurable, special, non-speculative and
22 proportionate. The City failed that burden.
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38 **VI. Grounds for Appeal**

39 SHG GARAGE SPE appeals the Hearing Examiner’s Findings and
40 Recommendations on the following grounds.
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Taxpayer Not Required to Provide A Special Benefit Study

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3 1. Contrary to the Examiner’s findings and recommendations, there is no
4 requirement that experts or property owners provide an alternative special benefit
5 calculation under these circumstances—to do so would also require the same improper
6 speculation the City’s expert engaged in, given the timing and information provided. *See*,
7
8 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
9 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of Brian O’Connor
10 ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: “[W]e have
11 explicitly rejected an argument that, because certain protestors ‘failed to offer expert
12 testimony at the city council hearing[,] the presumptions [in favor of the assessment] were
13 still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail*
14 *Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493,
15 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided expert
16 opinion showing that improvements actually diminished value of the property). In fact, no
17 independent evidence is required at all if, for example, objectors show that the assessment
18 was grounded on a fundamentally wrong basis due to an error in the City’s appraiser’s
19 methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of*
20 *Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example, a property owner
21 could simply point out that the square footage assumed in the City’s appraisal was incorrect.
22 For these reasons, Taxpayer appeals the following portions of the Examiner’s
23 Recommendation: Sections II.12 , II.13 , II.14, II.17 , IV.A, IV.B.11(a), IV.C.8, and
24 IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
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4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
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7 upon all the property in accordance with the special benefits conferred thereon.” RCW
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9 35.44.010.
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11 3. No analysis of general benefits. Special assessments have been “held valid
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13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
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15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
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17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
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19 they are for the construction of local improvements that are appurtenant to specific land and
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21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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23 4. SHG GARAGE SPE’s property is not specially benefited by the LID
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25 Improvements. The primary purpose and effect of the LID Improvements are to benefit
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27 “members of the whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain
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29 that a public library is for the benefit of the members of the whole community individually
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31 and collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID
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33 Manual states clearly that appraisers should “[c]onsider general benefits as well as special
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35 benefits” (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits
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37 probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 expert confirmed that if an appraiser “identifies both general and special benefits, these
2 benefits should be clearly distinguished and explained, and only special benefits should be
3 included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020);
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7 see also 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at
8 158:13-159:8, 192:8-193:2; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-183:4. It is
9 undisputed that Mr. Macaulay did not analyze or measure general benefits, including those
10 arising from construction necessary to meet basic design standards. See Hrg. Exhibit 117
11 (LID Manual) at 58 (“[c]onsideration may also be given to those construction costs related
12 to meeting design standards which may be general benefits as distinct from construction
13 costs emanating from requirements of the LID project”). To the extent Taxpayer’s property
14 may benefit from the LID improvements, the benefit is general and incidental, and failure to
15 consider general benefits was a fatal flaw in the City’s methodology. For these reasons,
16 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
17 IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
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29 5. LID Improvements not necessary. Unlike typical LID projects, the
30 Waterfront LID improvements are largely unnecessary to the functionality of any particular
31 property, including Taxpayer’s property. See *In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
32 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
33 held invalid where owners would have benefitted equally from increase of only 9 feet);
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38 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
39 intersection for new water main for hydrant held invalid because land was already afforded
40 functional hydrant at nearby street).). Here, Taxpayer provided evidence that the LID
41 Improvements are not necessary to the functionality or use of the property as a garage.
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47 Taxpayer provided evidence that this parcel in particular already has sufficient access to the

1 waterfront by stairs adjacent to the property. Hrg. Exhibit 106 (Palladino Decl.). The fact
2 that there is no case law differentiating between binary improvements and parks does not
3 change the law prohibiting assessments on properties already adequately served by existing
4 amenities. See Examiner's Recommendation at IV.C.3 (reasoning that "no case law is
5 provided to support the differentiation between a hardscape benefit and the more ephemeral
6 benefits of park"). Nor does the Examiner's reasoning excuse the City's failure to account
7 for existing amenities as part of the special benefit calculation. As Dr. Crompton testified,
8 existing view amenities may in fact diminish the incremental effect of new park
9 improvements on the value of properties, much like turning on a weak light in an already
10 brightly illuminated room. See Hrg. Exhibit 94 (Crompton's Report) at 12-13.

21 6. To the extent benefits can be considered "special" as opposed to general, they
22 are nominal or nonexistent for many properties even in the Central Waterfront, which
23 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
24 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
25 change due to expansion of sewer service *near* owners' parcel which were already
26 connected). Here, the primary reason users choose this garage is not due to proximity to the
27 waterfront, rather it serves authorized entrants like hotel guests or property owners. Hrg.
28 Exhibit 106 (Palladino Decl.) ¶¶ 11-12. Even if the City could assess for a view change
29 (and it has promised not to assess for viaduct removal), the fair market value of SHG
30 GARAGE SPE's property has not changed because the LID Improvements have not
31 improved the property's waterfront view or access to the waterfront, nor will they when the
32 City anticipates completion in 2024. For these reasons, Taxpayer appeals the following
33 portions of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

1 7. No analysis of special detriments. The Final Study fails to properly account
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3 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
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5 owners for removal and cleanup of underground storage tanks discovered during the
6
7 improvement project). Angelica Palladino testified by declaration that if an increase in
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9 traffic does occur, the garage will be required to increase staff monitoring the space to
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11 prevent unauthorized entrants and keep the exterior clean. Ms. Palladino testified that an
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13 additional parking attendant might be necessary to control the use of the garage, which is
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15 dedicated to servicing hotel patrons and condo owners due to the loss of public parking.
16
17 Hrg. Exhibit 106 (Decl. of A. Palladino), ¶ 12. And Taxpayer does not expect near-term the
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19 increases assumed in ABS Valuations' spreadsheets or the Final Study. Although Mr.
20
21 Macaulay claims he analyzed impacts on the City's planned elimination of 450 parking
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23 stalls on a parcel-by-parcel basis, there is no explanation of how lost parking might be a
24
25 detriment, and no property-specific parking analysis in any of his materials. 6/23/2020 Hrg.
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27 Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg. Tr. at 153:18-154:19 (did not
28
29 actually analyze impact of decreased parking on condos).

30 8. Likewise, there was no analysis of the risks associated with disamenities such
31
32 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
33
34 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
35
36 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
37
38 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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40 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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1 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
2 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
3 the maintenance agreement. *Id.* at 13:4-14:2.
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6 9. There was also no consideration of negative impacts from another four-plus
7 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
8 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
9 law allowing him to dismiss these actual, non-speculative impacts. Because future special
10 benefits calculations are inherently speculative, Washington's eminent domain statute
11 specifically allows condemnees to postpone special benefits assessments until improvements
12 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
13 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
14 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
15 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
16 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
17 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
18 II.25, IV.B.8, and IV.B.9.
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32 10. Special benefit estimate is speculative. When calculating a special benefit,
33 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
34 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
35 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335-36, 324
36 P.2d 1078 (1958)).
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 11. Assuming without conceding that one day, the City's planned LID
2
3 Improvements might increase the value of neighboring properties to some extent, that
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5 potential benefit is many years away and speculative. While appraisers tolerate some degree
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7 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
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9 far too speculative to satisfy industry practices and standards. *See. e.g.,* 3/12/2020 (P.
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11 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
12
13 the level of precision implied in the Final Study due to the size of the LID and use of
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15 hypotheticals).

16 12. Although LIDs are sometimes finalized prior to completion of improvements,
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18 this is typically just six month or a year prior, and the assessments are otherwise supported
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20 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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22 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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24 will not be realized for four or five years. In the meantime, there is permitting risk,
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26 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
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28 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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30 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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32 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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34 there is inherent uncertainty in valuing the future delivery of projects because "we can't read
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36 the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: "I just don't know what the
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38 market value would be as of the date the project would be finally constructed" because
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40 "[t]here could be a lot of elements in the market that did occur between now and then that
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42 impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
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44 his estimates will be higher or lower than comparable sales in 2024 because "markets tend to
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46 fluctuate over time" and "I can't predict the future").
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1 13. The record is clear that while no one can know what “special benefit” might
2 accrue to these properties in four years (if any), we do know that there are no actual benefits
3 now. The LID improvements provide no immediate special benefit to property owners
4 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
5 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
6 sewer system for future users). For example, notwithstanding the questionable hypothesis
7 that hotels will benefit from an expected increase in tourism (higher room rates or
8 occupancy) when the improvements are complete, it is undisputed that tourists are not
9 coming in larger numbers and paying higher rates now because of something happening five
10 years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23; O’Connor Decl. ISO
11 Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased today for 18 months would rent at
12 a higher rate due to improvements coming in 2024).

13 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
14 for the LID Improvements, and it is unlawful to move to final assessments without such
15 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
16 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
17 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
18 dollars on projects still early in the design process. *See* Washington Attorney General
19 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
20 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
21 of programs and included “only so much of the overall costs” that took place within and
22 benefitted the assessed properties).

23 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
24 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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1 anticipated to be delivered five years later. Even before COVID, it was speculative to
2
3 assume that market highs experienced in October 2019 would be sustained through 2024,
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5 after an already extraordinarily long expansion period. *See* 3/3/2020 (A. Gibbons) Hrg. Tr.
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7 at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my
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9 analysis in October 2019, who would have thought that this COVID issue would happen?”
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11 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was
12
13 that the market was going to continue to go up”—in fact, it did not for Taxpayer’s property.
14
15 *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that downtown hotel values had
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17 already dropped an estimated 10-15% from their October 2019 levels, and occupancy rates
18
19 were at zero or in single digits. *See* Gordon Decl. (dated 4/21/2020) at ¶ 9. Hotels and their
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21 connected properties like the garage, without guests will derive no benefit, special or
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23 otherwise, from the planned LID Improvements. And even assuming hotels recover prior to
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25 2024, there is no basis for assuming that values hypothesized in October 2019 will remain
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27 relevant; they are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated
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29 7/7/2020). Although COVID does not change actual values as of October 2019 (*see*
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31 Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
32
33 rendered the hypothetical October 2019 Final Study valuations outdated.

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35 16. As another example of how future events could affect the accuracy and
36
37 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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39 Examiner re-open the record to allow the City to explain whether the assessments against
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41 property owners within the LID are, in fact, being used by the City to fund the emergency
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43 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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46 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
47 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor->

1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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11 17. There is also no certainty the improvements will be delivered on time. Mr.
12 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
13 delay in construction schedule would not constitute a “material change” under the City
14 Council’s ordinance authorizing the improvements. In other words, the City cannot
15 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
16 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
17 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
18 potential delays and project changes inherent in those processes, that call into question the
19 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
20 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
21 Decl., dated 4/15/2020).
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36 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
37 58 (Waterfront Park) Emergency Demolition Project, *available at*
38 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=)
39 [ry=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); see also Aug. 13, 2020 Ltr. from H.
40 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
41 *available at*
42 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
43 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).
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45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), *available at* [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
2 he could not point to a single one where the assessment roll was finalized five years in
3 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
4 he has never recommended final special assessments based on designs less than 30 percent
5 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
6 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
7 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
8 at 66:17-25. He performed no independent due diligence to determine the reliability of the
9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
10 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
11 agreed that if any of his assumptions are incorrect, his opinion of market value would need
12 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
13 68:11-18.

14 19. The City has cited no authority—and Taxpayer is aware of none—that
15 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
16 assess taxes for “actual” special benefits that will not accrue for another five years (if all
17 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
18 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
19 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
20 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
21 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
22 IV.C.14, and IV.C.18.

23 20. Failure to discount special benefit estimates to account for risks and present
24 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should

1 have accounted for risks associated with delivery of the improvements (including permitting
2 risk, construction risk, general economic risk) and any special damages associated with
3 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
4 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
5 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
7 the impact of future conditions [through] discounted cash flow analysis.”).
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15 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
16 future condition not in place at the date of valuation and can discount for the time value of
17 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
18 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
19
20 Discounting would also have been consistent with his approach for analyzing special
21 benefits to vacant land. He testified that the difference between similarly situated vacant
22 sites slated for development and already developed sites was that the labor, capital and risks
23 associated with development had not yet been borne for those vacant sites. Therefore, the
24 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
25 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
26 fully permitted, has not completed environmental review, and has not reached full design is
27 presently worth significantly less.
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38 22. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
39 present value, an appraiser would consider discount rates for land development to account
40 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
41 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
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1 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
2 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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5 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
6 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
7 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
8 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
9 ignoring momentarily all of the other methodological and other flaws discussed here and in
10 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
11 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
12 exceeds special benefits when reduced to present value. Further, to the extent the City is
13 arguing that because they are permitted to assess 100% of the special benefit, the special
14 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
15 is again wrong. After applying proper discounting, the City's proposed special benefit
16 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
17 100% of the total estimated special benefit.
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30 24. But even the assumption that the LID improvements would deliver benefits
31 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
32 on. Rather, those studies demonstrate that a discount period of five years is conservative.
33 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
34 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
35 indicates that during the construction period, the Greenway district "significantly" lagged in
36 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
37 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
38 30-31 (discussing New York City High Line and San Francisco Embarcadero
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1 improvements). Given the lengthy delay, any prediction of future special benefits is
2 speculative, especially during the construction phase where values are likely to decline.
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4 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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6 Improvements take a similarly long period of time after they are complete to start producing
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8 tangible property value benefits, each additional year of delay results in further discount to
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10 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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12 A.
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15 25. Applying the same discounting methods described above and in Mr. Gibbons
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17 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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19 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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21 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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23 100% assessment should be no more than \$31,839.60. Anything more would permit the
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25 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
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27 place and providing benefit, and ignore the risks, construction disamenity, and time value of
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29 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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31 would counsel that the assessment should be only 39.2% of that assessment cap, or
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33 \$12,417.44.
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35 26. Attachment C includes two Excel spreadsheets applying these discounting
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37 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
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39 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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41 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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43 present value would reduce Taxpayer's assessment to \$45,437, exclusive of any other flaws
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45 in the City's proposed assessment. The second spreadsheet shows even more drastic
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47 reductions after taking into account: (1) a rough discount for property value loss due to

1 COVID-19; and (2) discounting to present value for 5 years (*i.e.*, from 2024 when the City
2 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
3 the time it takes for the improvements to capture property value). After such reductions,
4 Taxpayer's assessment would be just \$39,757 (for the 5-year discount) or \$10,924 (for the
5 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
6 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
7 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
8 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
9

10 **Appraisal and Assessment Calculation Methods Are Flawed**

11 27. The "general rule is that each lot, piece, or parcel of land should be assessed
12 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
13 Wn.2d at 97.
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15 28. It is proper to sustain a challenge to an assessment, even without the appraisal
16 testimony from the owner, where the objector's expert establishes that the assessment was
17 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
18 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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20 29. The City's appraiser purports to utilize the income method of valuation but
21 relied on inaccurate revenue and market data, as discussed further below.
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23 30. The City's appraiser purports to utilize the comparable sales method of
24 valuation, but no City witness attempted "to characterize any one, or all of them, as
25 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
26 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
27 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
28 characterize any one, or all of them, as comparable to any particular property within the LID").
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1 And no City witness could explain how specific adjustments were made to these sales to
2 account for value increases due to the hypothesized Before and After Improvements. For this
3 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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6 31. Special assessment improperly includes value lift from the Before
7 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
8 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
9 Improvements, which WSDOT had independently committed to fund. However, Mr.
10 Macaulay did not calculate the actual market value of LID properties in October 2019, and
11 did not separately analyze the hypothetical increase to property values attributable to
12 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
13 current value and then separately calculate a hypothetical "With WSDOT" Before value);
14 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
15 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
16 Petition) at 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without
17 any documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
18 occupancy and rates would have been for the commercial properties assuming all of the
19 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
20 outright omission precludes any independent evaluation of the true market "Before" values.
21 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
22 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
23 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
24 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
25 other road, pedestrian and landscaping improvements WSDOT had already committed to
26 make.
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1 32. However, because Mr. Macaulay testified that he did include some WSDOT-
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3 related value-lift in the “Before” values, it follows that part of the special assessment
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5 improperly is based on value attributable to the WSDOT Improvements. As shown by
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7 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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9 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
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11 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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13 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
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15 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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17 to properly exclude the value of Before Improvements from the assessments. For these
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19 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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21 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)

22 33. Special benefits were assigned rather than measured. Mr. Macaulay
23
24 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
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26 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
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28 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 3/5/2020 (B.
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30 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
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32 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
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34 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
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36 on hypothesized very small increases to property revenue and very small reductions to cap
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38 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.
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40 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
41
42 “professional judgment” that are neither shown nor replicable.

43 34. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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45 Recommendation: Sections II.19, II.29, and IV.B.11(a)(ii)
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1 35. Special benefit falls within margin of error. The Final Special Benefit Study
2 applies an estimated value enhancement of less than 4%, which is generally within the
3 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
4 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
5 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
6 of one another, this difference is considered reasonable as it falls within the standard margin
7 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
8 O’Connor) Hrg. Tr. 201:7-204:8; 3/11/2020 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because
9 Mr. Macaulay’s micro-special benefit percentages fall far below that 5% margin, “there is
10 no way of authenticating” such incremental changes because “[m]arket forces completely
11 obliterate any tiny little noise factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
12 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too small to
13 measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to measure
14 a difference in revenue and cap rates for Taxpayer’s property within that margin.
15 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
16 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
17 appraiser to discern the micro-value differences between hypothetical conditions that are so
18 similar (the WSDOT improvements compared to the LID improvements) “verges on being
19 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.

20 36. Even if it were possible to accurately tease out such a miniscule hypothetical
21 value change due to improvements coming five years later, experts testified that there is no
22 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
23 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
24 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at

1 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
2 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
3 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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6 37. No analysis of value increase attributable to individual components of the
7 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
8 percentage difference between hypothetical Before and After conditions. Throughout his
9 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
10 descriptions in the Addenda even though he testified that he relied on these to calculate
11 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
12 someone might be able to determine how he attributed value to After conditions described in
13 the Addenda, he answered that that was “not the scope of the assignment” because he was
14 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
15 that the six components were not actually a continuous project, that he was viewing them
16 together because the City asked him to, and that if he were to view them independently,
17 there was a low probability that properties in the north would specially benefit from
18 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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32 38. Not only did he fail to analyze benefits from each of these non-contiguous
33 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
34 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
35 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
36 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
37 objectives that guided regulators’ assessment of architectural plans for buildings along a
38 “signature street” were so vague that they amounted to ad hoc review based on the
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1 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
2 even though he used the renderings as "visual aid[s] in appraising the property in the before
3 and after" to "visually see what the differences would be," he could not explain what
4 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
5 when shown a rendering of a two-lane road going down to one-lane in the After condition
6 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
7 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
8 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
9 could explain the depiction of the same trees in the After condition nearly twice as tall as in
10 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
11 of the Examiner's Recommendation: II.27 and IV.B.4.
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22 39. Special assessment is not supported by comparable studies, data or reports.
23 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
24 that the LID Improvements will lead to meaningfully increased real estate values for
25 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
26 comparable sales or information from the "over twenty-five studies and reports" to arrive at
27 very precise special benefit increases for the commercial properties, including Taxpayer's
28 property. For example, although Mr. Macaulay stated that no single report or study was
29 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
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3 parcel-by-parcel analysis other than to say that the studies generally provided “some
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5 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
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7 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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9 similarities and differences between these improvements and the comparable parks he
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11 looked at).

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13 40. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
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15 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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17 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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19 research misinterprets his work in critical ways, including because the LID Improvements
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21 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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23 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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25 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
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27 related value increases are in fact smaller; that estimated increases are “best guesses” rather
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29 than predictions of property value increases in a particular city; and that percentages do not
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31 account for diminishing returns after taking into account water views, which would be the
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33 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
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35 topography grants most properties in downtown a water view.

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37 41. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
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39 that this was just one source of information that was not entirely relevant because, among
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41 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
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43 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
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45 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
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47 180:2 (explaining that for purposes of “drawing boundaries around a park” he was

1 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
2 Crompton concluded that 500 feet via road from “park” improvements is just one or two
3 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
4 significantly beyond that which the park study indicated (even if it was legitimate to use the
5 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
6 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
7 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
8 Taxpayer’s property is not within 500 road network feet from the “park” improvements. *See*
9 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.

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11 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
12 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
13 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
14 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
15 materials, it was clearly an important—if not *the* most important—source of information for
16 estimating special benefits (especially with respect to the condos).⁷ No City witness
17 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
18 parcel-by-parcel analysis.

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20 43. The destination parks discussed in the Final Special Benefit Study do not
21 provide reliable, comparable, and valid support for the calculation of special assessments
22 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 critique of every case study cited concludes the changes to those “dwarf the difference
2 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
3 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
4 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
5 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
6 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
7 funded by a LID. And in virtually all of those cases, the park improvements dramatically
8 restored unimproved or blighted areas, and properties evaluated were within two or three
9 blocks of the park.

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11 44. ABS’s claimed reliance on three economic studies to support property value
12 increase is also flawed. The HR&A study does not inform what value increases are
13 expected from the LID Improvements because it projects increases to tourism from *all* of the
14 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
15 dissimilar parks in other cities,⁸ making the methodological application to the LID
16 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
17 conclusion that there would be *no new net visitors* from downtown residents as a result of
18 the LID Improvements and could not explain how this impacted his condo analysis.

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20 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
21 Property Values” primarily focused on whether the benefits accrue to the larger community
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41 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
42 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
43 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
44 expected tourists visiting the LID park was calculated using data from only from New York City, a
45 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
46 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
47 how hotel visitors actually select hotels to stay in.

1 rather than properties adjacent to the park. And the 2014 New York City Department of
2 Transportation study is not based on real estate transactions and market sales and fails to
3 substantiate any link between increased retail sales and property values. Moreover, this
4 study only looked at impact either directly abutting the streetscape improvement, or a couple
5 hundred feet for plaza-like improvements.
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10 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
11 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
12 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
13 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
14 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
15 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
16 asked whether he considered that HR&A's estimated LID impact is six times greater than
17 TPL's assessment of Seattle's entire park system, his surmised that it was because the
18 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
19 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
20 assumptions to account for this difference, which may be partly explained by the fact that
21 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
22 approximately 3.44% of King County tourists visit Seattle primarily because of the city
23 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
24 waterfront improvements.
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40 46. Although proximity to the improvements is a key factor in all of these
41 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
42 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
43 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
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1 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
2 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
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4 Improvements is approximate 20 acres and it is not a community park.⁹
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7 47. There is no explanation in the Final Study or the supporting materials of how
8 the studies or comparable sales were used to derive values for Taxpayer's property. For
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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11 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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15 48. Failure to comply with USPAP. Taxpayer's assessment also rests on a
16 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
17 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
18 recognized) for developing the MAI standards for mass appraisals, testified that the Final
19 Study does not meet mass appraisal standards nor allow for independent assessment of the
20 accuracy of Mr. Macauley's conclusions.
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24 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
25 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
26 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
27 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
28 testimony suggests that he incorrectly believed that the only difference between direct
29 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
30 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
2 Gordon uses in doing his limited restricted report”).
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5 50. But the difference is not only in reporting—mass appraisal techniques must
6 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
7 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
8 parcel approach:
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12 The mass appraisal technique is an appraisal method used to evaluate
13 a group of properties that are subject to similar market forces as of a
14 certain date through the use of market data, statistical analysis and
15 testing. As a result, the mass appraisal technique does not require or
16 involve analysis of each individual property’s specific data.
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19 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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22 51. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
23 universe of properties as a given date using standard methodology, employing common data,
24 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
25 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
26 model” is “a mathematical expression of how supply and demand factors interact in a
27 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
28 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
29 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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38 52. Regardless of client direction, Mr. Macaulay is required to comply with
39 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
40 economically feasible because it would have taken “an incredible amount of time and cost”
41 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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1 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
2 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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5 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
6 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
7 value, fails to calibrate the model structure to determine the contribution of the individual
8 characteristics affecting value, and does not review the mass appraisal results against actual
9 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
10 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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16 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
17 proximity to the elements, the increase in market rent, market vacancy changes,
18 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
19 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
20 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
21 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
22 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
23 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 values were hypothetical, it was not possible to identify matched pair sales and no City
2 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
3 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
4 requires him to explain his model structure.
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9 55. For these reasons, Taxpayer appeals the following portions of the Examiner’s
10 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
11 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
12 and appeals the Examiner’s denial of that motion.
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17 56. Finally, Taxpayer’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
21 property is not even within 500 road network feet from the core park improvements. And,
22 as described above, the special assessment is overstated because the Final Study makes no
23 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
24 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
25 improvements were not in in place—and, in fact, much of the waterfront is a construction
26 zone following removal of the viaduct and now Pier 58 demolition. Under these
27 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
28 Mr. Macaulay at the very least should have discounted the special benefit estimates or
29 waited to perform the Study until the improvements were at least close to complete.
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Erroneous Pre-Improvement Valuation

57. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's property.

58. The City's Final Study was used to compute the proposed final assessment of SHG GARAGE SPE'S property. The City's Study purportedly uses data from the King County Department of Assessments, but the pre-improvement valuation information in the Final Study does not accurately reflect this data. For example, the City's Study values SHG GARAGE SPE'S property at \$11,280,000 as of October 1, 2019. However, the King County assessor determined the true and fair value of the property to be \$9,380,000, valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's valuation is 120% of King County's assessed value. The Final Special Benefit Study does not explain this difference—or any differences—between its pre-improvement valuation and its supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's Recommendation.

59. Thus, aside from multiple other reasons why computation of the special benefits was flawed (discussed further below), the assessment is based incorrectly on pre-improvement values that do not accurately reflect market data. For these reason, Taxpayer appeals the following portions of the Examiner's Recommendation: Section III. at p. 106.

Erroneous Computation of Special Benefit

60. "Special benefit" is "the increase in fair market value attributable to the local improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*

1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
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9 61. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
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12 62. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
13 the Four Seasons Garage, Mr. Macaulay assumed parking rates would increase by 2.5%
14 (low) and 3.5% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is
15 not possible to accurately conclude that the reason for this level of percentage increase
16 would be due to the LID Improvements, and there appears to be no support for assignment
17 of these percentages. He then uses this hypothesized increased revenue to calculate a new
18 net operating income for the commercial properties and capitalizes that to come up with an
19 “After” valuation.
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22 63. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition, but changes
24 the cap rate. For the Four Seasons Garage, the cap rate goes from 6.0% to 5.80% (low
25 scenario, creating a bigger value increase) and 5.85% (high scenario, creating a lower value
26 increase). Mr. Gordon likewise explained that cap rate changes of .2% or .15% are not
27 typically measurable, and there appears to be no support for these changes in the Final Study
28 or any of its supporting materials.
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31 64. Mr. Macaulay then averages his four “After” values to arrive at a final special
32 benefit conclusion. For the garage, this is an increase in property value of 3.00% due to the
33 LID Improvements.
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1 65. Mr. Macaulay offered little justification for his micro adjustments to revenue
2 and capitalization rates. When asked precisely what the basis is for his special benefit
3 percentage increases to revenue for each commercial property, he could not point to
4 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
5 is nothing in the report to allow a reader to understand how he came up with these
6 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
7 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
8 the basis for his belief that certain factors—liked increased connectivity—will increase
9 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
10 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12 sources equally even though there was no separate analysis done for food and beverage or
13 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
14 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
15 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
16 properties.

17 66. When asked the basis for making such adjustments, Mr. Macaulay pointed to
18 “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7 (“Mr. Lukens helped
19 significantly in that regard in helping, you know, look at probable adjustments”). However,
20 Mr. Lukens testified that he did not review the percentage increases. *See* 6/25/2020 Hrg. Tr.
21 at 170:24-172:20.¹¹ And he did not review any work or data to determine whether the

22 ¹¹ As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different
23 special benefit and capitalization rate increases to the parking and retail parcels associated with the
24 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
25 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special

1 revenue percentage adjustments in the spreadsheets were reasonable, nor did he ever find
2 them to be unreasonable or suggest any changes. *Id.* at 172:3-20. Instead, he appeared to be
3 considering them for the first time on cross examination, testifying that the adjustments
4 “appear to be a kind of sensitivity analysis” and “appear to be a very minor change.” *Id.* at
5 170:18-172:13. Likewise, he had no understanding of what factors went into determining
6 the change in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1. And he did not
7 know how ABS Valuation reconciled the four scenarios to come to final estimated special
8 benefit. *Id.* at 174:22-175:4.

16 67. Mr. Macaulay testified that he used comparable sales as a reasonableness
17 check for commercial properties. But as explained above, no City witness has explained
18 how anyone, or all, of the sales are comparable to any particular commercial property within
19 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
20 in order to make sales “comparable,” he would have had to make adjustments to account for
21 Before and After conditions, but there is no way to understand how adjustments were made
22 because he “didn’t do a separate sales comparison approach where we showed adjustments
23 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
24 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
25 *Id.* at 127:10-128:24.

36 68. It also bears noting that any “internal review” of the special benefit estimates
37 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
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43 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
44 parcels). When asked whether this was a matter of coincidence, his answer was that is “just our
45 estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
46 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
47 though it is one block closer to the waterfront.

1 error. Indeed, given all the same information, he seemed to suggest that it would be
2 perfectly reasonable for another experienced appraiser to come up with special benefit
3 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
4 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
5 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
6 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
7 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
8 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
9 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
10 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
11 special because it is arbitrarily assigned; and it is too small to realistically be supported by
12 appraisal techniques.

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25 69. No evidence of special benefit. Meanwhile, there is "no actual evidence from
26 any seller or purchaser that the price was higher because of the LID improvements."
27 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
28 identified any seller or buyer, or any particular property where the existence of the LID
29 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
30 explained that the property has not increased rental rates or revenue due to the forthcoming
31 LID Improvements, because, among other reasons (and apart from COVID), the
32 improvements ABS believes will generate value do not exist, and will not for a number of
33 years to come. There are no comparable sales because the LID Improvements are not in
34 place, nor will they be until the end of 2024 if completed on schedule.

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45 70. The fair market value of SHG GARAGE SPE's property has not changed due
46 to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not
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1 specially benefited from installation of new water main and fire hydrant where it was
2 already adequately supplied with water and afforded adequate fire protection). And in any
3 event, any value attributable to removal of the viaduct was to be excluded from the
4 assessment calculation.
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8 71. There is no special benefit because LID improvements in fact diminish the
9 value of SHG GARAGE SPE's property by requiring increased staffing and monitoring
10 costs. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert that LID actually
11 diminished value of property was sufficient to rebut presumption that assessment was
12 proper).
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15 72. Moreover, the assessment formula is an attempt to distribute costs that do not
16 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
17 "merely a mathematical model that distributes costs").
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20 73. The Special Benefit Study fails to address whether the \$346,000,000
21 estimated LID project cost takes into account the investment that would have occurred in the
22 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
23 invested. This is a critical component of estimating which properties receive a direct benefit
24 from the improvements, versus more incidental benefits further from the park.
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27 74. The proposed final assessment substantially exceeds the special benefit to the
28 property and is grossly disproportionate to similarly situated properties within the LID. For
29 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
30 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).
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33 **State Environmental Policy Act and Other Environmental Permitting**

34 75. While this appeal is not challenging the City's environmental review and
35 permitting processes, those processes are relevant in determining the legality of the
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1 assessments, and to assessing the delivery risk, the present value of the City's plans, and
2 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
3 pursue projects that have not yet undergone environmental review (thus limiting the choice
4 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
5 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
6 is just beginning. Further, the City has segmented environmental review, and still has a
7 gauntlet of federal, state and tribal review processes to complete before it will be clear what
8 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
9 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
10 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
11 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
12 committing to reconstruction of Pier 58 and major street improvements without
13 environmental review, or the City's Final Special Study has improperly included and is
14 proposing to assess the Taxpayer the costs and special benefits of improvements that may
15 not get built. Either way, it is faulty process.

30 **Due Process Rights**

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32 76. The City's failed to notify SHG GARAGE SPE sufficiently in advance of the
33 hearing to allow SHG GARAGE SPE to obtain evidence and prepare to properly challenge
34 the assessments. Because LID assessments involve a deprivation of property, affected
35 owners have the right to a hearing as to whether the improvement resulted (or will result) in
36 special benefits to their properties and whether their assessments are proportionate, which
37 necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia*
38 *Irrigation Dist.*, 168 Wn.2d 555, 569-70, 229 P.3d 761 (2010).
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1 77. The LID statute specifies that cities must mail notices giving the time and
2 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
3 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
4 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
5 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
6 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
7 secure their own appraisal), evaluate proportionality of the proposed assessments, and
8 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
9 for anybody to get an appraisal”).

10 78. The City’s Notice of Assessment was sent on December 30, 2019. And the
11 Final Special Benefit Study has only been available for public review since January 7, 2020.
12 Due to this short time frame, SHG GARAGE SPE requested a prehearing conference and
13 scheduling order that would preserve and protect SHG GARAGE SPE’s right to analyze and
14 respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
15 accommodate preliminary motions (e.g., with respect to the interplay between SEPA and the
16 City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
17 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
18 the Examiner’s Recommendation: I.B.

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37 **VII. Relief Requested**

38 SHG GARAGE SPE respectfully requests that the City Council:

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41 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
42 and
43
44 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
45 assessment dated December 30, 2019; or
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47

- 1 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
2 proposed final assessment to \$0 (zero), or such amount as Taxpayer
3 establishes at the hearing in this matter; or
4
5
6
7 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
8 and reduce Taxpayer's assessment using recognized appraisal techniques
9 consistent with USPAP and:
10
11 i. Excluding any property value increase attributable to viaduct removal
12 and other planned WSDOT Improvements;
13
14 ii. Taking into account the effects of the COVID-19 pandemic on the
15 value of Taxpayer's property and other relevant developments since
16 October 2019;
17
18 iii. Accounting for and excluding (1) any special benefits from existing
19 or planned improvements that already provide similar benefits to
20 Taxpayer's property, and (2) any special detriments from construction
21 and other anticipated LID-related disamenities;
22
23 iv. Accounting for and including only those actual benefits anticipated to
24 accrue to Taxpayer's property based on its location relative to Pier 58,
25 Overlook Walk, and the Promenade, and specific elements of the LID
26 Improvements;
27
28 v. Discounting anticipated special benefits to present value, based on
29 reliable estimates regarding when special benefits will start accruing
30 following completion of the LID Improvements; and
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32 vi. Accounting for such other issues specific to Taxpayer's property
33 relevant to calculation of such assessment; and
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1 2. Grant such further relief as the City Council deems just and proper.

2
3 DATED: September 22, 2020

PERKINS COIE LLP

4
5
6 By: 

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26 Attorneys for SHG GARAGE SPE
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FILED

4:15 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0432
Date: Tuesday, February 16, 2021 3:53:08 PM
Attachments: [SHG Garage Amended LID Appeal before City Council CWF 0432.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

SHG Garage Amended LID Appeal before City Council CWF 0432.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0432

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON SHG GARAGE
SPE’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
6094670010

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33
34 SHG GARAGE SPE files this amended appeal pursuant to RCW 35.44.070, Seattle
35 Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle Resolution
36 31979, the notice of the Seattle Office of the City Clerk dated December 30, 2019, the notice
37 of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing Examiner’s
38 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”)
39 and the Hearing Examiner’s Findings and Recommendation issued February 1, 2021.
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1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4 SHG GARAGE SPE
5 PO Box 334
6 Bellevue, WA 98009-0334
7
8

9 **II. Taxpayer's Representatives**

10 SHG GARAGE SPE's representatives in this matter are:

11
12
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14 JLutz@perkinscoie.com
15 Perkins Coie LLP
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22 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

23 SHG GARAGE SPE ("Taxpayer") owns the property that is subject to the proposed
24 final assessment described in Section IV.
25
26

27 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
28 include additional arguments relevant to the revised Final Recommendations of the Hearing
29 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
30 objection to the assessment, which was based on the Final Study. Taxpayer further timely
31 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
32 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
33 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
34 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
35 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
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1 as authorized by the Hearing Examiner, including without limitation all records pertaining to
2 the November 2020 through February 2021 remand hearing ordered by Council.
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5 **IV. Amended Arguments on Appeal**

6 SHG GARAGE SPE supplements its appeal of the Hearing Examiner's
7 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
8 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
9 the following property:
10
11

12 King County Parcel No. 6094670010
13 Site Address: 1321 1st Ave, Seattle, Washington
14 Proposed Final LID Assessment for Parcel: \$132,435.84
15

16 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
17 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
18 amended appeal.
19
20

21 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
22 **Discounted to Present Value and Assessments Adjusted as Appropriate**
23

24 On remand, the City's appraiser acknowledged that special benefits to parcels can be
25 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
26 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
27 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
28 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
29 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
30 accepted that recommendation. The City's appraiser further acknowledged that benefit
31 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
32 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
33 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
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1 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
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3 calculations to present value because the general benefits are not anticipated from the LID
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5 improvements until they are completed in 2024, 5 years after his 2019 assessment, and
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7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
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9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
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11 benefit calculation, and related assessments, to account for the delay between the assessment
12
13 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
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15 standard appraisal practice, and renders the other proposed Waterfront LID special
16
17 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
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19 “fundamentally wrong methods.”

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21 All special benefit taxes assessed by a municipality must be based on “actual,
22
23 physical and material [special benefits that are] not merely speculative or conjectural.”
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25 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
26
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
28
29 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
30
31 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
32
33 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
34
35 discount benefits the City estimated would accrue to the properties from improvements to be
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37 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
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39 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
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41 property while treating all or most others (including Taxpayer’s) differently, and
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43 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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45 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
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47 for some properties because the benefits are too distant, while assessing other properties as

1 though distant benefits have already been secured. As Taxpayer identified in its September
2 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
3 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
4 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
5 reject the improper calculation of the benefit or remand and require the appraiser to discount
6 the benefits to net present value.
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13 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
14 **Downtown Property Owners and other Material Changes Since October**
15 **2019, the LID Should be Cancelled, or at Least Assessments**
16 **Recalculated, to take Into Account Property Value Reductions**
17

18 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
19 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
20 other relevant developments since October 2019." When Washington's first COVID
21 restrictions were imposed in March and April 2020, there was an assumption that they
22 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
23 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
24 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
25 gotten much worse. The City has already imposed higher minimum wages and taxes on
26 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
27 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
28 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
29 years from completion, as a best case. In current circumstances, a downtown tax to fund
30 new, non-essential park improvements against financially strapped taxpayers, and likely
31 passed through to financially strapped tenants and customers would be unfair to taxpayers
32 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
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1 rethinks its budget priorities for the next few years, and its potentially funding sources,
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3 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
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5 property owners) have a chance to recover, and that any assessment take into account the
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7 changed circumstances since this appeal process started on February 4, 2020 to avoid
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9 unnecessarily and perhaps permanently killing downtown properties and businesses in the
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11 name of bettering them.

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13 **V. Relief Requested**

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15 Particularly in light of the Committee's decision not to take further comment from
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17 appellants, Taxpayer respectfully request that each Committee member carefully review the
18
19 full record transmitted to Council before voting on Taxpayer's appeal.

20
21 SHG GARAGE SPE respectfully reiterates its request from the September 22, 2020
22
23 appeal that the City Council:

- 24
25 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection;
26
27 and
28
29 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
30
31 assessment dated December 30, 2019; or
32
33 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
34
35 proposed final assessment to \$0 (zero), or such amount as Taxpayer
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37 establishes at the hearing in this matter; or
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39 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
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41 and reduce Taxpayer's assessment using recognized appraisal techniques
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43 consistent with USPAP and:
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45 i. Excluding any property value increase attributable to viaduct removal
46
47 and other planned WSDOT Improvements;

- 1 ii. Taking into account the effects of the COVID-19 pandemic on the
2 value of Taxpayer's property and other relevant developments since
3 October 2019;
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6 or planned improvements that already provide similar benefits to
7 Taxpayer's property, and (2) any special detriments from construction
8 and other anticipated LID-related disamenities;
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10 iv. Accounting for and including only those actual benefits anticipated to
11 accrue to Taxpayer's property based on its location relative to Pier 58,
12 Overlook Walk, and the Promenade, and specific elements of the LID
13 Improvements;
14
15 v. Discounting anticipated special benefits to present value, based on
16 reliable estimates regarding when special benefits will start accruing
17 following completion of the LID Improvements; and
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19 vi. Accounting for such other issues specific to Taxpayer's property
20 relevant to calculation of such assessment; and
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22 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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PERKINS COIE LLP

5 By:

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22 Attorneys for SHG GARAGE SPE
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3:47 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0433
Date: Tuesday, September 22, 2020 2:59:35 PM
Attachments: [CWF-0433.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0433.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0433
A – Master List of Evidence
B – B-218 4 Seasons
C – Discounting for CWF-0433
CWF-0433 Notice of Appeal SHG Retail

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Four Seasons Garage

Map Nos.: B-218-001
Tax Parcel No.: 609467-0010
Property key: 4271
Address: 99 Union Street
Zoning: DMC 240/290-440
Previous sale: N/A
Proximity to park: ½ block from park, one block south of Pike Street improvements
Ownership: SHG GARAGE SPE

Description: 21,800 SF site on the southwest corner of 1st Avenue and Union Street (Post Alley and Union Street) improved with three commercial condominium (not included in this analysis). APN 609467-0010 (13.952,281 SF parking structure with 134 stalls (34 allocated to the hotel the condominium plat). APN 609467-0020 (0.80% interest) comprise condominium. APN 609467-0030 (51.72% interest) is developed with 134 guest rooms and 13 suites. All the improvements were built

INCOME ANALYSIS Before		Year Built	2006			
		Parking	34	hotel	100	residences
Potential Gross Income						
	Units	SF NRA	Total NRA	Rent	Rent/SF	
Studio			0		\$0.00	
1-bedroom			0		\$0.00	
2-bedroom			0		\$0.00	
3-bedroom			0		\$0.00	
Total apartments	0	0	0	\$0	\$0.00	
	GBA	NRA				
Office				SF NRA @	\$0.00	
Retail				SF NRA @	\$0.00	
Restaurant				SF NRA @	\$0.00	
Other	0	0		SF NRA @	\$0.00	
Subtotals	0	0				
Daily parking			34	stalls @	\$35.00	
Monthly parking			100	stalls @	\$350.00	
Total Parking Area/Stalls			134	stalls @		
Basement	0	0		SF NRA @	\$0.00	
Other	0	0		SF NRA @	\$0.00	
Other				0.0%	of PGI	
Total Bldg Area & Gross Income	52,281	52,281		SF GBA @	\$16.34	

Less: Vacancy/credit allowance @	4.0%	of apartment revenue		
	5.0%	of commercial revenue		
	5.0%	of parking revenue		
Total vacancy/credit allowance				
Effective gross income				
Less: Operating expenses				
Management fee @	5.0%	of total EGI		
Parking operating expenses @	10.0%	of parking EGI		
Apartment operating expenses		of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses				
Net operating income				
Indicated Value				
Land Value		21,800		
	13.98%	3,048	SF @	\$1,700.00
Residual Improvements		52,281	SF GBA @	\$116.66

Special Benefit Summary				
	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,700.00	\$5,181,000	\$6,099,000	N/A
With LID				
Scenario A1	\$1,751.00	\$5,336,000	\$6,232,000	2.18%
Scenario A2	\$1,751.00	\$5,336,000	\$6,347,000	4.07%
Scenario B1	\$1,751.00	\$5,336,000	\$6,333,000	3.84%
Scenario B2	\$1,751.00	\$5,336,000	\$6,234,000	2.21%
Percent change in land value	3.00%		\$6,287,000	3.08%
Overall Summary				
Without LID	\$1,700.00	\$5,181,000	\$6,099,000	N/A
With LID	\$1,751.00	\$5,336,000	\$6,282,000	3.00%

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Net Rentable	0	SF @	#DIV/0!	/SF =	\$0
			(Avg)		
	0	SF @	\$0.00	/SF =	\$0
Total Building Area	0	SF			\$0
Less: Vacancy & credit Loss @			8%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management @	6%	(EGI)			\$0
Bldg. Maint/Reserve	0.20	/SF			\$0
					\$0
NET OPERATING INCOME					\$0
CAPITILIZED @			7.25%		\$0
				R	\$0
CAPITILIZED @			7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$60.00	=	\$0
	0	@	\$65.00	=	\$0
Residual Building					\$0
					\$0

Four Seasons Garage

Scenario A - Rate and Vacancy Changes

APN	Ownership	Descript
609467-0010	SHG Garage SPE	Garage
609467-0020	SHG Retail SPE LLC	Retail U
609467-0030	SHG Hotel SPE LLC	Hotel U

et (and southeast corner of
 minium units and residential
 08% interest) is improved with a
 and 100 to the residences, per
 is a 2,984 SF retail
 h a 193,429 SF, 147-room hotel
 t in 2006.

		INCOME ANALYSIS After		Year Built	2006
		Potential Gross Income			
			Units	SF NRA	
	\$0	Studio	0	0	
	\$0	1-bedroom	0	0	
	\$0	2-bedroom	0	0	
	\$0	3-bedroom	0	0	
	\$0	Total apartments	0	0	
			GBA	NRA	
per SF =	\$0	Office	0	0	SF
per SF =	\$0	Retail	0	0	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$0	Subtotals	0	0	
/day	\$434,350	Daily parking			34
/month	\$420,000	Monthly parking			100
/month	\$854,350	Total Parking Area/Stalls	0		134
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$0	Other			
/SF =	\$854,350	Total Bldg Area & Gross Income	52,281	52,281	SF

	\$0
	\$0
	(\$42,718)
	(\$42,718)
	\$811,633
	(\$40,582)
	(\$81,163)
	\$0
	(\$13,070)
	(\$134,815)
	\$676,817
Capitalized @	6.00%
Indicated value	\$11,280,290
(R) \$11,280,000	
Per SF GBA	\$216
Per stall	\$84,179
per SF =	\$5,181,000
per SF =	\$6,099,000
per stall	\$45,515

Less: Vacancy/credit allowance		of apartment
		of commercial
		of parking
Total vacancy/credit allowance		
Effective gross income		
Less: Operating expenses		
Management fee @	5.0%	of total EGI
Parking operating expenses @	10.0%	of parking EGI
Apartment operating expenses	0.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		
		3,048
Residual Improvements		52,281 per
Special Benefit Summary		

Total Estimated Value	Special Benefit	% Change	
\$11,280,000	N/A	N/A	
			Per stall
\$11,568,000	\$288,000	2.55%	\$2,149
\$11,683,000	\$403,000	3.57%	\$3,007
\$11,669,000	\$389,000	3.45%	\$2,903
\$11,570,000	\$290,000	2.57%	\$2,164
\$11,280,000	N/A		
\$11,618,000	\$338,000	3.00%	\$2,522

|

|

Net Rentable	0	SF @	#DIV/0!	/SF =	\$0
			(Avg)		
	0	SF @	\$0.00	/SF =	\$0
Total Building	0	SF			\$0
Less: Vacancy & credit Loss	@		6%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management	6%	(EGI)			\$0
Bldg. Maint/Re	0.20	/SF			\$0
					\$0
NET OPERATING INCOME					\$0
CAPITILIZED	@		7.25%		\$0
				R	\$0
CAPITILIZED	@		7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$63.00	=	\$0
	0	@	\$68.00	=	\$0
Residual Building					\$0
					\$0

Four Seasons Garage
Scenario B - OAR Changes

<u>ion</u>	<u>Land %</u>	<u>Land Area</u>	<u>GBA</u>
Unit	13.98%	3,048	52,281
nit	0.80%	174	2,984
nit	51.72%	11,275	193,429
	66.50%	14,497	248,694
Total site area		21,800	

	<u>Per DU</u>	<u>Per DU</u>	Low 0.00%	High 0.00%
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
			0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$0	\$0
	<u>Per Stall</u>	<u>Per Stall</u>	2.50%	3.50%
stalls @	\$35.88	\$36.23	\$445,209	\$449,552
stalls @	\$358.75	\$362.25	\$430,500	\$434,700
stalls @			\$875,709	\$884,252
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
0.0%	of PGI		\$0	\$0
• GBA @	\$16.75	\$16.91	\$875,709	\$884,252

INCOME ANALYSIS After

Potential Gross Income

Studio
1-bedroom
2-bedroom
3-bedroom
Total apartments

Office
Retail
Restaurant
Other
Subtotals

Daily parking
Monthly parking
Total Parking Area/Stalls

Basement
Other
Other

Total Bldg Area & Gross Income

revenue	4.00%	4.00%	\$0	\$0
revenue	5.00%	5.00%	\$0	\$0
revenue	5.00%	5.00%	(\$43,785)	(\$44,213)
			(\$43,785)	(\$44,213)
			\$831,923	\$840,040
			(\$41,596)	(\$42,002)
			(\$83,192)	(\$84,004)
			\$0	\$0
			(\$13,070)	(\$13,070)
			(\$137,859)	(\$139,076)
			\$694,065	\$700,963
Capitalized @			6.00%	6.00%
			\$11,567,743	\$11,682,724
(R)			\$11,568,000	\$11,683,000
Per SF GBA			\$221	\$223
% change			2.55%	3.57%
SF @	\$1,751.00	per SF =	\$5,336,000	\$5,336,000
r SF GBA	\$119.20	\$121.40	\$6,232,000	\$6,347,000
		Per stall	\$46,507	\$47,366
			\$288,000	\$403,000

Less: Vacancy/credit allowance @

Total vacancy/credit allowance

Effective gross income

Less: Operating expenses

Management fee @

Parking operating expenses @

Apartment operating expenses

Structural maintenance/reserve

Total operating expenses

Net operating income

Indicated Value

Land Value

Residual Improvements

Special Benefit Summary

Year Built 2006						
Units	SF NRA	Total NRA	Rent	Rent/SF		
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0					\$0
		34	stalls @	\$35.00	/day	\$434,350
		100	stalls @	\$350.00	/month	\$420,000
0		134	stalls @	\$0.00	/month	\$854,350
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			0.0%	of PGI		\$0
52,281	52,281		SF GBA @	\$16.34	/SF	\$854,350

4.0% of apartment revenue		\$0
5.0% of commercial revenue		\$0
5.0% of parking revenue		(\$42,718)
		(\$42,718)
		\$811,633
5.0% of total EGI		(\$40,582)
10.0% of parking EGI		(\$81,163)
0.0% of apartment EGI		\$0
\$0.25 per SF of GBA		(\$13,070)
		(\$134,815)
		\$676,817
	Low	High
Capitalized @	5.80%	5.85%
Indicated Value	\$11,669,265	\$11,569,528
(R) \$11,669,000	\$11,669,000	\$11,570,000
Per SF GBA	\$223	\$221
% change	3.45%	2.57%
3,048 SF @ \$1,751.00 per SF =	\$5,336,000	\$5,336,000
per SF GBA \$121.13 \$119.24	\$6,333,000	\$6,234,000
Per stall	\$47,261	\$46,522
	\$389,000	\$290,000

3.00%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0433	Four Seasons Hotel	1321 1st Avenue	6094670020

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$80,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$10,754

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0433	Four Seasons Hotel	1321 1st Avenue	6094670020

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$2,676,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C))			\$2,341,500

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$80,000		
H/A	As Percentage of Final City Before Value		2.990%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$70,000		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$24,005	\$6,596
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$9,410	\$2,586

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0433

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON SHG RETAIL
SPE’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
6094670020

33
34 SHG RETAIL SPE files this appeal pursuant to RCW 35.44.070, Seattle Municipal
35 Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office of the
36 City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
37 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
38
39
40

41
42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:

44
45
46 SHG RETAIL SPE LLC
47

1 PO Box 334
2 Bellevue, WA 98009-0334
3

4 **II. Taxpayer's Representatives**

5 SHG RETAIL SPE LLC'S representatives in this matter are:
6
7

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11 MLin@perkinscoie.com
12 Perkins Coie LLP
13 10885 N.E. Fourth Street, Suite 700
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17
18

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20 RMahon@perkinscoie.com
21 1201 Third Avenue, Suite 4900
22 Seattle, Washington 98101
23 Telephone: 206.359.8000
24 Facsimile: 206.359.9000
25
26

27 **III. Statement of Taxpayer's Interest**

28 SHG RETAIL SPE LLC owns the property that is subject to the proposed final
29 assessment described in Section IV. The property is a small retail space, part of the Four
30 Seasons Hotel. The basis of the proposed assessment is a Final Special
31 Benefit/Proportionate Assessment Study for Waterfront Seattle Local Improvement District
32 ("Final Study"), dated October 1, 2019 and prepared by Robert Macaulay with ABS
33 Valuation (the City's appraiser). The Final Study proposes assessments that are purportedly
34 limited to paying for the LID-funded components—namely, the Promenade, Overlook Walk,
35 Pioneer Square Street Improvements, Union Street Pedestrian Connection, Pike/Pine
36 Streetscape Improvements, and Pier 58 (together, the "LID Improvements"). The Final
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1 Study purports to exclude charges for other improvement projects in the Central Waterfront,
2 and specifically those WSDOT had already agreed to pay for and construct: viaduct
3
4 demolition, the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State
5
6 Route 99 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces
7
8 WSDOT planned fronting piers between Pike and Madison (together, the “WSDOT
9
10 Improvements”). But because construction was not complete on the LID Improvements or
11
12 the WSDOT Improvements at the time the Final Study was prepared, Mr. Macaulay’s
13
14 October 1, 2019 “Before” and “After” valuations are both based on hypothetical conditions
15
16 rather than actual facts. On February 4, 2020, Taxpayer timely filed an objection to the
17
18 assessment, which was based on the Final Study.
19

20 21 **IV. Matter Under Appeal**

22 SHG RETAIL SPE LLC appeals the Hearing Examiner’s recommendation to deny
23
24 Taxpayer’s objection to the City of Seattle’s Waterfront Local Improvement District No.
25
26 6751 proposed final assessment dated December 30, 2019 against the following property:
27

28
29 King County Parcel No. 6094670020
30 Site Address: 1321 1st Ave, Seattle, Washington
31 Proposed Final LID Assessment for Parcel: \$31,345.76
32

33 See Examiner’s Recommendation at 61-620, 106. To avoid repetition, Taxpayer
34
35 incorporates the evidence and arguments raised before the Hearing Examiner into this
36
37 appeal. In particular, Taxpayer points the City Council to Taxpayer’s initial Appeal
38
39 Petition, *Frye* motion, Closing Brief submitted at the close of its case-in-chief (dated
40
41 4/16/2020), and supplemental Closing Statement submitted at the close of the City’s case-in-
42
43 chief (dated 7/7/2020).¹
44

45
46 ¹ Because the City has not provided “metered index numbers,” our appeals cannot reference
47 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the

1 As discussed more fully below, Taxpayer specifically appeals the following Findings
2 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
3
4 Pages 61-62, 106, Sections II.6, II.7, II.12, II.13, II.14, II.17, II.18, II.19, II.20, II.21, II.22,
5
6 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
7
8 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
9
10 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5,
11
12 IV.C.8, IV.C.11, IV.C.12, IV.C.14, IV.C.18
13

14 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
15
16 recommendations on material issues raised during Taxpayer's appeal that were supported by
17
18 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
19
20 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
21
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23
24 recommended anything other than denial of objectors' appeals were where the City's
25
26 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
27
28 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
29
30 special assessments based on "fundamentally wrong methods."
31

32 The special benefit for which special taxes are assessed must be "actual, physical and
33
34 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
35
36 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
37
38 with the law, the assessments may not materially exceed the actual special benefit conferred
39
40

41
42 _____
43 Public Works committee secure and provide appellants with such a record, so that the appeals can
44 then be supplemented with that additional information, so as to make the Committee's consideration
45 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
46 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
47 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
retained by Perkins Coie are part of this case file.

1 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
2 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
3 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
4 assessment. In this case, the proposed assessment fails each of the legal requirements for
5 special assessments and must be annulled as arbitrary or capricious, or founded on
6 fundamentally wrong methods.
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14 **Legal Requirement:** Actual, non-speculative special benefit

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16 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
17 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
18 October 2019 (they were not), and an “After” value purporting to assess the value of
19 properties with the LID improvements in place at least five years before anticipated
20 completion.
21
22

23 **Legal Requirement:** Cannot materially exceed the special benefit

24
25 **ABS Study:** ABS calculates a special benefit of \$80,000 assuming the LID Improvements
26 were in place and providing benefit in October 2019. However, the LID Improvements
27 will not be completed until the end of 2024 if the City meets its current schedule, and
28 many of WSDOT’s alternative improvements will not be built. The present value of future
29 improvements deliverable in five years is significantly lower than the current value of
30 improvements that already exist. Further, ABS’s own materials show that benefits may not
31 accrue for at least five years after they are completed, in 2029. If the hypothesized special
32 benefits are discounted to present value, the assessments materially exceed the
33 hypothesized special benefits.
34
35
36

37 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID

38
39 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
40 prepared his Final Study in October 2019, and the City issued its preliminary roll in
41 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
42 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
43 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
44 and must be based on actual special benefits. While that does not mean ABS’s appraisal
45
46
47

was wrong when completed, values and benefits need to be reanalyzed before assessments are finalized in light of the unprecedented changes to the downtown real property market.

Legal Requirement: Actual benefit that cannot materially exceed special benefit—Assessment cannot include value attributable to future WSDOT Improvements.

ABS Study: The City’s appraiser asserts that the City is not collecting assessments “based on the value of WSDOT’s planned improvements.” *See* Final Study at 3. However, the City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition, the City’s appraiser increased 2019 property market values as though WSDOT had completed its work by 2019. The proposed assessment is against this hypothetical WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent) higher than actual 2019 market values. The City is collecting an assessment against both the 2019 current values and the phantom 2019 WSDOT market value lift, in direct contravention of law and the City’s promise not to impose an assessment based on the value of viaduct demolition and the other components of WSDOT’s planned work.

Legal Requirement: Benefits must be special, not general

ABS Study: The City’s appraiser fails to determine or explain what general benefits arise due to the LID Improvements. However, the far-reaching and public nature of the improvements make any benefit arising from them general—not special.

Legal Requirement: Benefits must be “physical and material and not merely speculative or conjectural . . .”

ABS Study: Not only are the improvements not yet “physical or material,” but environmental review and permitting for the City’s proposed LID Improvements is not complete, and the LID improvements are not anticipated to be complete until the end of 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in a manner consistent the City’s then-current proposals, which were in many respects merely conceptual designs.

Legal Requirement: Must comply with appraisal standards

ABS Study: ABS’s valuation methodology cannot be tested. It is a hybrid of “Individual” and “Mass” appraisal techniques, but fails to meet USPAP requirements for either. Until the Examiner admonished ABS, ABS even asserted its analysis was “confidential and proprietary.” ABS’s analysis and conclusions can neither be tested nor replicated. The Final Study fails to meet basic standards for admissibility and must be remanded.

Legal Requirement: Actual and measurable special benefit

ABS Study: ABS's proposed assessments are assigned rather than measured, as demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based on a host of "micro-judgments" that are not supported by any documentation, nor capable of replication or quality assurance/quality control. The assessments are undocumented, unreliable, and not supported by empirical studies, data, or reports.

Legal Requirement: Actual and measurable special benefit—Park benefits must be supported by empirical evidence

ABS Study: Dr. John Crompton, the world's preeminent expert regarding the economic value of parks and other public amenities and on whom ABS purported to rely, testified that ABS had completely misapplied his work and dramatically overstated both the distance to which economic benefits might extend from the LID Improvements and the extent of any anticipated benefit within the potentially benefited area.

Legal Requirement: Actual special benefit—Must take into account potential disamenities

ABS Study: The appraiser ignores the negative value impact of five years or more of construction, as well as other potential disamenities associated with public places.

Legal Requirement: Cannot prematurely commit to build

ABS Study: The City has not completed NEPA review or other entitlement process for its Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments are being imposed. But finalizing the roll is a commitment by the City to build the improvements, which is a violation of legal process and commits the City to build things it may not secure permission to build.

In addition to these general objections, there are property-specific issues raised by Taxpayer as to which the Examiner also erred, discussed in the course of the appeal statement below.

1 **V. Standard of Review**

2 “When considering the assessment roll, the city council sits ‘as a board of
3 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
4 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
5 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
6 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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12 The proposed assessments are presumed correct, “unless overcome by clear, cogent
13 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
14 than the heightened presumption of correctness on judicial appeal because “applying these
15 elevated standards at the municipal hearing would afford unwarranted deference to a report
16 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
17 presumption is not evidence and its efficacy is lost when the other party adduces credible
18 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
19 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
20 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
21 presented credible evidence showing that the City’s proposed assessment is arbitrary,
22 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
23 to the City to prove the assessments are actual, measurable, special, non-speculative and
24 proportionate. The City failed that burden.
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38 **VI. Grounds for Appeal**

39 SHG RETAIL SPE appeals the Hearing Examiner’s Findings and Recommendations
40 on the following grounds.
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Taxpayer Not Required to Provide A Special Benefit Study

1
2
3 1. Contrary to the Examiner’s findings and recommendations, there is no
4 requirement that experts or property owners provide an alternative special benefit
5 calculation under these circumstances—to do so would also require the same improper
6 speculation the City’s expert engaged in, given the timing and information provided. *See*,
7
8 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
9 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of Brian O’Connor
10 ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: “[W]e have
11 explicitly rejected an argument that, because certain protestors ‘failed to offer expert
12 testimony at the city council hearing[,] the presumptions [in favor of the assessment] were
13 still operative as to their property.’” *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail*
14 *Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App. 493,
15 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided expert
16 opinion showing that improvements actually diminished value of the property). In fact, no
17 independent evidence is required at all if, for example, objectors show that the assessment
18 was grounded on a fundamentally wrong basis due to an error in the City’s appraiser’s
19 methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of*
20 *Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example, a property owner
21 could simply point out that the square footage assumed in the City’s appraisal was incorrect.
22 For these reasons, Taxpayer appeals the following portions of the Examiner’s
23 Recommendation: Sections II.12, II.13, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8, and
24 IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
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4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
6
7 upon all the property in accordance with the special benefits conferred thereon.” RCW
8
9 35.44.010.
10

11 3. No analysis of general benefits. Special assessments have been “held valid
12
13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14
15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
16
17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
18
19 they are for the construction of local improvements that are appurtenant to specific land and
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21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
22

23 4. SHG RETAIL SPE’s property is not specially benefited by the LID
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25 Improvements. The primary purpose and effect of the LID Improvements are to benefit
26
27 “members of the whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain
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29 that a public library is for the benefit of the members of the whole community individually
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31 and collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID
32
33 Manual states clearly that appraisers should “[c]onsider general benefits as well as special
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35 benefits” (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits
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37 probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s
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² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 expert confirmed that if an appraiser “identifies both general and special benefits, these
2 benefits should be clearly distinguished and explained, and only special benefits should be
3 included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020);
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7 see also 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at
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9 158:13-159:8, 192:8-193:2; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-183:4. It is
10
11 undisputed that Mr. Macaulay did not analyze or measure general benefits, including those
12
13 arising from construction necessary to meet basic design standards. See Hrg. Exhibit 117
14
15 (LID Manual) at 58 (“[c]onsideration may also be given to those construction costs related
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17 to meeting design standards which may be general benefits as distinct from construction
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19 costs emanating from requirements of the LID project”). To the extent Taxpayer’s property
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21 may benefit from the LID improvements, the benefit is general and incidental, and failure to
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23 consider general benefits was a fatal flaw in the City’s methodology. For these reasons,
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25 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
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27 IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

28
29 5. LID Improvements not necessary. Unlike typical LID projects, the
30
31 Waterfront LID improvements are largely unnecessary to the functionality of any particular
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33 property, including Taxpayer’s property. See *In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
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35 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
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37 held invalid where owners would have benefitted equally from increase of only 9 feet);
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39 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
40
41 intersection for new water main for hydrant held invalid because land was already afforded
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43 functional hydrant at nearby street). Here, Taxpayer provided evidence that the LID
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45 Improvements are not necessary to the business of their income-producing properties, all of
46
47 which already have sufficient access to the waterfront, downtown restaurants, and other

1 amenities necessary for their clients and users. This property has stair access to the
2 waterfront adjacent to the property, improved access for the rest of the city does not benefit
3 this property. The fact that there is no case law differentiating between binary
4 improvements and parks does not change the law prohibiting assessments on properties
5 already adequately served by existing amenities. *See* Examiner’s Recommendation at
6 IV.C.3 (reasoning that “no case law is provided to support the differentiation between a
7 hardscape benefit and the more ephemeral benefits of park”). Nor does the Examiner’s
8 reasoning excuse the City’s failure to account for existing amenities as part of the special
9 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
10 the incremental effect of new park improvements on the value of properties, much like
11 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
12 (Crompton’s Report) at 12-13.

13
14 6. To the extent benefits can be considered “special” as opposed to general, they
15 are nominal or nonexistent for many properties even in the Central Waterfront, which
16 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
17 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties’ fair market value did not
18 change due to expansion of sewer service *near* owners’ parcel which were already
19 connected). Here, the primary reason users choose this retail establishment is not proximity
20 to the waterfront. Instead, it is usually hotel users, which caters primarily to business
21 travelers attending conventions and meetings. *See* Hrg. Exhibit 106 (Palladino Decl.), ¶¶ 7-
22 13. Even if the City could assess for a view change (and it has promised not to assess for
23 viaduct removal), the fair market value of SHG RETAIL SPE’s property has not changed
24 because the LID Improvements have not improved the property’s waterfront view or access
25 to the waterfront, nor will they when the City anticipates completion in 2024. For these

1 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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3 Sections IV.C.3, IV.B.9, and IV.C.3.

4
5 7. No analysis of special detriments. The Final Study fails to properly account
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7 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
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9 owners for removal and cleanup of underground storage tanks discovered during the
10
11 improvement project). Ms. Palladino testified that property values may in fact be negatively
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13 impacted by the LID improvements due to the increased traffic, potential for crime,
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15 homelessness, and sanitation issues. *See* Hrg. Exhibit 106 (Palladino Decl.), ¶¶ 7-13. Ms.
16
17 Palladino also testified that the assessment is an immediate expense that comes with no
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19 immediate increase in revenue. *Id.* The expense of the yearly debt service could not
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21 reasonably be passed on to customers. Although Mr. Macaulay claims he analyzed impacts
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23 on the City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is
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25 no explanation of how lost parking might be a detriment, and no property-specific parking
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27 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also*
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29 6/26/2020 Hrg. Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking
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31 on condos).

32
33 8. Likewise, there was no analysis of the risks associated with disamenities such
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35 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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37 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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39 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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41 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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43 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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1 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
2 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
3 the maintenance agreement. *Id.* at 13:4-14:2.
4

5
6 9. There was also no consideration of negative impacts from another four-plus
7 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
8 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
9 law allowing him to dismiss these actual, non-speculative impacts. Because future special
10 benefits calculations are inherently speculative, Washington's eminent domain statute
11 specifically allows condemnees to postpone special benefits assessments until improvements
12 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
13 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
14 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
15 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
16 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
17 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
18 II.25, IV.B.8, and IV.B.9.
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32 10. Special benefit estimate is speculative. When calculating a special benefit,
33 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
34 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
35 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335-36, 324
36 P.2d 1078 (1958)).
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 11. Assuming without conceding that one day, the City’s planned LID
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3 Improvements might increase the value of neighboring properties to some extent, that
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5 potential benefit is many years away and speculative. While appraisers tolerate some degree
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7 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
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9 far too speculative to satisfy industry practices and standards. *See e.g.*, 3/12/2020 (P.
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11 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
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13 the level of precision implied in the Final Study due to the size of the LID and use of
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15 hypotheticals).

16 12. Although LIDs are sometimes finalized prior to completion of improvements,
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18 this is typically just six month or a year prior, and the assessments are otherwise supported
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20 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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22 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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24 will not be realized for four or five years. In the meantime, there is permitting risk,
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26 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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28 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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30 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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32 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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34 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
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36 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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38 market value would be as of the date the project would be finally constructed” because
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40 “[t]here could be a lot of elements in the market that did occur between now and then that
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42 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
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44 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
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46 fluctuate over time” and “I can’t predict the future”).
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1 13. The record is clear that while no one can know what “special benefit” might
2 accrue to these properties in four years (if any), we do know that there are no actual benefits
3 now. The LID improvements provide no immediate special benefit to property owners
4 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
5 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
6 sewer system for future users). For example, notwithstanding the questionable hypothesis
7 that retail establishments will benefit from an expected increase in tourism when the
8 improvements are complete, it is undisputed that tourists are not coming in larger numbers
9 and paying more now because of something happening five years down the road. *See*
10 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23; O’Connor Decl. ISO Closing Stmt., ¶ 7 (dated
11 7/7/2020) (no apartment leased today for 18 months would rent at a higher rate due to
12 improvements coming in 2024).

13 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
14 for the LID Improvements, and it is unlawful to move to final assessments without such
15 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
16 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
17 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
18 dollars on projects still early in the design process. *See* Washington Attorney General
19 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
20 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
21 of programs and included “only so much of the overall costs” that took place within and
22 benefitted the assessed properties).

23 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
24 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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1 anticipated to be delivered five years later. Even before COVID, it was speculative to
2
3 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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5 after an already extraordinarily long expansion period. *See*, 3/3/2020 (A. Gibbons) Hrg. Tr.
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7 at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my
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9 analysis in October 2019, who would have thought that this COVID issue would happen?”
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11 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was
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13 that the market was going to continue to go up”—in fact, they are already irrelevant. *See*
14
15 Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not
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17 change actual values as of October 2019 (*see* Examiner’s Recommendation at 109), the
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19 pandemic has impacted *current* values and rendered the hypothetical October 2019 Final
20
21 Study valuations outdated.

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23 16. As another example of how future events could affect the accuracy and
24
25 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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27 Examiner re-open the record to allow the City to explain whether the assessments against
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29 property owners within the LID are, in fact, being used by the City to fund the emergency
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31 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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37 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
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39 5, Aug. 15, 2020), available at [https://www.king5.com/article/news/local/seattle/seattle-mayor-](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3)
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41 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3)
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43 [0b60d4097aa3](https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3); *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
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45 58 (Waterfront Park) Emergency Demolition Project, *available at*
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47 [https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=;)
[ry=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); *see also* Aug. 13, 2020 Ltr. from H.
Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
available at
[https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
[ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).

1 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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11 17. There is also no certainty the improvements will be delivered on time. Mr.
12 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
13 delay in construction schedule would not constitute a “material change” under the City
14 Council’s ordinance authorizing the improvements. In other words, the City cannot
15 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
16 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
17 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
18 potential delays and project changes inherent in those processes, that call into question the
19 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
20 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
21 Decl., dated 4/15/2020).
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33 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
34 he could not point to a single one where the assessment roll was finalized five years in
35 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
36 he has never recommended final special assessments based on designs less than 30 percent
37 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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45 ⁵ Asia Fields, ‘*Substantial*’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
2 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
3 at 66:17-25. He performed no independent due diligence to determine the reliability of the
4 City’s estimates for completion of the LID Improvements, or to ensure that proposed
5 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
6 agreed that if any of his assumptions are incorrect, his opinion of market value would need
7 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
8 68:11-18.

16 19. The City has cited no authority—and Taxpayer is aware of none—that
17 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
18 assess taxes for “actual” special benefits that will not accrue for another five years (if all
19 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
20 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
21 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
22 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
23 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
24 IV.C.14, and IV.C.18.

34 20. Failure to discount special benefit estimates to account for risks and present
35 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
36 have accounted for risks associated with delivery of the improvements (including permitting
37 risk, construction risk, general economic risk) and any special damages associated with
38 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
39 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
40 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*

1 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
2 the impact of future conditions [through] discounted cash flow analysis.”).
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5 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
6 future condition not in place at the date of valuation and can discount for the time value of
7 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
8 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
9 Discounting would also have been consistent with his approach for analyzing special
10 benefits to vacant land. He testified that the difference between similarly situated vacant
11 sites slated for development and already developed sites was that the labor, capital and risks
12 associated with development had not yet been borne for those vacant sites. Therefore, the
13 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
14 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
15 fully permitted, has not completed environmental review, and has not reached full design is
16 presently worth significantly less.
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20 22. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
21 present value, an appraiser would consider discount rates for land development to account
22 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
23 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
24 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
25 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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29 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley’s
30 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
31 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
32 Ex. A. Notably, this is lower than the City’s proposed \$171,000,000 assessment. Thus,
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1 ignoring momentarily all of the other methodological and other flaws discussed here and in
2 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
3 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
4 exceeds special benefits when reduced to present value. Further, to the extent the City is
5 arguing that because they are permitted to assess 100% of the special benefit, the special
6 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
7 is again wrong. After applying proper discounting, the City's proposed special benefit
8 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
9 100% of the total estimated special benefit.
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18 24. But even the assumption that the LID improvements would deliver benefits
19 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
20 on. Rather, those studies demonstrate that a discount period of five years is conservative.
21
22 See Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
23 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
24 indicates that during the construction period, the Greenway district "significantly" lagged in
25 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
26 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
27 30-31 (discussing New York City High Line and San Francisco Embarcadero
28 improvements). Given the lengthy delay, any prediction of future special benefits is
29 speculative, especially during the construction phase where values are likely to decline.
30
31 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
32 Improvements take a similarly long period of time after they are complete to start producing
33 tangible property value benefits, each additional year of delay results in further discount to
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1 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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3 A.

4
5 25. Applying the same discounting methods described above and in Mr. Gibbons
6
7 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
8
9 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
10
11 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
12
13 100% assessment should be no more than \$7,536. Anything more would permit the City to
14
15 assess Taxpayer based on a hypothetical assumption that these improvements are in place
16
17 and providing benefit, and ignore the risks, construction disamenity, and time value of
18
19 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
20
21 would counsel that the assessment should be only 39.2% of that assessment cap, or \$2,939.
22

23 26. Attachment C includes two Excel spreadsheets applying these discounting
24
25 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
26
27 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
28
29 demonstrates that discounting the City's hypothetical October 2019 special benefits to
30
31 present value would reduce Taxpayer's assessment to \$10,754, exclusive of any other flaws
32
33 in the City's proposed assessment. The second spreadsheet shows even more drastic
34
35 reductions after taking into account: (1) a rough discount for property value loss due to
36
37 COVID-19; and (2) discounting to present value for 5 years (*i.e.*, from 2024 when the City
38
39 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
40
41 the time it takes for the improvements to capture property value). After such reductions,
42
43 Taxpayer's assessment would be just \$9,410 (for the 5-year discount) or \$2,586 (for the 10-
44
45 year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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47 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed

1 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
2
3 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
4

5 **Appraisal and Assessment Calculation Methods Are Flawed**
6

7 27. The "general rule is that each lot, piece, or parcel of land should be assessed
8
9 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
10 Wn.2d at 97.
11

12 28. It is proper to sustain a challenge to an assessment, even without the appraisal
13
14 testimony from the owner, where the objector's expert establishes that the assessment was
15
16 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
17
18 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
19

20 29. The City's appraiser purports to utilize the income method of valuation but
21
22 relied on inaccurate revenue and market data, as discussed further below.
23

24 30. The City's appraiser purports to utilize the comparable sales method of
25
26 valuation, but no City witness attempted "to characterize any one, or all of them, as
27
28 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
29
30 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
31
32 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
33
34 characterize any one, or all of them, as comparable to any particular property within the LID").
35
36 And no City witness could explain how specific adjustments were made to these sales to
37
38 account for value increases due to the hypothesized Before and After Improvements. For this
39
40 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
41

42 31. Special assessment improperly includes value lift from the Before
43
44 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
45
46 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
47

1 Improvements, which WSDOT had independently committed to fund. However, Mr.
2
3 Macaulay did not calculate the actual market value of LID properties in October 2019, and
4
5 did not separately analyze the hypothetical increase to property values attributable to
6
7 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
8
9 current value and then separately calculate a hypothetical "With WSDOT" Before value);
10
11 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
12
13 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
14
15 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
16
17 documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
18
19 occupancy and rates would have been for the commercial properties assuming all of the
20
21 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
22
23 outright omission precludes any independent evaluation of the true market "Before" values.
24
25 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
26
27 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
28
29 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
30
31 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
32
33 other road, pedestrian and landscaping improvements WSDOT had already committed to
34
35 make.

36
37 32. However, because Mr. Macaulay testified that he did include some WSDOT-
38
39 related value-lift in the "Before" values, it follows that part of the special assessment
40
41 improperly is based on value attributable to the WSDOT Improvements. As shown by
42
43 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
44
45 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
46
47 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%

1 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
2 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
3 to properly exclude the value of Before Improvements from the assessments. For these
4 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
5
6
7
8 Sections II.19, II.29, and IV.B.11(a)(ii)
9

10 33. Special benefits were assigned rather than measured. Mr. Macaulay
11 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
12 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
13 Shorette) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 3/5/2020 (B.
14 O'Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
15 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
16 commercial properties, Taxpayer's experts concluded that Mr. Macaulay based adjustments
17 on hypothesized very small increases to property revenue and very small reductions to cap
18 rates to "calculate" an "After" value due to the coming 2024 LID Improvements.
19 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
20 "professional judgment" that are neither shown nor replicable.
21

22 34. For these reasons, Taxpayer appeals the following portions of the Examiner's
23 Recommendation: Sections II.19, IV.B.11(a)(iii).
24

25 35. Special benefit falls within margin of error. The Final Special Benefit Study
26 applies an estimated value enhancement of less than 4%, which is generally within the
27 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
28 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
29 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
30 of one another, this difference is considered reasonable as it falls within the standard margin
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1 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
2 O'Connor) Hrg. Tr. 201:7-204:8; 3/11/2020 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because
3
4 Mr. Macaulay's micro-special benefit percentages fall far below that 5% margin, "there is
5 no way of authenticating" such incremental changes because "[m]arket forces completely
6
7 obliterate any tiny little noise factor like that." See 3/3/2020 (A. Gibbons) Hrg. Tr. at
8
9 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too small to
10
11 measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to measure
12
13 a difference in revenue and cap rates for Taxpayer's property within that margin. For
14
15 Taxpayer's property, the spreadsheets indicate the difference between pre-LID and post-LID
16
17 yearly income is between \$3,357-\$4,700. Additionally, the fact that "Before" values are
18
19 also based on a hypothetical that adds some unstated incremental value to actual 2019 values
20
21 exacerbates this issue—the ability for an appraiser to discern the micro-value differences
22
23 between hypothetical conditions that are so similar (the WSDOT improvements compared to
24
25 the LID improvements) "verges on being ludicrous." 3/3/2020 (A. Gibbons) Hrg. Tr. at
26
27 89:4-90:7.
28
29

30 36. Even if it were possible to accurately tease out such a miniscule hypothetical
31
32 value change due to improvements coming five years later, experts testified that there is no
33
34 data to justify the mathematical adjustments—they are just the appraiser's guesses as to
35
36 what he felt the changes (hypothetically) would be. See 3/12/2020 (J. Gordon) Hrg. Tr. at
37
38 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at
39
40 88:21-88:24 ("you cannot measure one percent difference in a high-rise building for this
41
42 kind of a medium ... it's simply assigned to a before value"). For these reasons, Taxpayer
43
44 appeals the following portions of the Examiner's Recommendation: II.27 and IV.B.4.
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1 37. No analysis of value increase attributable to individual components of the
2 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
3 percentage difference between hypothetical Before and After conditions. Throughout his
4 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
5 descriptions in the Addenda even though he testified that he relied on these to calculate
6 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
7 someone might be able to determine how he attributed value to After conditions described in
8 the Addenda, he answered that that was “not the scope of the assignment” because he was
9 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
10 that the six components were not actually a continuous project, that he was viewing them
11 together because the City asked him to, and that if he were to view them independently,
12 there was a low probability that properties in the north would specially benefit from
13 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.

14 38. Not only did he fail to analyze benefits from each of these non-contiguous
15 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
16 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
17 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
18 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
19 objectives that guided regulators’ assessment of architectural plans for buildings along a
20 “signature street” were so vague that they amounted to ad hoc review based on the
21 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that

22 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
23 finding that properties within the LID would benefit from the improvements as a whole. See RCW
24 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
25 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and

1 even though he used the renderings as “visual aid[s] in appraising the property in the before
2 and after” to “visually see what the differences would be,” he could not explain what
3 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
4 when shown a rendering of a two-lane road going down to one-lane in the After condition
5 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
6 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
7 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
8 could explain the depiction of the same trees in the After condition nearly twice as tall as in
9 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
10 of the Examiner’s Recommendation: II.27 and IV.B.4.

21 39. Special assessment is not supported by comparable studies, data or reports.
22 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
23 that the LID Improvements will lead to meaningfully increased real estate values for
24 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
25 comparable sales or information from the “over twenty-five studies and reports” to arrive at
26 very precise special benefit increases for the commercial properties, including Taxpayer’s
27 property. For example, although Mr. Macaulay stated that no single report or study was
28 directly on point due to the unique nature of the LID Improvements (*see, e.g.,* 6/25/2020
29 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
30 parcel-by-parcel analysis other than to say that the studies generally provided “some
31 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*

45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
2 similarities and differences between these improvements and the comparable parks he
3 looked at).
4

5
6 40. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
7 assignment of incremental increase of 0.5% to 4% to property values within the LID.
8
9 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
10 research misinterprets his work in critical ways, including because the LID Improvements
11 manifest the characteristics of a parkway (not a park), and his research indicates that most of
12 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
13 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
14 related value increases are in fact smaller; that estimated increases are "best guesses" rather
15 than predictions of property value increases in a particular city; and that percentages do not
16 account for diminishing returns after taking into account water views, which would be the
17 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
18 topography grants most properties in downtown a water view.
19
20

21 41. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
22 that this was just one source of information that was not entirely relevant because, among
23 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
24 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
25 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
26 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
27 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
28 Crompton concluded that 500 feet via road from "park" improvements is just one or two
29 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
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1 significantly beyond that which the park study indicated (even if it was legitimate to use the
2 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
3 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
4 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
5 Taxpayer's property is not within 500 road network feet from the "park" improvements. *See*
6 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
7
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12 42. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
13 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
14 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
15 based on the attention given to Dr. Crompton's work in the Final Study and supporting
16 materials, it was clearly an important—if not *the* most important—source of information for
17 estimating special benefits (especially with respect to the condos).⁷ No City witness
18 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
19 parcel-by-parcel analysis.
20
21

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25 43. The destination parks discussed in the Final Special Benefit Study do not
26 provide reliable, comparable, and valid support for the calculation of special assessments
27 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett's
28 critique of every case study cited concludes the changes to those "dwarf the difference
29 between the before-after condition of the property with LID"); Gibbons 5/2/2018 Letter at 4;
30 Hrg. Exhibit 49 (P. Shorett's Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
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42 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
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3 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
4
5 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
6
7 funded by a LID. And in virtually all of those cases, the park improvements dramatically
8
9 restored unimproved or blighted areas, and properties evaluated were within two or three
10
11 blocks of the park.

12
13 44. ABS's claimed reliance on three economic studies to support property value
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15 increase is also flawed. The HR&A study does not inform what value increases are
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17 expected from the LID Improvements because it projects increases to tourism from *all* of the
18
19 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
20
21 dissimilar parks in other cities,⁸ making the methodological application to the LID
22
23 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
24
25 conclusion that there would be *no new net visitors* from downtown residents as a result of
26
27 the LID Improvements and could not explain how this impacted his condo analysis.

28
29 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
30
31 Property Values" primarily focused on whether the benefits accrue to the larger community
32
33 rather than properties adjacent to the park. And the 2014 New York City Department of
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35 Transportation study is not based on real estate transactions and market sales and fails to
36
37 substantiate any link between increased retail sales and property values. Moreover, this
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39

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41 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
42
43 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
44
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
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47 expected tourists visiting the LID park was calculated using data from only from New York City, a
notorious tourist destination. More fundamentally, the assumption that visitors are going to increase
their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to how hotel
visitors actually select hotels to stay in.

1 study only looked at impact either directly abutting the streetscape improvement, or a couple
2
3 hundred feet for plaza-like improvements.

4
5 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
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7 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
8
9 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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11 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
12
13 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
14
15 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
16
17 asked whether he considered that HR&A's estimated LID impact is six times greater than
18
19 TPL's assessment of Seattle's entire park system, his surmised that it was because the
20
21 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
22
23 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
24
25 assumptions to account for this difference, which may be partly explained by the fact that
26
27 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
28
29 approximately 3.44% of King County tourists visit Seattle primarily because of the city
30
31 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
32
33 waterfront improvements.

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35 46. Although proximity to the improvements is a key factor in all of these
36
37 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
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39 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
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41 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
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43 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
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1 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
2
3 Improvements is approximate 20 acres and it is not a community park.⁹

4
5 47. There is no explanation in the Final Study or the supporting materials of how
6
7 the studies or comparable sales were used to derive values for Taxpayer's property. For
8
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
10
11 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

12
13 48. Failure to comply with USPAP. Taxpayer's assessment also rests on a
14
15 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
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17 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
18
19 recognized) for developing the MAI standards for mass appraisals, testified that the Final
20
21 Study does not meet mass appraisal standards nor allow for independent assessment of the
22
23 accuracy of Mr. Macauley's conclusions.

24
25 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
26
27 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
28
29 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
30
31 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
32
33 testimony suggests that he incorrectly believed that the only difference between direct
34
35 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
36
37 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
38
39 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*

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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
2
3 Gordon uses in doing his limited restricted report”).

4
5 50. But the difference is not only in reporting—mass appraisal techniques must
6
7 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
8
9 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
10
11 parcel approach:

12 The mass appraisal technique is an appraisal method used to evaluate
13 a group of properties that are subject to similar market forces as of a
14 certain date through the use of market data, statistical analysis and
15 testing. As a result, the mass appraisal technique does not require or
16 involve analysis of each individual property’s specific data.
17
18

19 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
20
21

22 51. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
23 universe of properties as a given date using standard methodology, employing common data,
24 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
25 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
26 model” is “a mathematical expression of how supply and demand factors interact in a
27 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
28 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
29 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
30
31

32 52. Regardless of client direction, Mr. Macaulay is required to comply with
33 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
34 economically feasible because it would have taken “an incredible amount of time and cost”
35 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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1 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
2 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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5 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
6 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
7 value, fails to calibrate the model structure to determine the contribution of the individual
8 characteristics affecting value, and does not review the mass appraisal results against actual
9 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
10 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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16 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
17 proximity to the elements, the increase in market rent, market vacancy changes,
18 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
19 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
20 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
21 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
22 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
23 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36 relationship between characteristics that affect value, and to calibrate that model to specify how
37 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
38 21). The purpose is to rationally determine what characteristics will create value, and by how much.
39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 values were hypothetical, it was not possible to identify matched pair sales and no City
2 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
3 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
4 requires him to explain his model structure.
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9 55. For these reasons, Taxpayer appeals the following portions of the Examiner’s
10 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
11 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
12 and appeals the Examiner’s denial of that motion.
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17 56. Finally, Taxpayer’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
21 property is not even within 500 road network feet from the core park improvements. And,
22 as described above, the special assessment is overstated because the Final Study makes no
23 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
24 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
25 improvements were not in in place—and, in fact, much of the waterfront is a construction
26 zone following removal of the viaduct and now Pier 58 demolition. Under these
27 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
28 Mr. Macaulay at the very least should have discounted the special benefit estimates or
29 waited to perform the Study until the improvements were at least close to complete.
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Erroneous Pre-Improvement Valuation

57. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's property.

58. The City's Final Study was used to compute the proposed final assessment of SHG RETAIL SPE's property. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final Study does not accurately reflect this data. For example, the City's Study values SHG RETAIL SPE's property at \$2,676,000 as of October 1, 2019. However, the King County assessor determined the true and fair value of the property to be \$1,628,000, valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's valuation is 164% of King County's assessed value. The Final Special Benefit Study does not explain this difference—or any differences—between its pre-improvement valuation and its supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's Recommendation.

59. Thus, aside from multiple other reasons why computation of the special benefits was flawed (discussed further below), the assessment is based incorrectly on pre-improvement values that do not accurately reflect market data. For these reason, Taxpayer appeals the following portions of the Examiner's Recommendation: Section III, CWF-0433 at p. 106.

¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet (providing a "County Link" to the King County Department of Assessment's online "eReal Property" search tool).

Erroneous Computation of Special Benefit

60. “Special benefit” is “the increase in fair market value attributable to the local improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property may receive by reason of the improvement is not measured alone by the physical character or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is the particular tract or property benefited by the entire improvement, and is it assessed proportionately with the other property included within the assessment district?” *Id.* 165–66.

61. The proposed final assessment erroneously overstates the special benefit of LID improvements in a number of ways.

62. Spreadsheets show arbitrary changes to revenue and capitalization rates. For the retail space, Mr. Macaulay assumed revenue would increase by 2.5% (low) and 3.5% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not possible to accurately conclude that the reason for this level of percentage increase would be due to the LID Improvements, and there appears to be no support for assignment of these percentages. He then uses this hypothesized increased revenue to calculate a new net operating income for the commercial properties and capitalizes that to come up with an “After” valuation.

63. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net operating income remains the same as in the hypothetical “Before” condition, but changes the cap rate. For the retail space, the cap rate goes from 4.5% to 4.35% (low scenario, creating a bigger value increase) and 4.39% (high scenario, creating a lower value increase). There appears to be no support for these changes in the Final Study or any of its supporting materials.

1 64. Mr. Macaulay then averages his four “After” values to arrive at a final special
2 benefit conclusion. For the retail space, this is an increase in property value of 2.99% due to
3 the LID Improvements.
4

5
6 65. Mr. Macaulay offered little justification for his micro adjustments to revenue
7 and capitalization rates. When asked precisely what the basis is for his special benefit
8 percentage increases to revenue for each commercial property, he could not point to
9 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
10 is nothing in the report to allow a reader to understand how he came up with these
11 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
12 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
13 the basis for his belief that certain factors—liked increased connectivity—will increase
14 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
15 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
16 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
17 sources equally even though there was no separate analysis done for food and beverage or
18 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
19 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
20 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
21 properties.
22

23 66. When asked the basis for making such adjustments, Mr. Macaulay pointed to
24 “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7 (“Mr. Lukens helped
25 significantly in that regard in helping, you know, look at probable adjustments”). However,
26 Mr. Lukens testified that he did not review the percentage increases. *See* 6/25/2020 Hrg. Tr.
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1 at 170:24-172:20.¹² And he did not review any work or data to determine whether the
2 revenue percentage adjustments in the spreadsheets were reasonable, nor did he ever find
3 them to be unreasonable or suggest any changes. *Id.* at 172:3-20. Instead, he appeared to be
4 considering them for the first time on cross examination, testifying that the adjustments
5 “appear to be a kind of sensitivity analysis” and “appear to be a very minor change.” *Id.* at
6 170:18-172:13. Likewise, he had no understanding of what factors went into determining
7 the change in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1. And he did not
8 know how ABS Valuation reconciled the four scenarios to come to final estimated special
9 benefit. *Id.* at 174:22-175:4.

10
11 67. Mr. Macaulay testified that he used comparable sales as a reasonableness
12 check for commercial properties. But as explained above, no City witness has explained
13 how anyone, or all, of the sales are comparable to any particular commercial property within
14 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
15 in order to make sales “comparable,” he would have had to make adjustments to account for
16 Before and After conditions, but there is no way to understand how adjustments were made
17 because he “didn’t do a separate sales comparison approach where we showed adjustments
18 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that

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¹² As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different special benefit and capitalization rate increases to the parking and retail parcels associated with the Grand Hyatt and the Four Season (the property here) even though these sources of revenue receive identical increases when they are part of the same legal parcel as the hotel. But he ends up concluding the same special benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt parcels). When asked whether this was a matter of coincidence, his answer was that is “just our estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even though it is one block closer to the waterfront.

1 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”

2
3 *Id.* at 127:10-128:24.

4
5 68. It also bears noting that any “internal review” of the special benefit estimates
6
7 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
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9 error. Indeed, given all the same information, he seemed to suggest that it would be
10
11 perfectly reasonable for another experienced appraiser to come up with special benefit
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13 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
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15 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
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17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
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19 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
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21 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
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23 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
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25 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
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27 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
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29 special because it is arbitrarily assigned; and it is too small to realistically be supported by
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31 appraisal techniques.

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33 69. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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35 any seller or purchaser that the price was higher because of the LID improvements.”
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37 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
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39 identified any seller or buyer, or any particular property where the existence of the LID
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41 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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43 explained that the property has not increased rental rates or revenue due to the forthcoming
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45 LID Improvements, because, among other reasons (and apart from COVID), the
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47 improvements ABS believes will generate value do not exist, and will not for a number of

1 years to come. There are no comparable sales because the LID Improvements are not in
2 place, nor will they be until the end of 2024 if completed on schedule.
3

4 70. The fair market value of SHG RETAIL SPE's property has not changed due
5 to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not
6 specially benefited from installation of new water main and fire hydrant where it was
7 already adequately supplied with water and afforded adequate fire protection). And in any
8 event, any value attributable to removal of the viaduct was to be excluded from the
9 assessment calculation.
10

11 71. There is no special benefit because LID improvements in fact diminish the
12 value of SHG RETAIL SPE's property by drawing visitors away towards improvements that
13 do not abut the property, increasing competition, or increasing costs to maintain the
14 property. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert that LID actually
15 diminished value of property was sufficient to rebut presumption that assessment was
16 proper).
17

18 72. Moreover, the assessment formula is an attempt to distribute costs that do not
19 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
20 "merely a mathematical model that distributes costs").
21

22 73. The Special Benefit Study fails to address whether the \$346,000,000
23 estimated LID project cost takes into account the investment that would have occurred in the
24 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
25 invested. This is a critical component of estimating which properties receive a direct benefit
26 from the improvements, versus more incidental benefits further from the park.
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28 74. The proposed final assessment substantially exceeds the special benefit to the
29 property and is grossly disproportionate to similarly situated properties within the LID. For
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1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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3 Sections II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii).

4
5 **State Environmental Policy Act and Other Environmental Permitting**

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7 75. While this appeal is not challenging the City's environmental review and
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9 permitting processes, those processes are relevant in determining the legality of the
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11 assessments, and to assessing the delivery risk, the present value of the City's plans, and
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13 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
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15 pursue projects that have not yet undergone environmental review (thus limiting the choice
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17 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
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19 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
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21 is just beginning. Further, the City has segmented environmental review, and still has a
22
23 gauntlet of federal, state and tribal review processes to complete before it will be clear what
24
25 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
26
27 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
28
29 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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31 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
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33 committing to reconstruction of Pier 58 and major street improvements without
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35 environmental review, or the City's Final Special Study has improperly included and is
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37 proposing to assess the Taxpayer the costs and special benefits of improvements that may
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39 not get built. Either way, it is faulty process.

40
41 **Due Process Rights**

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43 76. The City's failed to notify SHG RETAIL SPE sufficiently in advance of the
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45 hearing to allow SHG RETAIL SPE to obtain evidence and prepare to properly challenge
46
47 the assessments. Because LID assessments involve a deprivation of property, affected

1 owners have the right to a hearing as to whether the improvement resulted (or will result) in
2 special benefits to their properties and whether their assessments are proportionate, which
3 necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia*
4 *Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761 (2010).
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9 77. The LID statute specifies that cities must mail notices giving the time and
10 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
11 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
12 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
13 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
14 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
15 secure their own appraisal), evaluate proportionality of the proposed assessments, and
16 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
17 for anybody to get an appraisal”).
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22 78. The City’s Notice of Assessment was sent on December 30, 2019. And the
23 Final Special Benefit Study has only been available for public review since January 7, 2020.
24 Due to this short time frame, SHG RETAIL SPE requested a prehearing conference and
25 scheduling order that would preserve and protect SHG RETAIL SPE’s right to analyze and
26 respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
27 accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the
28 City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
29 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
30 the Examiner’s Recommendation: I.B.
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33 **VII. Relief Requested**

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47 SHG RETAIL SPE respectfully requests that the City Council:

- 1 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
2 and
3
4 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
5 assessment dated December 30, 2019; or
6
7 b. Revise Taxpayer’s Waterfront Local Improvement District No. 6751
8 proposed final assessment to \$0 (zero), or such amount as Taxpayer
9 establishes at the hearing in this matter; or
10
11 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
12 and reduce Taxpayer’s assessment using recognized appraisal techniques
13 consistent with USPAP and:
14
15 i. Excluding any property value increase attributable to viaduct removal
16 and other planned WSDOT Improvements;
17
18 ii. Taking into account the effects of the COVID-19 pandemic on the
19 value of Taxpayer’s property and other relevant developments since
20 October 2019;
21
22 iii. Accounting for and excluding (1) any special benefits from existing
23 or planned improvements that already provide similar benefits to
24 Taxpayer’s property, and (2) any special detriments from construction
25 and other anticipated LID-related disamenities;
26
27 iv. Accounting for and including only those actual benefits anticipated to
28 accrue to Taxpayer’s property based on its location relative to Pier 58,
29 Overlook Walk, and the Promenade, and specific elements of the LID
30 Improvements;
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- 1 v. Discounting anticipated special benefits to present value, based on
2 reliable estimates regarding when special benefits will start accruing
3 following completion of the LID Improvements; and
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7 vi. Accounting for such other issues specific to Taxpayer's property
8 relevant to calculation of such assessment; and
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11 2. Grant such further relief as the City Council deems just and proper.
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17 DATED: September 22, 2020

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20 By: 

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FILED

4:17 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0433
Date: Tuesday, February 16, 2021 3:54:27 PM
Attachments: [SHG Retail Amended LID Appeal before City Council CWF 0433.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

SHG Retail Amended LID Appeal before City Council CWF 0433.pdf

Kimball Mullins | Perkins Coie LLP

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0433

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON SHG RETAIL
SPE’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
6094670010

33
34 SHG RETAIL SPE files this amended appeal pursuant to RCW 35.44.070, Seattle
35 Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle Resolution
36 31979, the notice of the Seattle Office of the City Clerk dated December 30, 2019, the notice
37 of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing Examiner’s
38 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”)
39 and the Hearing Examiner’s Findings and Recommendation issued February 1, 2021.
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1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 SHG RETAIL SPE
6 PO Box 334
7 Bellevue, WA 98009-0334
8

9 **II. Taxpayer's Representatives**

10 SHG GARAGE SPE's representatives in this matter are:

11
12
13 R. Gerard Lutz, WSBA No. 17692
14 JLutz@perkinscoie.com
15 Perkins Coie LLP
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17 Bellevue, Washington 98004
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Facsimile: 206.359.9000

22 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

23
24 SHG RETAIL SPE ("Taxpayer") owns the property that is subject to the proposed
25 final assessment described in Section IV.
26

27
28 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
29 include additional arguments relevant to the revised Final Recommendations of the Hearing
30 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
31
32 objection to the assessment, which was based on the Final Study. Taxpayer further timely
33
34 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
35
36 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
37
38 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
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40 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
41
42 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
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1 as authorized by the Hearing Examiner, including without limitation all records pertaining to
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3 the November 2020 through February 2021 remand hearing ordered by Council.
4

5 **IV. Amended Arguments on Appeal**

6 SHG RETAIL SPE supplements its appeal of the Hearing Examiner's
7
8 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
9
10 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
11
12 the following property:
13
14

15 King County Parcel No. 6094670020
16 Site Address: 1321 1st Ave, Seattle, Washington
17 Proposed Final LID Assessment for Parcel: \$31,345.76
18

19 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
20
21 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
22
23 amended appeal.
24

25 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
26 **Discounted to Present Value and Assessments Adjusted as Appropriate**
27

28 On remand, the City's appraiser acknowledged that special benefits to parcels can be
29
30 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
31
32 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
33
34 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
35
36 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
37
38 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
39
40 accepted that recommendation. The City's appraiser further acknowledged that benefit
41
42 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
43
44 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
45
46 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
47

1 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
2
3 calculations to present value because the general benefits are not anticipated from the LID
4
5 improvements until they are completed in 2024, 5 years after his 2019 assessment, and
6
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8
9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
10
11 benefit calculation, and related assessments, to account for the delay between the assessment
12
13 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
14
15 standard appraisal practice, and renders the other proposed Waterfront LID special
16
17 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
18
19 “fundamentally wrong methods.”

20
21 All special benefit taxes assessed by a municipality must be based on “actual,
22
23 physical and material [special benefits that are] not merely speculative or conjectural.”
24
25 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
26
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
28
29 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
30
31 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
32
33 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
34
35 discount benefits the City estimated would accrue to the properties from improvements to be
36
37 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
38
39 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
40
41 property while treating all or most others (including Taxpayer’s) differently, and
42
43 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
44
45 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
46
47 for some properties because the benefit are too distant, while assessing other properties as

1 though distant benefits have already been secured. As Taxpayer identified in its September
2
3 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
4
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8
9 reject the improper calculation of the benefit or remand and require the appraiser to discount
10
11 the benefits to net present value.

12
13 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
14 **Downtown Property Owners and other Material Changes Since October**
15 **2019, the LID Should be Cancelled, or at Least Assessments**
16 **Recalculated, to take Into Account Property Value Reductions**

17
18 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
19
20 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
21
22 other relevant developments since October 2019." When Washington's first COVID
23
24 restrictions were imposed in March and April 2020, there was an assumption that they
25
26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
27
28 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
29
30 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
31
32 gotten much worse. The City has already imposed higher minimum wages and taxes on
33
34 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
35
36 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
37
38 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
39
40 years from completion, as a best case. In current circumstances, a downtown tax to fund
41
42 new, non-essential park improvements against financially strapped taxpayers, and likely
43
44 passed through to financially strapped tenants and customers would be unfair to taxpayers
45
46 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
47

1 rethinks its budget priorities for the next few years, and its potentially funding sources,
2
3 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
4
5 property owners) have a chance to recover, and that any assessment take into account the
6
7 changed circumstances since this appeal process started on February 4, 2020 to avoid
8
9 unnecessarily and perhaps permanently killing downtown properties and businesses in the
10
11 name of bettering them.

12
13 **V. Relief Requested**

14
15 Particularly in light of the Committee's decision not to take further comment from
16
17 appellants, Taxpayer respectfully request that each Committee member carefully review the
18
19 full record transmitted to Council before voting on Taxpayer's appeal.

20
21 SHG RETAIL SPE respectfully reiterates its request from the September 22, 2020
22
23 appeal that the City Council:

- 24
25 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection;
26
27 and
28
29 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
30
31 assessment dated December 30, 2019; or
32
33 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
34
35 proposed final assessment to \$0 (zero), or such amount as Taxpayer
36
37 establishes at the hearing in this matter; or
38
39 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
40
41 and reduce Taxpayer's assessment using recognized appraisal techniques
42
43 consistent with USPAP and:
44
45 i. Excluding any property value increase attributable to viaduct removal
46
47 and other planned WSDOT Improvements;

- 1 ii. Taking into account the effects of the COVID-19 pandemic on the
2 value of Taxpayer's property and other relevant developments since
3 October 2019;
4
5
6 iii. Accounting for and excluding (1) any special benefits from existing
7 or planned improvements that already provide similar benefits to
8 Taxpayer's property, and (2) any special detriments from construction
9 and other anticipated LID-related disamenities;
10
11 iv. Accounting for and including only those actual benefits anticipated to
12 accrue to Taxpayer's property based on its location relative to Pier 58,
13 Overlook Walk, and the Promenade, and specific elements of the LID
14 Improvements;
15
16 v. Discounting anticipated special benefits to present value, based on
17 reliable estimates regarding when special benefits will start accruing
18 following completion of the LID Improvements; and
19
20 vi. Accounting for such other issues specific to Taxpayer's property
21 relevant to calculation of such assessment; and
22
23 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
3
4

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3:50 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0434
Date: Tuesday, September 22, 2020 3:02:01 PM
Attachments: [CWF- 0434.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0434.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0434
A – Master List of Evidence
B – B-218 4 Seasons
C – Discounting for CWF-0434
CWF- 0434 LID Appeal Notice for SHG Hotel

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Four Seasons Garage

Map Nos.: B-218-001
Tax Parcel No.: 609467-0010
Property key: 4271
Address: 99 Union Street
Zoning: DMC 240/290-440
Previous sale: N/A
Proximity to park: ½ block from park, one block south of Pike Street improvements
Ownership: SHG GARAGE SPE

Description: 21,800 SF site on the southwest corner of 1st Avenue and Union Street (Post Alley and Union Street) improved with three commercial condominium (not included in this analysis). APN 609467-0010 (13.952,281 SF parking structure with 134 stalls (34 allocated to the hotel the condominium plat). APN 609467-0020 (0.80% interest) comprise condominium. APN 609467-0030 (51.72% interest) is developed with 134 guest rooms and 13 suites. All the improvements were built

INCOME ANALYSIS Before		Year Built	2006			
		Parking	34	hotel	100	residences
Potential Gross Income						
	Units	SF NRA	Total NRA	Rent	Rent/SF	
Studio			0		\$0.00	
1-bedroom			0		\$0.00	
2-bedroom			0		\$0.00	
3-bedroom			0		\$0.00	
Total apartments	0	0	0	\$0	\$0.00	
	GBA	NRA				
Office				SF NRA @	\$0.00	
Retail				SF NRA @	\$0.00	
Restaurant				SF NRA @	\$0.00	
Other	0	0		SF NRA @	\$0.00	
Subtotals	0	0				
Daily parking			34	stalls @	\$35.00	
Monthly parking			100	stalls @	\$350.00	
Total Parking Area/Stalls			134	stalls @		
Basement	0	0		SF NRA @	\$0.00	
Other	0	0		SF NRA @	\$0.00	
Other				0.0%	of PGI	
Total Bldg Area & Gross Income	52,281	52,281		SF GBA @	\$16.34	

Less: Vacancy/credit allowance @	4.0%	of apartment revenue		
	5.0%	of commercial revenue		
	5.0%	of parking revenue		
Total vacancy/credit allowance				
Effective gross income				
Less: Operating expenses				
Management fee @	5.0%	of total EGI		
Parking operating expenses @	10.0%	of parking EGI		
Apartment operating expenses		of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses				
Net operating income				
Indicated Value				
Land Value		21,800		
	13.98%	3,048	SF @	\$1,700.00
Residual Improvements		52,281	SF GBA @	\$116.66

Special Benefit Summary				
	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,700.00	\$5,181,000	\$6,099,000	N/A
With LID				
Scenario A1	\$1,751.00	\$5,336,000	\$6,232,000	2.18%
Scenario A2	\$1,751.00	\$5,336,000	\$6,347,000	4.07%
Scenario B1	\$1,751.00	\$5,336,000	\$6,333,000	3.84%
Scenario B2	\$1,751.00	\$5,336,000	\$6,234,000	2.21%
Percent change in land value	3.00%		\$6,287,000	3.08%
Overall Summary				
Without LID	\$1,700.00	\$5,181,000	\$6,099,000	N/A
With LID	\$1,751.00	\$5,336,000	\$6,282,000	3.00%

|

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Net Rentable	0	SF @	#DIV/0!	/SF =	\$0
			(Avg)		
	0	SF @	\$0.00	/SF =	\$0
Total Building Area	0	SF			\$0
Less: Vacancy & credit Loss @			8%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management @	6%	(EGI)			\$0
Bldg. Maint/Reserve	0.20	/SF			\$0
					\$0
NET OPERATING INCOME					\$0
CAPITILIZED @			7.25%		\$0
				R	\$0
CAPITILIZED @			7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$60.00	=	\$0
	0	@	\$65.00	=	\$0
Residual Building					\$0
					\$0

Four Seasons Garage

Scenario A - Rate and Vacancy Changes

APN	Ownership	Description
609467-0010	SHG Garage SPE	Garage
609467-0020	SHG Retail SPE LLC	Retail U
609467-0030	SHG Hotel SPE LLC	Hotel U

set (and southeast corner of
 minimum units and residential
 8% interest) is improved with a
 and 100 to the residences, per
 is a 2,984 SF retail
 h a 193,429 SF, 147-room hotel
 t in 2006.

		INCOME ANALYSIS After		Year Built	2006
		Potential Gross Income			
			Units	SF NRA	
	\$0	Studio	0	0	
	\$0	1-bedroom	0	0	
	\$0	2-bedroom	0	0	
	\$0	3-bedroom	0	0	
	\$0	Total apartments	0	0	
			GBA	NRA	
per SF =	\$0	Office	0	0	SF
per SF =	\$0	Retail	0	0	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$0	Subtotals	0	0	
/day	\$434,350	Daily parking			34
/month	\$420,000	Monthly parking			100
/month	\$854,350	Total Parking Area/Stalls	0		134
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$0	Other			
/SF =	\$854,350	Total Bldg Area & Gross Income	52,281	52,281	SF

	\$0
	\$0
	(\$42,718)
	(\$42,718)
	\$811,633
	(\$40,582)
	(\$81,163)
	\$0
	(\$13,070)
	(\$134,815)
	\$676,817
Capitalized @	6.00%
Indicated value	\$11,280,290
(R) \$11,280,000	
Per SF GBA	\$216
Per stall	\$84,179
per SF =	\$5,181,000
per SF =	\$6,099,000
per stall	\$45,515

Less: Vacancy/credit allowance		of apartment
		of commercial
		of parking
Total vacancy/credit allowance		
Effective gross income		
Less: Operating expenses		
Management fee @	5.0%	of total EGI
Parking operating expenses @	10.0%	of parking EGI
Apartment operating expenses	0.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		
		3,048
Residual Improvements		52,281 per
Special Benefit Summary		

Total Estimated Value	Special Benefit	% Change	
\$11,280,000	N/A	N/A	
			Per stall
\$11,568,000	\$288,000	2.55%	\$2,149
\$11,683,000	\$403,000	3.57%	\$3,007
\$11,669,000	\$389,000	3.45%	\$2,903
\$11,570,000	\$290,000	2.57%	\$2,164
\$11,280,000	N/A		
\$11,618,000	\$338,000	3.00%	\$2,522

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Net Rentable	0	SF @	#DIV/0!	/SF =	\$0
			(Avg)		
	0	SF @	\$0.00	/SF =	\$0
Total Building	0	SF			\$0
Less: Vacancy & credit Loss	@		6%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management	6%	(EGI)			\$0
Bldg. Maint/Re	0.20	/SF			\$0
					\$0
NET OPERATING INCOME					\$0
CAPITILIZED	@		7.25%		\$0
				R	\$0
CAPITILIZED	@		7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$63.00	=	\$0
	0	@	\$68.00	=	\$0
Residual Building					\$0
					\$0

Four Seasons Garage
Scenario B - OAR Changes

<u>ion</u>	<u>Land %</u>	<u>Land Area</u>	<u>GBA</u>
Unit	13.98%	3,048	52,281
nit	0.80%	174	2,984
nit	51.72%	11,275	193,429
	66.50%	14,497	248,694
Total site area		21,800	

	<u>Per DU</u>	<u>Per DU</u>	Low 0.00%	High 0.00%
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
	\$0	\$0	\$0	\$0
			0.00%	0.00%
: NRA @	\$0.00	\$0.00	\$0	\$0
: NRA @	\$0.00	\$0.00	\$0	\$0
: NRA @	\$0.00	\$0.00	\$0	\$0
: NRA @	\$0.00	\$0.00	\$0	\$0
			\$0	\$0
	<u>Per Stall</u>	<u>Per Stall</u>	2.50%	3.50%
stalls @	\$35.88	\$36.23	\$445,209	\$449,552
stalls @	\$358.75	\$362.25	\$430,500	\$434,700
stalls @			\$875,709	\$884,252
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
: NRA @	\$0.00	\$0.00	\$0	\$0
: NRA @	\$0.00	\$0.00	\$0	\$0
0.0%	of PGI		\$0	\$0
: GBA @	\$16.75	\$16.91	\$875,709	\$884,252

INCOME ANALYSIS After

Potential Gross Income

Studio
1-bedroom
2-bedroom
3-bedroom
Total apartments

Office
Retail
Restaurant
Other
Subtotals

Daily parking
Monthly parking
Total Parking Area/Stalls

Basement
Other
Other

Total Bldg Area & Gross Income

revenue	4.00%	4.00%	\$0	\$0
revenue	5.00%	5.00%	\$0	\$0
revenue	5.00%	5.00%	(\$43,785)	(\$44,213)
			(\$43,785)	(\$44,213)
			\$831,923	\$840,040
			(\$41,596)	(\$42,002)
			(\$83,192)	(\$84,004)
			\$0	\$0
			(\$13,070)	(\$13,070)
			(\$137,859)	(\$139,076)
			\$694,065	\$700,963
Capitalized @			6.00%	6.00%
			\$11,567,743	\$11,682,724
(R)			\$11,568,000	\$11,683,000
Per SF GBA			\$221	\$223
% change			2.55%	3.57%
SF @	\$1,751.00	per SF =	\$5,336,000	\$5,336,000
r SF GBA	\$119.20	\$121.40	\$6,232,000	\$6,347,000
		Per stall	\$46,507	\$47,366
			\$288,000	\$403,000

Less: Vacancy/credit allowance @

Total vacancy/credit allowance

Effective gross income

Less: Operating expenses

Management fee @

Parking operating expenses @

Apartment operating expenses

Structural maintenance/reserve

Total operating expenses

Net operating income

Indicated Value

Land Value

Residual Improvements

Special Benefit Summary

Year Built 2006						
Units	SF NRA	Total NRA	Rent	Rent/SF		
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0	0	\$0	\$0.00		\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0					\$0
		34	stalls @	\$35.00	/day	\$434,350
		100	stalls @	\$350.00	/month	\$420,000
0		134	stalls @	\$0.00	/month	\$854,350
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			0.0%	of PGI		\$0
52,281	52,281		SF GBA @	\$16.34	/SF	\$854,350

4.0% of apartment revenue		\$0
5.0% of commercial revenue		\$0
5.0% of parking revenue		(\$42,718)
		(\$42,718)
		\$811,633
5.0% of total EGI		(\$40,582)
10.0% of parking EGI		(\$81,163)
0.0% of apartment EGI		\$0
\$0.25 per SF of GBA		(\$13,070)
		(\$134,815)
		\$676,817
	Low	High
Capitalized @	5.80%	5.85%
Indicated Value	\$11,669,265	\$11,569,528
(R) \$11,669,000	\$11,669,000	\$11,570,000
Per SF GBA	\$223	\$221
% change	3.45%	2.57%
3,048 SF @ \$1,751.00 per SF =	\$5,336,000	\$5,336,000
per SF GBA \$121.13 \$119.24	\$6,333,000	\$6,234,000
Per stall	\$47,261	\$46,522
	\$389,000	\$290,000

3.00%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0434	Four Seasons Hotel	1321 1st Avenue	6094670030

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$4,278,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$575,088

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0434	Four Seasons Hotel	1321 1st Avenue	6094670030

BEFORE		Appraiser	Value	excludes personal property
A	Final City Before Value	City	\$142,639,000	
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$139,713,592	
C	COVID 19 Discount and value	-12.5%		
D	(B*(1+C) unless no value for B, then A*(1+C))	Corrected FMV for Assessment	\$122,249,393	

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT				Value	5-yr delay	10-yr delay
H	City LID special benefit for subject			\$4,278,000		
H/A	As Percentage of Final City Before Value			2.999%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$		3,666,479		
I	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr				34.29%	9.42%
	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value				\$1,257,352	\$345,478
J	Percentage of Special benefit to be assessed by City			39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)				\$492,882	\$135,427

DISTANCE FROM PARK IMPROVEMENTS				Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No				
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)			N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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19
20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF- 0434

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON SHG HOTEL
SPE LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
6094670030

33
34 SHG HOTEL SPE LLC files this appeal pursuant to RCW 35.44.070, Seattle
35 Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office
36 of the City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
37 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
38
39
40

41
42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:
44
45

46 SHG HOTEL SPE LLC
47

1 PO BOX 334
2 BELLEVUE, WA 98009-0334
3

4 **II. Taxpayer's Representatives**

5 SHG HOTEL SPE LLC representatives in this matter are:
6

7
8 Clark R. Nichols, WSBA No. 8662
9 CNichols@perkinscoie.com
10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20
21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27

28 **III. Statement of Taxpayer's Interest**

29
30 SHG HOTEL SPE LLC owns the property that is subject to the proposed final
31 assessment described in Section IV. The property contains the Four Seasons Hotel,
32
33 overlooks the Puget Sound, and has stairs leading to the waterfront directly adjacent to the
34 property. The basis of the proposed assessment is a Final Special Benefit/Proportionate
35 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
36 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
37 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
38 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
39 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
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1 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
2 to exclude charges for other improvement projects in the Central Waterfront, and
3
4 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
5
6 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
7
8 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
9
10 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
11
12 because construction was not complete on the LID Improvements or the WSDOT
13
14 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
15
16 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
17
18 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
19
20 was based on the Final Study.
21

22 **IV. Matter Under Appeal**

23
24 SHG HOTEL SPE LLC appeals the Hearing Examiner’s recommendation to deny
25
26 Taxpayer’s objection to the City of Seattle’s Waterfront Local Improvement District No.
27
28 6751 proposed final assessment dated December 30, 2019 against the following property:
29

30
31 King County Parcel No. 6094670030
32 Site Address: 1321 1ST AVE, Seattle, Washington
33 Proposed Final LID Assessment for Parcel: \$1,676,214.52
34

35 *See* Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
36
37 the evidence and arguments raised before the Hearing Examiner into this appeal. In
38
39 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
40
41 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
42
43
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45
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47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4
5 As discussed more fully below, Taxpayer specifically appeals the following Findings
6 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
7
8 Pages 61-62, 106, Sections II.6, II.7, II.12, II.13, II.14, II.17, II.18, II.19, II.20, II.21, II.22,
9 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
10 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
11 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5,
12 IV.C.7, IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14, IV.C.18.
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15 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
16 recommendations on material issues raised during Taxpayer's appeal that were supported by
17 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
18 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
19 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
20 recommended anything other than denial of objectors' appeals were where the City's
21 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
22 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
23 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

23
24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$4,278,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
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1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” *See* Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
9

10
11 **Legal Requirement:** Must comply with appraisal standards
12

13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
18
19

20 **Legal Requirement:** Actual and measurable special benefit
21

22 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
23 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
24 on a host of "micro-judgments" that are not supported by any documentation, nor capable
25 of replication or quality assurance/quality control. The assessments are undocumented,
26 unreliable, and not supported by empirical studies, data, or reports.
27
28

29 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
30 supported by empirical evidence
31

32 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
33 value of parks and other public amenities and on whom ABS purported to rely, testified
34 that ABS had completely misapplied his work and dramatically overstated both the
35 distance to which economic benefits might extend from the LID Improvements and the
36 extent of any anticipated benefit within the potentially benefited area.
37
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39

40 **Legal Requirement:** Actual special benefit—Must take into account potential
41 disamenities
42

43 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
44 construction, as well as other potential disamenities associated with public places.
45
46
47

1 **Legal Requirement:** Cannot prematurely commit to build

2
3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
8
9

10 In addition to these general objections, there are property-specific issues raised by
11 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
12 statement below.
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15

16
17 **V. Standard of Review**

18 “When considering the assessment roll, the city council sits ‘as a board of
19 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
20 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
21 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
22 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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28 The proposed assessments are presumed correct, “unless overcome by clear, cogent
29 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
30 than the heightened presumption of correctness on judicial appeal because “applying these
31 elevated standards at the municipal hearing would afford unwarranted deference to a report
32 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
33 presumption is not evidence and its efficacy is lost when the other party adduces credible
34 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
35 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
36 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
37 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
4

5 **VI. Grounds for Appeal**

6 SHG HOTEL SPE LLC appeals the Hearing Examiner's Findings and
7
8 Recommendations on the following grounds.
9

10 **Taxpayer Not Required to Provide A Special Benefit Study**

11
12 1. Contrary to the Examiner's findings and recommendations, there is no
13 requirement that experts or property owners provide an alternative special benefit
14 calculation under these circumstances—to do so would also require the same improper
15 speculation the City's expert engaged in, given the timing and information provided. *See*,
16 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
17 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO
18 Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have
19 explicitly rejected an argument that, because certain protestors 'failed to offer expert
20 testimony at the city council hearing[,] the presumptions [in favor of the assessment] were
21 still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail*
22 *Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493,
23 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he provided expert
24 opinion showing that improvements actually diminished value of the property). In fact, no
25 independent evidence is required at all if, for example, objectors show that the assessment
26 was grounded on a fundamentally wrong basis due to an error in the City's appraiser's
27 methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of*
28 *Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example, a property owner
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1 could simply point out that the square footage assumed in the City's appraisal was incorrect.
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3 For these reasons, Taxpayer appeals the following portions of the Examiner's
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5 Recommendation: Sections II.12, II.13, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.7,
6
7 IV.C.8, and IV.C.11.
8

9 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

10
11 2. RCW 35.43.040 provides cities and towns authority for ordering local
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13 improvements and for levying and collecting special assessments "on property specially
14
15 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
16
17 upon all the property in accordance with the special benefits conferred thereon." RCW
18
19 35.44.010.

20
21 3. No analysis of general benefits. Special assessments have been "held valid
22
23 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
24
25 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
26
27 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
28
29 they are for the construction of local improvements that are appurtenant to specific land and
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31 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*

32
33 4. SHG HOTEL SPE property is not specially benefited by the LID
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35 Improvements. The primary purpose and effect of the LID Improvements are to benefit
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37 "members of the whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain
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39 that a public library is for the benefit of the members of the whole community individually
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41 and collectively who may be served by it"). Mr. Macaulay's own chapter of the LID
42
43 Manual states clearly that appraisers should "[c]onsider general benefits as well as special
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benefits” (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed that if an appraiser “identifies both general and special benefits, these benefits should be clearly distinguished and explained, and only special benefits should be included in the After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also* 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-159:8, 192:8-193:2; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits, including those arising from construction necessary to meet basic design standards. *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those construction costs related to meeting design standards which may be general benefits as distinct from construction costs emanating from requirements of the LID project”). To the extent Taxpayer’s property may benefit from the LID improvements, the benefit is general and incidental, and failure to consider general benefits was a fatal flaw in the City’s methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

5. LID Improvements not necessary. Unlike typical LID projects, the Waterfront LID improvements are largely unnecessary to the functionality of any particular property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet

² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference, Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 held invalid where owners would have benefitted equally from increase of only 9 feet);
2
3 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
4
5 intersection for new water main for hydrant held invalid because land was already afforded
6
7 functional hydrant at nearby street). Here, Taxpayer provide evidence that the LID
8
9 Improvements are not necessary to the business of this income-producing property, which
10
11 already has sufficient access to the waterfront, downtown restaurants, and other amenities
12
13 necessary for clients and users. This property has direct access to the waterfront by stairs
14
15 adjacent to the property. The construction of new access points has no additional benefit to
16
17 this property. The fact that there is no case law differentiating between binary improvements
18
19 and parks does not change the law prohibiting assessments on properties already adequately
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21 served by existing amenities. *See* Examiner’s Recommendation at IV.C.3 (reasoning that
22
23 “no case law is provided to support the differentiation between a hardscape benefit and the
24
25 more ephemeral benefits of park”). Nor does the Examiner’s reasoning excuse the City’s
26
27 failure to account for existing amenities as part of the special benefit calculation. As Dr.
28
29 Crompton testified, existing view amenities may in fact diminish the incremental effect of
30
31 new park improvements on the value of properties, much like turning on a weak light in an
32
33 already brightly illuminated room. *See* Hrg. Exhibit 94 (Crompton’s Report) at 12-13.

34
35 6. To the extent benefits can be considered “special” as opposed to general, they
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37 are nominal or nonexistent for many properties even in the Central Waterfront, which
38
39 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
40
41 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties’ fair market value did not
42
43 change due to expansion of sewer service *near* owners’ parcel which were already
44
45 connected). Here, the property already has easy access to the waterfront. Furthermore, the
46
47 primary reason users choose this hotel is not due to proximity to the waterfront. Instead, like

1 most downtown hotels, the Four Seasons caters primarily to business travelers attending
2 conventions and meetings. *See*, Hrg. Exhibit 106 (Palladino Decl.), ¶ 11. For this reason,
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4 Ms. Palladino explained that the Four Seasons does not expect the LID Improvements to
5
6 increase impact on demand for rooms or room rates. *Id.* Even if the City could assess for a
7
8 view change (and it has promised not to assess for viaduct removal), the fair market value of
9
10 SHG HOTEL SPE's property has not changed because the LID Improvements have not
11
12 improved the property's waterfront view or access to the waterfront, nor will they when the
13
14 City anticipates completion in 2024. For these reasons, Taxpayer appeals the following
15
16 portions of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

17
18 7. No analysis of special detriments. The Final Study fails to properly account
19
20 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
21
22 owners for removal and cleanup of underground storage tanks discovered during the
23
24 improvement project). Property values may in fact be negatively impacted by the LID
25
26 Improvements due to increased traffic and noise, increased potential for crime, and
27
28 sanitation issues. Ms. Palladino testified that the assessment is an immediate expense for the
29
30 Four Seasons that comes with no immediate increase in revenue, thereby decreasing
31
32 property values. Hrg. Exhibit 106 (Palladino Decl.), ¶ 13-15. Although Mr. Macaulay
33
34 claims he analyzed impacts on the City's planned elimination of 450 parking stalls on a
35
36 parcel-by-parcel basis, there is no explanation of how lost parking might be a detriment, and
37
38 no property-specific parking analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-
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40 24; 186:14-187:12; *see also* 6/26/2020 Hrg. Tr. at 153:18-154:19 (did not actually analyze
41
42 impact of decreased parking on condos).

43
44 8. Likewise, there was no analysis of the risks associated with disamenities such
45
46 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
47

1 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
2
3 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
4
5 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
6
7 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
8
9 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
10
11 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
12
13 the maintenance agreement. *Id.* at 13:4-14:2.

14
15 9. There was also no consideration of negative impacts from another four-plus
16
17 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
18
19 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
20
21 law allowing him to dismiss these actual, non-speculative impacts. Because future special
22
23 benefits calculations are inherently speculative, Washington's eminent domain statute
24
25 specifically allows condemnees to postpone special benefits assessments until improvements
26
27 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
28
29 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
30
31 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
32
33 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
34
35 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
36
37 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
38
39 II.25, IV.B.8, and IV.B.9.
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 10. Special benefit estimate is speculative. When calculating a special benefit,
2
3 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
4
5 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
6
7 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
8
9 P.2d 1078 (1958)).

10 11. Assuming without conceding that one day, the City’s planned LID
11
12 Improvements might increase the value of neighboring properties to some extent, that
13
14 potential benefit is many years away and speculative. While appraisers tolerate some degree
15
16 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
17
18 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
19
20 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
21
22 the level of precision implied in the Final Study due to the size of the LID and use of
23
24 hypotheticals).

25 12. Although LIDs are sometimes finalized prior to completion of improvements,
26
27 this is typically just six month or a year prior, and the assessments are otherwise supported
28
29 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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31 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
32
33 will not be realized for four or five years. In the meantime, there is permitting risk,
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35 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
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37 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
38
39 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
40
41 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
42
43 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
44
45 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
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47

1 market value would be as of the date the project would be finally constructed” because
2
3 “[t]here could be a lot of elements in the market that did occur between now and then that
4 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
5 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
6 fluctuate over time” and “I can’t predict the future”).
7
8
9

10 13. The record is clear that while no one can know what “special benefit” might
11 accrue to these properties in four years (if any), we do know that there are no actual benefits
12 now. The LID improvements provide no immediate special benefit to property owners
13 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
14 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
15 sewer system for future users). For example, notwithstanding the questionable hypothesis
16 that hotels will benefit from an expected increase in tourism (higher room rates or
17 occupancy) when the improvements are complete, it is undisputed that tourists are not
18 coming in larger numbers and paying higher room rates now because of something
19 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23;
20 O’Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased today for 18
21 months would rent at a higher rate due to improvements coming in 2024).
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34 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
35 for the LID Improvements, and it is unlawful to move to final assessments without such
36 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
37 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
38 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
39 dollars on projects still early in the design process. *See* Washington Attorney General
40 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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1 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
2 of programs and included “only so much of the overall costs” that took place within and
3 benefitted the assessed properties).
4

5
6 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
7 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
8 anticipated to be delivered five years later. Even before COVID, it was speculative to
9 assume that market highs experienced in October 2019¹ would be sustained through 2024,
10 after an already extraordinarily long expansion period. *See*, 3/3/2020 (A. Gibbons) Hrg. Tr.
11 at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my
12 analysis in October 2019, who would have thought that this COVID issue would happen?”
13 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was
14 that the market was going to continue to go up”—in fact, it did not for Taxpayer’s property.
15 *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that downtown hotel values had
16 already dropped an estimated 10-15% from their October 2019 levels, and occupancy rates
17 were at zero or in single digits. *See* Gordon Decl. (dated 4/21/2020) at ¶ 9. Hotels without
18 guests will derive no benefit, special or otherwise, from the planned LID Improvements.
19 And even assuming hotels recover prior to 2024, there is no basis for assuming that values
20 hypothesized in October 2019 will remain relevant; they are already irrelevant. *See* Gibbons
21 Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual
22 values as of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has
23 impacted *current* values and rendered the hypothetical October 2019 Final Study valuations
24 outdated.
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27 16. As another example of how future events could affect the accuracy and
28 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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1 Examiner re-open the record to allow the City to explain whether the assessments against
2 property owners within the LID are, in fact, being used by the City to fund the emergency
3 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
4 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
5 would be improperly imposing costs on property owners within the LID for improvements
6 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
7 habitat and City infrastructure—this does not provide any special benefit to LID property
8 owners.
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11 17. There is also no certainty the improvements will be delivered on time. Mr.
12 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
13 delay in construction schedule would not constitute a “material change” under the City
14 Council’s ordinance authorizing the improvements. In other words, the City cannot
15 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
16 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
17 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
18 potential delays and project changes inherent in those processes, that call into question the
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34 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

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45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
2 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
3 Decl., dated 4/15/2020).
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6 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
7 he could not point to a single one where the assessment roll was finalized five years in
8 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
9 he has never recommended final special assessments based on designs less than 30 percent
10 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
11 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
12 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
13 at 66:17-25. He performed no independent due diligence to determine the reliability of the
14 City’s estimates for completion of the LID Improvements, or to ensure that proposed
15 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
16 agreed that if any of his assumptions are incorrect, his opinion of market value would need
17 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
18 68:11-18.
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32 19. The City has cited no authority—and Taxpayer is aware of none—that
33 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
34 assess taxes for “actual” special benefits that will not accrue for another five years (if all
35 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
36 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
37 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
38 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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1 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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3 IV.C.14, and IV.C.18.

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5 20. Failure to discount special benefit estimates to account for risks and present
6 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
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8 have accounted for risks associated with delivery of the improvements (including permitting
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10 risk, construction risk, general economic risk) and any special damages associated with
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12 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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14 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
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16 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
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18 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
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20 the impact of future conditions [through] discounted cash flow analysis.").

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23 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
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25 future condition not in place at the date of valuation and can discount for the time value of
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27 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
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29 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
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31 Discounting would also have been consistent with his approach for analyzing special
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33 benefits to vacant land. He testified that the difference between similarly situated vacant
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35 sites slated for development and already developed sites was that the labor, capital and risks
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37 associated with development had not yet been borne for those vacant sites. Therefore, the
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39 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
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41 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
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43 fully permitted, has not completed environmental review, and has not reached full design is
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45 presently worth significantly less.
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1 22. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
2 present value, an appraiser would consider discount rates for land development to account
3 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
4 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
5 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
6 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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12 23. Applying the Q19 Korpacz rates and assuming arguendo that Macauley's
13 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
14 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
15 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
16 ignoring momentarily all of the other methodological and other flaws discussed here and in
17 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
18 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
19 exceeds special benefits when reduced to present value. Further, to the extent the City is
20 arguing that because they are permitted to assess 100% of the special benefit, the special
21 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
22 is again wrong. After applying proper discounting, the City's proposed special benefit
23 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
24 100% of the total estimated special benefit.
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38 24. But even the assumption that the LID improvements would deliver benefits
39 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
40 on. Rather, those studies demonstrate that a discount period of five years is conservative.
41 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
42 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
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1 indicates that during the construction period, the Greenway district “significantly” lagged in
2 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
3 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
4 30-31 (discussing New York City High Line and San Francisco Embarcadero
5 improvements). Given the lengthy delay, any prediction of future special benefits is
6 speculative, especially during the construction phase where values are likely to decline.
7
8 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
9 Improvements take a similarly long period of time after they are complete to start producing
10 tangible property value benefits, each additional year of delay results in further discount to
11 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
12 A.
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15 25. Applying the same discounting methods described above and in Mr. Gibbons
16 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
17 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
18 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
19 100% assessment should be no more than \$402,987.60. Anything more would permit the
20 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
21 place and providing benefit, and ignore the risks, construction disamenity, and time value of
22 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
23 would counsel that the assessment should be only 39.2% of that assessment cap, or
24 \$157,971.14.
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27 26. Attachment C includes two Excel spreadsheets applying these discounting
28 methods to Taxpayer’s assessment. It is undisputed that special benefits will not actually
29 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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1 demonstrates that discounting the City’s hypothetical October 2019 special benefits to
2 present value would reduce Taxpayer’s assessment to \$575,088, exclusive of any other
3 flaws in the City’s proposed assessment. The second spreadsheet shows even more drastic
4 reductions after taking into account: (1) Taxpayer’s “Before” value now excluding personal
5 property; (2) a rough discount for property value loss due to COVID-19; and (3) discounting
6 to present value for 5 years (*i.e.*, from 2024 when the City anticipates completing the LID
7 Improvements) and 10 years (*i.e.*, from 2029 to account for the time it takes for the
8 improvements to capture property value). After such reductions, Taxpayer’s assessment
9 would be just \$492,882 (for the 5-year discount) or \$135,427 (for the 10-year discount).
10 Neither of these spreadsheets address other issues raised by Taxpayer’s appeal, but are
11 intended to help demonstrate how unfair and inflated the City’s proposed hypothetical
12 assessment is. The Hearing Examiner’s Recommendation simply dismisses Taxpayer’s
13 discounting argument without legal or factual analysis; that failure is error.

24 **Appraisal and Assessment Calculation Methods Are Flawed**

25 27. The “general rule is that each lot, piece, or parcel of land should be assessed
26 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
27 Wn.2d at 97.

28 28. It is proper to sustain a challenge to an assessment, even without the appraisal
29 testimony from the owner, where the objector’s expert establishes that the assessment was
30 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
31 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

32 29. The City’s appraiser purports to utilize the income method of valuation but
33 relied on inaccurate revenue and market data, as discussed further below.

1 30. The City’s appraiser purports to utilize the comparable sales method of
2 valuation, but no City witness attempted “to characterize any one, or all of them, as
3 comparable to [Taxpayer’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
4 “several serious flaws” in ABS’s LID analysis in that case, including that the appraiser
5 “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
6 characterize any one, or all of them, as comparable to any particular property within the LID”).
7 And no City witness could explain how specific adjustments were made to these sales to
8 account for value increases due to the hypothesized Before and After Improvements. For this
9 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
10

11 31. Special assessment improperly includes value lift from the Before
12 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
13 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
14 Improvements, which WSDOT had independently committed to fund. However, Mr.
15 Macaulay did not calculate the actual market value of LID properties in October 2019, and
16 did not separately analyze the hypothetical increase to property values attributable to
17 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
18 current value and then separately calculate a hypothetical “With WSDOT” Before value);
19 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); Gibbons 1/30/2020 Letter
20 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
21 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
22 documented basis or support, Mr. Macaulay simply “ma[de] a judgment a call” on what
23 occupancy and rates would have been for the commercial properties assuming all of the
24 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
25 outright omission precludes any independent evaluation of the true market “Before” values.
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1 See 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
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3 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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5 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
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7 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
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9 other road, pedestrian and landscaping improvements WSDOT had already committed to
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11 make.

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13 32. However, because Mr. Macaulay testified that he did include some WSDOT-
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15 related value-lift in the “Before” values, it follows that part of the special assessment
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17 improperly is based on value attributable to the WSDOT Improvements. As shown by
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19 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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21 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
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23 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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25 special benefit assignment would result in \$300,000 of over-assessment. See Gibbons Decl.
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27 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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29 to properly exclude the value of Before Improvements from the assessments. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.19, II.29, and IV.B.11(a)(ii).

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35 33. Special benefits were assigned rather than measured. Mr. Macaulay
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37 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
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39 property. See 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
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41 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 3/5/2020 (B.
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43 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
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45 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
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47 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments

1 on hypothesized very small increases to property revenue and very small reductions to cap
2 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.

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4 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
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6 “professional judgment” that are neither shown nor replicable.
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9 34. For these reasons, Taxpayer appeals the following portions of the Examiner’s
10 Recommendation: Sections II.19, IV.B.11(a)(iii).
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13 35. Special benefit falls within margin of error. The Final Special Benefit Study
14 applies an estimated value enhancement of less than 4%, which is generally within the
15 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
16 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
17 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
18 of one another, this difference is considered reasonable as it falls within the standard margin
19 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
20 O’Connor) Hrg. Tr. 201:7-204:8; 3/11/2020 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because
21 Mr. Macaulay’s micro-special benefit percentages fall far below that 5% margin, “there is
22 no way of authenticating” such incremental changes because “[m]arket forces completely
23 obliterate any tiny little noise factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
24 160:23-161:5. Mr. Macaulay agreed during his deposition that 0.25% is too small to
25 measure. Macaulay Depo. at 25:17-25. Yet, Mr. Macaulay assigned or purported to measure
26 a difference in revenue and cap rates for Taxpayer’s property within that margin.
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29 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
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31 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
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33 appraiser to discern the micro-value differences between hypothetical conditions that are so
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1 similar (the WSDOT improvements compared to the LID improvements) “verges on being
2 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.

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4 36. Even if it were possible to accurately tease out such a miniscule hypothetical
5 value change due to improvements coming five years later, experts testified that there is no
6 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
7 what he felt the changes (hypothetically) would be. See 3/12/2020 (J. Gordon) Hrg. Tr. at
8 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at
9 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
10 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
11 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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13 37. No analysis of value increase attributable to individual components of the
14 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
15 percentage difference between hypothetical Before and After conditions. Throughout his
16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
17 descriptions in the Addenda even though he testified that he relied on these to calculate
18 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
19 someone might be able to determine how he attributed value to After conditions described in
20 the Addenda, he answered that that was “not the scope of the assignment” because he was
21 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
22 that the six components were not actually a continuous project, that he was viewing them
23 together because the City asked him to, and that if he were to view them independently,
24 there was a low probability that properties in the north would specially benefit from
25 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.

1 38. Not only did he fail to analyze benefits from each of these non-contiguous
2 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.*,
3 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
4 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
5 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
6 objectives that guided regulators’ assessment of architectural plans for buildings along a
7 “signature street” were so vague that they amounted to ad hoc review based on the
8 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
9 even though he used the renderings as “visual aid[s] in appraising the property in the before
10 and after” to “visually see what the differences would be,” he could not explain what
11 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
12 when shown a rendering of a two-lane road going down to one-lane in the After condition
13 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
14 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
15 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
16 could explain the depiction of the same trees in the After condition nearly twice as tall as in
17 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
18 of the Examiner’s Recommendation: II.27 and IV.B.4.
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 39. Special assessment is not supported by comparable studies, data or reports.
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3 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
4 that the LID Improvements will lead to meaningfully increased real estate values for
5 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
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7 comparable sales or information from the "over twenty-five studies and reports" to arrive at
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9 very precise special benefit increases for hotels, including Taxpayer's property. For
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11 example, although Mr. Macaulay stated that no single report or study was directly on point
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13 due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020 Hrg. Tr. at 146:21-
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15 147:8), he could not explain how he made specific adjustments in his parcel-by-parcel
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17 analysis other than to say that the studies generally provided "some background to base
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19 decisions on." *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also* 6/26/2020 Hrg Tr. at 118:7-
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21 19 (did not make any specific adjustments to account for similarities and differences
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23 between these improvements and the comparable parks he looked at).
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26 40. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
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28 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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30 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
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32 research misinterprets his work in critical ways, including because the LID Improvements
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34 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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36 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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38 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
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40 related value increases are in fact smaller; that estimated increases are "best guesses" rather
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42 than predictions of property value increases in a particular city; and that percentages do not
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44 account for diminishing returns after taking into account water views, which would be the
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1 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
2 topography grants most properties in downtown a water view.
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5 41. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
6 that this was just one source of information that was not entirely relevant because, among
7 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
8 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
9 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
10 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
11 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
12 Crompton concluded that 500 feet via road from "park" improvements is just one or two
13 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
14 significantly beyond that which the park study indicated (even if it was legitimate to use the
15 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
16 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
17 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
18 Taxpayer's property is not within 500 road network feet from the "park" improvements. *See*
19 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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23 42. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
24 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
25 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
26 based on the attention given to Dr. Crompton's work in the Final Study and supporting
27 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
3 parcel-by-parcel analysis.
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6 43. The destination parks discussed in the Final Special Benefit Study do not
7 provide reliable, comparable, and valid support for the calculation of special assessments
8 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett's
9 critique of every case study cited concludes the changes to those "dwarf the difference
10 between the before-after condition of the property with LID"); Gibbons 5/2/2018 Letter at 4;
11 Hrg. Exhibit 49 (P. Shorett's Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
12 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
13 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
14 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
15 funded by a LID. And in virtually all of those cases, the park improvements dramatically
16 restored unimproved or blighted areas, and properties evaluated were within two or three
17 blocks of the park.
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21 44. ABS's claimed reliance on three economic studies to support property value
22 increase is also flawed. The HR&A study does not inform what value increases are
23 expected from the LID Improvements because it projects increases to tourism from *all* of the
24 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
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42 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dissimilar parks in other cities,⁸ making the methodological application to the LID
2 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
3 conclusion that there would be *no new net visitors* from downtown residents as a result of
4 the LID Improvements and could not explain how this impacted his condo analysis.
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9 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
10 Property Values" primarily focused on whether the benefits accrue to the larger community
11 rather than properties adjacent to the park. And the 2014 New York City Department of
12 Transportation study is not based on real estate transactions and market sales and fails to
13 substantiate any link between increased retail sales and property values. Moreover, this
14 study only looked at impact either directly abutting the streetscape improvement, or a couple
15 hundred feet for plaza-like improvements.
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22 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
23 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
24 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
25 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
26 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
27 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
28 asked whether he considered that HR&A's estimated LID impact is six times greater than
29 TPL's assessment of Seattle's entire park system, he surmised that it was because the
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41 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
42 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
43 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
44 expected tourists visiting the LID park was calculated using data from only from New York City, a
45 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
46 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
47 how hotel visitors actually select hotels to stay in.

1 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
2 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
3 assumptions to account for this difference, which may be partly explained by the fact that
4 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
5 approximately 3.44% of King County tourists visit Seattle primarily because of the city
6 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
7 waterfront improvements.
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15 46. Although proximity to the improvements is a key factor in all of these
16 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
17 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
18 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
19 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
20 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
21 Improvements is approximate 20 acres and it is not a community park.⁹
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29 47. There is no explanation in the Final Study or the supporting materials of how
30 the studies or comparable sales were used to derive values for Taxpayer's property. For
31 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
32 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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37 48. Failure to comply with USPAP. Taxpayer's assessment also rests on a
38 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
39 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 recognized) for developing the MAI standards for mass appraisals, testified that the Final
2 Study does not meet mass appraisal standards nor allow for independent assessment of the
3 accuracy of Mr. Macauley's conclusions.
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6 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
7 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
8 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
9 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
10 testimony suggests that he incorrectly believed that the only difference between direct
11 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
12 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
13 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
14 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
15 Gordon uses in doing his limited restricted report").
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17 50. But the difference is not only in reporting—mass appraisal techniques must
18 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
19 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
20 parcel approach:
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22 The mass appraisal technique is an appraisal method used to evaluate
23 a group of properties that are subject to similar market forces as of a
24 certain date through the use of market data, statistical analysis and
25 testing. As a result, the mass appraisal technique does not require or
26 involve analysis of each individual property's specific data.
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28 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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30 51. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
31 universe of properties as a given date using standard methodology, employing common data,
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1 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
2 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
3 model” is “a mathematical expression of how supply and demand factors interact in a
4 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
5 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
6 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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12 52. Regardless of client direction, Mr. Macaulay is required to comply with
13 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
14 economically feasible because it would have taken “an incredible amount of time and cost”
15 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
16 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
17 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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23 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
24 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
25 value, fails to calibrate the model structure to determine the contribution of the individual
26 characteristics affecting value, and does not review the mass appraisal results against actual
27 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
28 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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37 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
38 relationship between characteristics that affect value, and to calibrate that model to specify how
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
40 21). The purpose is to rationally determine what characteristics will create value, and by how much.
41 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
42 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
43 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
44 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
45 include explanation of the model specification, data requirements, calibration methods, and
46 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
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1 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
9 values were hypothetical, it was not possible to identify matched pair sales and no City
10 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
11 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
12 requires him to explain his model structure.
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15 55. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
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21 56. Finally, Taxpayer’s property is not appurtenant—or even in close
22 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
24 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
25 property is not even within 500 road network feet from the core park improvements. And,
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45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 as described above, the special assessment is overstated because the Final Study makes no
2 attempt to determine general benefits, existing amenities for Taxpayer's specific property, or
3 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
4 improvements were not in in place—and, in fact, much of the waterfront is a construction
5 zone following removal of the viaduct and now Pier 58 demolition. Under these
6 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
7 Mr. Macaulay at the very least should have discounted the special benefit estimates or
8 waited to perform the Study until the improvements were at least close to complete.
9

10 **Erroneous Pre-Improvement Valuation**

11 57. The proposed final assessment erroneously overstates the pre-improvement
12 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
13 benefit to the Taxpayer's property.
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15 58. The City's Final Study was used to compute the proposed final assessment of
16 SHG HOTELS SPE's property. The City's Study purportedly uses data from the King
17 County Department of Assessments,¹¹ but the pre-improvement valuation information in the
18 Final Study does not accurately reflect this data. For example, the City's Study values SHG
19 HOTELS SPE's property at \$142,639,000 as of October 1, 2019. However, the King
20 County assessor determined the true and fair value of the property to be \$59,510,600, valued
21 in 2019 for tax year 2020. In other words, the Final Special Benefit Study's valuation is
22 239% of King County's assessed value. The Final Special Benefit Study does not explain
23 this difference—or any differences—between its pre-improvement valuation and its
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45 ¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the
2 Examiner's Recommendation.
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4 59. Thus, aside from multiple other reasons why computation of the special
5 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
6 improvement values that do not accurately reflect market data. For these reason, Taxpayer
7 appeals the following portions of the Examiner's Recommendation: Section III at 106.
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10 11 12 13 **Erroneous Computation of Special Benefit**

14 60. "Special benefit" is "the increase in fair market value attributable to the local
15 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
16 may receive by reason of the improvement is not measured alone by the physical character
17 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
18 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is
19 the particular tract or property benefited by the entire improvement, and is it assessed
20 proportionately with the other property included within the assessment district?" *Id.* 165–
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30 61. The proposed final assessment erroneously overstates the special benefit of
31 LID improvements in a number of ways.
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34 62. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
35 the Four Seasons, Mr. Macaulay assumed room/rental rates would increase by 1.9% (low)
36 and 2.4% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not
37 possible to accurately conclude that the reason for this level of percentage increase would be
38 due to the LID Improvements, and there appears to be no support for assignment of these
39 percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same
40 percentages (1.9% and 2.4%) to increase food and beverage revenue. He then uses this
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1 hypothesized increased revenue to calculate a new net operating income for the commercial
2 properties and capitalizes that to come up with an “After” valuation.
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5 63. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
6 operating income remains the same as in the hypothetical “Before” condition, but changes
7 the cap rate. For the Four Seasons, the cap rate goes from 7.25% to 7.07% (low scenario,
8 creating a bigger value increase) and 7.00% (high scenario, creating a lower value increase).
9
10 Mr. Gordon likewise explained that cap rate changes of .18% or .25% are not typically
11 measurable, and there appears to be no support for these changes in the Final Study or any
12 of its supporting materials.
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15 64. Mr. Macaulay then averages his four “After” values to arrive at a final special
16 benefit conclusion. For the Four Seasons, this is an increase in property value of 3.0% due
17 to the LID Improvements.
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19 65. Mr. Macaulay offered little justification for his micro adjustments to revenue
20 and capitalization rates. When asked precisely what the basis is for his special benefit
21 percentage increases to revenue for each commercial property, he could not point to
22 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
23 is nothing in the report to allow a reader to understand how he came up with these
24 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
25 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
26 the basis for his belief that certain factors—liked increased connectivity—will increase
27 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
28 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
29 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
30 sources equally even though there was no separate analysis done for food and beverage or
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1 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
2 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
3 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
4 properties.
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8 66. When asked the basis for making such adjustments, Mr. Macaulay pointed to
9 “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7 (“Mr. Lukens helped
10 significantly in that regard in helping, you know, look at probable adjustments”). However,
11 Mr. Lukens testified that he did not review the percentage increases. *See* 6/25/2020 Hrg. Tr.
12 at 170:24-172:20.¹² And he did not review any work or data to determine whether the
13 revenue percentage adjustments in the spreadsheets were reasonable, nor did he ever find
14 them to be unreasonable or suggest any changes. *Id.* at 172:3-20. Instead, he appeared to be
15 considering them for the first time on cross examination, testifying that the adjustments
16 “appear to be a kind of sensitivity analysis” and “appear to be a very minor change.” *Id.* at
17 170:18-172:13. Likewise, he had no understanding of what factors went into determining
18 the change in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1. And he did not
19 know how ABS Valuation reconciled the four scenarios to come to final estimated special
20 benefit. *Id.* at 174:22-175:4.
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38 ¹² As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different
39 special benefit and capitalization rate increases to the parking and retail parcels associated with the
40 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
41 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special
42 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
43 parcels). When asked whether this was a matter of coincidence, his answer was that is “just our
44 estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
45 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
46 though it is one block closer to the waterfront.
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1 67. Mr. Macaulay testified that he used comparable sales as a reasonableness
2 check for commercial properties. But as explained above, no City witness has explained
3 how anyone, or all, of the sales are comparable to any particular commercial property within
4 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
5 in order to make sales “comparable,” he would have had to make adjustments to account for
6 Before and After conditions, but there is no way to understand how adjustments were made
7 because he “didn’t do a separate sales comparison approach where we showed adjustments
8 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
9 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
10 *Id.* at 127:10-128:24.

11 68. It also bears noting that any “internal review” of the special benefit estimates
12 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
13 error. Indeed, given all the same information, he seemed to suggest that it would be
14 perfectly reasonable for another experienced appraiser to come up with special benefit
15 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
16 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
18 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
19 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
20 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
21 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
22 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
23 special because it is arbitrarily assigned; and it is too small to realistically be supported by
24 appraisal techniques.

1 69. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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3 any seller or purchaser that the price was higher because of the LID improvements.”
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5 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
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7 identified any seller or buyer, or any particular property where the existence of the LID
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9 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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11 explained that the property has not increased rental rates or revenue due to the forthcoming
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13 LID Improvements, because, among other reasons (and apart from COVID), the
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15 improvements ABS believes will generate value do not exist, and will not for a number of
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17 years to come. There are no comparable sales because the LID Improvements are not in
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19 place, nor will they be until the end of 2024 if completed on schedule.

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21 70. The fair market value of SHG HOTEL SPE’s property has not changed due
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23 to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not
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25 specially benefited from installation of new water main and fire hydrant where it was
26
27 already adequately supplied with water and afforded adequate fire protection). And in any
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29 event, any value attributable to removal of the viaduct was to be excluded from the
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31 assessment calculation.

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33 71. There is no special benefit because LID improvements in fact diminish the
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35 value of SHG HOTEL’s property by exacerbating potential security problems and making
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37 parking less available. *See Kusky*, 85 Wn. App. 493 (testimony of owners’ expert that LID
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39 actually diminished value of property was sufficient to rebut presumption that assessment
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41 was proper).

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43 72. Moreover, the assessment formula is an attempt to distribute costs that do not
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45 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
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47 “merely a mathematical model that distributes costs”).

1 73. The Special Benefit Study fails to address whether the \$346,000,000
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3 estimated LID project cost takes into account the investment that would have occurred in the
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5 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
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7 invested. This is a critical component of estimating which properties receive a direct benefit
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9 from the improvements, versus more incidental benefits further from the park.

10 74. Assessments are disproportionate. Taxpayer also presented evidence
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12 showing that the assessments are disproportionate. For example, the City disproportionately
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14 assessed hotels a greater percentage of the cost of the Improvements even though there no
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16 evidence that hotel properties will in fact benefit. And even within the hotels, the
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18 assessments are disproportionate. Mr. Gordon testified that the differences between the
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20 special benefit increases for the Hyatt at Olive 8, the Grand Hyatt, and Hyatt Regency—
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22 which are all very close together—made little sense and raised doubts as to
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24 proportionality. The Marriott is assessed a 3.2% special assessment, whereas comparable
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26 hotels along the waterfront received an estimated 0.97% increase in value. Hrg. Exhibit 108
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28 (Rash Decl.), ¶ 11.

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30 75. Mr. Macaulay also included personal property in his valuation of hotels even
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32 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
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34 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
35
36 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
37
38 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
39
40 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
41
42 receiving a disproportionately high LID assessment in comparison to other property types,
43
44 since hotels were the only property type subject to personal property LID assessments.
45
46 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
47

1 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
2 notice procedures because hotel property owners only received notice that their real estate
3 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
4

5
6 76. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
7 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
8 a television at the waterfront Marriott is assigned a greater special benefit than the same
9 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
10 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
11 unreasonable to assign a value lift to personal property that is replaceable at the same cost
12 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
13 Shorette ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
14 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
15 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
16 for this error.
17

18
19 77. The proposed final assessment substantially exceeds the special benefit to the
20 property and is grossly disproportionate to similarly situated properties within the LID. For
21 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
22 Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), IV.C.10.
23

24 **State Environmental Policy Act and Other Environmental Permitting**

25
26 78. While this appeal is not challenging the City's environmental review and
27 permitting processes, those processes are relevant in determining the legality of the
28 assessments, and to assessing the delivery risk, the present value of the City's plans, and
29 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
30 pursue projects that have not yet undergone environmental review (thus limiting the choice
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1 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
2 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
3 is just beginning. Further, the City has segmented environmental review, and still has a
4 gauntlet of federal, state and tribal review processes to complete before it will be clear what
5 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
6 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
7 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
8 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
9 committing to reconstruction of Pier 58 and major street improvements without
10 environmental review, or the City's Final Special Study has improperly included and is
11 proposing to assess the Taxpayer the costs and special benefits of improvements that may
12 not get built. Either way, it is faulty process.

13 **Due Process Rights**

14 79. The City's failed to notify SHG HOTEL SPE sufficiently in advance of the
15 hearing to allow SHG HOTEL SPE to obtain evidence and prepare to properly challenge the
16 assessments. Because LID assessments involve a deprivation of property, affected owners
17 have the right to a hearing as to whether the improvement resulted (or will result) in special
18 benefits to their properties and whether their assessments are proportionate, which
19 necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia*
20 *Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761 (2010).

21 80. The LID statute specifies that cities must mail notices giving the time and
22 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
23 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
24 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict

1 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
2
3 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
4
5 secure their own appraisal), evaluate proportionality of the proposed assessments, and
6
7 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
8
9 for anybody to get an appraisal”).

10
11 81. The City’s Notice of Assessment was sent on December 30, 2019. And the
12
13 Final Special Benefit Study has only been available for public review since January 7, 2020.
14
15 Due to this short time frame, SHG HOTEL SPE requested a prehearing conference and
16
17 scheduling order that would preserve and protect SHG HOTEL SPE’s right to analyze and
18
19 respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
20
21 accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the
22
23 City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
24
25 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
26
27 the Examiner’s Recommendation: I.B.

28 29 **VII. Relief Requested**

30
31 SHG HOTEL SPE respectfully requests that the City Council:

- 32
33 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
34
35 and
36
37 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
38
39 assessment dated December 30, 2019; or
40
41 b. Revise Taxpayer’s Waterfront Local Improvement District No. 6751
42
43 proposed final assessment to \$0 (zero), or such amount as Taxpayer
44
45 establishes at the hearing in this matter; or
46
47

- 1 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
2 and reduce Taxpayer's assessment using recognized appraisal techniques
3 consistent with USPAP and:
4
5 i. Excluding any property value increase attributable to viaduct removal
6 and other planned WSDOT Improvements;
7
8 ii. Excluding any value attributable to personal property;
9
10 iii. Taking into account the effects of the COVID-19 pandemic on the
11 value of Taxpayer's property and other relevant developments since
12 October 2019;
13
14 iv. Accounting for and excluding (1) any special benefits from existing
15 or planned improvements that already provide similar benefits to
16 Taxpayer's property, and (2) any special detriments from construction
17 and other anticipated LID-related disamenities;
18
19 v. Accounting for and including only those actual benefits anticipated to
20 accrue to Taxpayer's property based on its location relative to Pier 58,
21 Overlook Walk, and the Promenade, and specific elements of the LID
22 Improvements;
23
24 vi. Discounting anticipated special benefits to present value, based on
25 reliable estimates regarding when special benefits will start accruing
26 following completion of the LID Improvements; and
27
28 vii. Accounting for such other issues specific to Taxpayer's property
29 relevant to calculation of such assessment; and
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45 2. Grant such further relief as the City Council deems just and proper.
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1
2 DATED: September 22, 2020
3
4

PERKINS COIE LLP

5
6 By:



R. Gerard Lutz, WSBA No. 17692

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Megan Lin, WSBA No. 53716

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Attorneys for SHG Hotel SPE LLC

4:20 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0434
Date: Tuesday, February 16, 2021 3:56:18 PM
Attachments: [Exhibit A A19-1335 Four Seasons PP Letter.pdf](#)
[SHG Hotel Amended LID Appeal before City Council CWF 0434.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

SHG Hotel Amended LID Appeal before City Council CWF 0434.pdf

Exhibit A A19-1335 Four Seasons PP Letter.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF- 0434

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON SHG HOTEL
SPE LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
6094670030

33
34 SHG HOTEL SPE LLC (“Taxpayer”) files this amended appeal pursuant to RCW
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of
36 Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated December
37
38
39 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the
40
41 Hearing Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
45
46
47

1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 SHG HOTEL SPE LLC
6 PO BOX 334
7 BELLEVUE, WA 98009-0334
8
9

10 **II. Taxpayer's Representatives**

11 SHG HOTEL SPE LLC'S representatives in this matter are:

12
13
14
15 R. Gerard Lutz, WSBA No. 17692
16 JLutz@perkinscoie.com
17 Perkins Coie LLP
18 10885 N.E. Fourth Street, Ste 700
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1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

23 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

24
25 SHG HOTEL SPE LLC owns the property that is subject to the proposed final
26
27 assessment described in Section IV.
28

29
30 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
31
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34
35 objection to the assessment, which was based on the Final Study. Taxpayer further timely
36
37 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
38
39 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
40
41 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
42
43 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
44
45 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
46
47

1 as authorized by the Hearing Examiner, including without limitation all records pertaining to
2
3 the November 2020 through February 2021 remand hearing ordered by Council.
4

5 **IV. Amended Arguments on Appeal**

6 SHG HOTEL SPE LLC supplements its appeal of the Hearing Examiner's
7
8 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
9
10 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
11
12 the following property:
13
14

15 King County Parcel No. 6094670030
16 Site Address: 1321 1ST AVE, Seattle, Washington
17 Proposed Final LID Assessment for Parcel: \$1,676,214.52
18

19 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
20
21 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
22
23 amended appeal.
24

25 **A. The Council Should Eliminate Personal Property Assessments for this**
26 **Property**

27 Taxpayer's September 22, 2020 appeal challenged the City's appraiser's and
28
29 Examiner's recommendation that the City impose special assessments against the value of
30
31 hotel personal property (furniture, fixtures and equipment), both because personal property
32
33 is not the type of property that receives a special benefit, and also because the appraiser was
34
35 not recommending personal property assessments against other types of property - retail,
36
37 office, residential. On remand, the appraiser recommended, and the Examiner has agreed,
38
39 that the remanded hotels should not be assessed on the value of their personal property. *See*
40
41 Declaration of Robert Macaulay at ¶12 (December 4, 2020) (reducing assessments to
42
43 account for the value of furniture, fixtures and equipment); Hearing Examiner's Final
44
45 Recommendation at p. 125 (filed with clerk on Feb. 1, 2021). Taxpayer agrees with that
46
47

1 recommended change. However, because Taxpayer's assessment still includes personal
2 property, it leaves Taxpayer's assessment even more disproportionate. It is unfair to assess
3 a few hotels against their personal property while not assessing personal property of other
4 hotels or property types. The value of personal property improperly assessed and the
5 amount by which Taxpayer's assessment should be reduced to eliminate that portion of the
6 assessment is set forth in Exhibit A. *See* Letter of John Gordon, February 12, 2021.
7
8
9
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11

12
13 **B. The Anticipated Special Benefits to Taxpayer's Property should be**
14 **Discounted to Present Value and Assessments Adjusted as Appropriate**
15

16 On remand, the City's appraiser acknowledged that special benefits to parcels can be
17 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
18 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
19 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
20 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
21 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
22 accepted that recommendation. The City's appraiser further acknowledged that benefit
23 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
24 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
25 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
26 value."). Nevertheless, the appraiser refused to more generally discount his benefit
27 calculations to present value because the general benefits are not anticipated from the LID
28 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
29 perhaps not until 2029. The appraiser's and Examiner's recommendation to reduce the
30 theatre's assessment to zero is reasonable. His refusal to make other discounts to his special
31 benefit calculation, and related assessments, to account for the delay between the assessment
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1 and realization of any special benefits to Taxpayer's property is unreasonable, contrary to
2 standard appraisal practice, and renders the other proposed Waterfront LID special
3 assessments, and the Examiner's Recommendations, arbitrary and capricious and based on
4 "fundamentally wrong methods."
5
6

7
8 All special benefit taxes assessed by a municipality must be based on "actual,
9 physical and material [special benefits that are] not merely speculative or conjectural."
10
11 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
12

13
14 Additionally, the assessments may not materially exceed the actual special benefit conferred
15 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
16 to meet any of these legal requirements is fatal to the assessment. Taxpayer's September 22,
17 2020 appeal challenged the City appraiser's valuation because, among other flaws, it did not
18 discount benefits the City estimated would accrue to the properties from improvements to be
19 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
20 appraiser's inconsistent approach, selectively applying discounting to one (that we know of)
21 property while treating all or most others (including Taxpayer's) differently, and
22 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
23 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
24 for some properties because the benefits are too distant, while assessing other properties as
25 though distant benefits have already been secured. As Taxpayer identified in its September
26 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
27 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
28 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
29 reject the improper calculation of the benefit or remand and require the appraiser to discount
30 the benefits to net present value.
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1 **C. In Light of Covid’s Continuing Impact on Taxpayer and other**
2 **Downtown Property Owners and other Material Changes Since October**
3 **2019, the LID Should be Cancelled, or at Least Assessments**
4 **Recalculated, to take Into Account Property Value Reductions**

5 In Taxpayer’s September 22, 2020 appeal, Taxpayer requested the Council “[t]ak[e]
6 into account the effects of the COVID-19 pandemic on the value of Taxpayer’s property and
7 other relevant developments since October 2019.” When Washington’s first COVID
8 restrictions were imposed in March and April 2020, there was an assumption that they
9 would be short-lived. A year later, the Puget Sound area is finally again moving to “Phase
10 II.” Many downtown hotels are closed, and our hotels are not anticipated to fully recover
11 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
12 gotten much worse. The City has already imposed higher minimum wages and taxes on
13 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
14 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
15 hypothesized in the City’s appraisal to exist as of October 2019, collapsed, and is several
16 years from completion, as a best case. In current circumstances, a downtown tax to fund
17 new, non-essential park improvements against financially strapped taxpayers, and likely
18 passed through to financially strapped tenants and customers would be unfair to taxpayers
19 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
20 rethinks its budget priorities for the next few years, and its potentially funding sources,
21 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
22 property owners) have a chance to recover, and that any assessment take into account the
23 changed circumstances since this appeal process started on February 4, 2020 to avoid
24 unnecessarily and perhaps permanently killing downtown properties and businesses in the
25 name of bettering them.
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1 **V. Relief Requested**

2 Particularly in light of the Committee's decision not to take further comment from
3 appellants, Taxpayer respectfully request that each Committee member carefully review the
4 full record transmitted to Council before voting on Taxpayer's appeal.
5
6

7 SHG HOTEL SPE LLC respectfully reiterates its request from the September 22,
8 2020 appeal that the City Council:
9

- 10 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection;
11 and
12
13 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
14 assessment dated December 30, 2019; or
15
16 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
17 proposed final assessment to \$0 (zero), or such amount as Taxpayer
18 establishes at the hearing in this matter; or
19
20 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
21 and reduce Taxpayer's assessment using recognized appraisal techniques
22 consistent with USPAP and:
23
24 i. Excluding any property value increase attributable to viaduct removal
25 and other planned WSDOT Improvements;
26
27 ii. Excluding any value attributable to personal property;
28
29 iii. Taking into account the effects of the COVID-19 pandemic on the
30 value of Taxpayer's property and other relevant developments since
31 October 2019;
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33 iv. Accounting for and excluding (1) any special benefits from existing
34 or planned improvements that already provide similar benefits to
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1 Taxpayer's property, and (2) any special detriments from construction
2 and other anticipated LID-related disamenities;
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5 v. Accounting for and including only those actual benefits anticipated to
6 accrue to Taxpayer's property based on its location relative to Pier 58,
7 Overlook Walk, and the Promenade, and specific elements of the LID
8 Improvements;
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12 vi. Discounting anticipated special benefits to present value, based on
13 reliable estimates regarding when special benefits will start accruing
14 following completion of the LID Improvements; and
15

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18 vii. Accounting for such other issues specific to Taxpayer's property
19 relevant to calculation of such assessment; and
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23 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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PERKINS COIE LLP

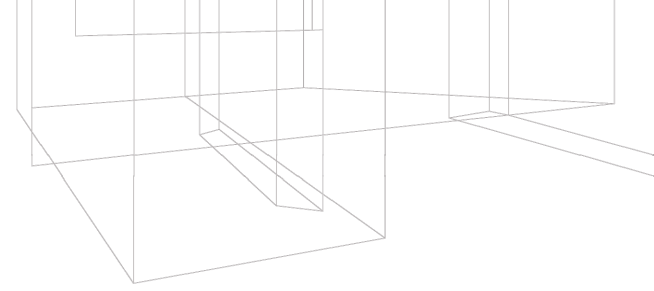
5 By:

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18 Telephone: 206.359.8000
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22 Attorneys for SHG HOTEL SPE LLC
23
24
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Exhibit A



February 12, 2021

Greg Vik, Manager
Seattle Hotel Group
P.O. Box 334
Bellevue, Washington 98009

Re: Four Seasons Hotel / KM Job A19-1335

Dear Mr. Vik:

In February 2020, at your request, we prepared an appraisal of the Four Seasons Hotel, a 147-room luxury hotel located at 99 Union Street in Seattle, King County, Washington. One element of that appraisal was the allocation of value to personal property, defined as furnishings and freestanding equipment.

As of January 1, 2020, the aggregate cost new of the hotel's personal property was about \$11,160,000, of which \$2,000,000 was spent during 2019 and \$9,160,000 was spent during prior years. We deduct depreciation of 10% (\$200,000) for the recent acquisitions and 50% (\$4,580,000) for the balance. The total deduction for depreciation is \$4,780,000. In our opinion, the contributory value of the personal property of the Four Seasons Hotel, as of January 1, 2020, was \$6,380,000.

In valuing the personal property of this hotel, we use the same methodology as was applied in our appraisals of 11 other hotels in support of their LID assessment appeals. Note that we estimated depreciation at 10% for the 2 hotels that recently opened and at 50% for the 9 other hotels.

In the analysis by the city appraiser, the special benefit ratio for the Four Seasons Hotel is estimated at 3.0%. The LID levy ratio for all affected properties is 39.2%. If the personal property of the hotel is excluded from the assessment, the LID levy for that property will be reduced by \$75,029.

Respectfully submitted,



John D. Gordon, MAI, AI-GRS
Certified General Real Estate Appraiser
WA License 1100661, exp 3/27/2021

FILED

4:02 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0435
Date: Tuesday, September 22, 2020 3:03:35 PM
Attachments: [CWF-0435.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0435.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0435
A – Master List of Evidence
B – Discounting for CWF-0435
CWF-0435 Appeal Notice for Sound Vista

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0435	99 Union Street Private Residences	90 Union Street	6094680050

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$312,417	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$41,998

Model Input				
Appeal #	Property	Address	Assessor's #	
CWF-0435	99 Union Street Private Residences	90 Union Street	6094680050	

BEFORE		Appraiser		Value
A	Final City Before Value	City		\$10,413,900
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (no appraisal)	
C	COVID 19 Discount and value		N/A	
D				
(B*(1+C) unless no value for B, then A*(1+C)		Corrected FMV for Assessment		\$10,413,900

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT		Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$312,417		
H/A	As Percentage of Final City Before Value	3.000%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$312,417		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$107,138	\$29,438
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$41,998	\$11,540

DISTANCE FROM PARK IMPROVEMENTS		Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0435

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON SOUND VISTA
PROPERTIES LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
6094680050

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33
34 SOUND VISTA PROPERTIES LLC (“Sound Vista”) files this appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the
36 notice of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”).
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44 **I. Taxpayer / Appellant**

45 The Taxpayer filing this appeal is:
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47

1 SOUND VISTA PROPERTIES LLC
2 PO Box 1607
3 Bellevue, WA 98009-1607
4

5 **II. Taxpayer's Representatives**

6 SOUND VISTA PROPERTIES LLC'S representatives in this matter are:
7

8
9 R. Gerard Lutz, WSBA No. 17692
10 JLutz@perkinscoie.com
11 Megan Lin, WSBA No. 53716
12 MLin@perkinscoie.com
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22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27

28 **III. Statement of Taxpayer's Interest**

29
30 Sound Vista owns the property that is subject to the proposed final assessment
31 described in Section IV. The property is a condo unit located in the same building as the
32 Four Seasons Hotel, known as the 99 Union Street Private Residences. The basis of the
33 proposed assessment is a Final Special Benefit/Proportionate Assessment Study for
34 Waterfront Seattle Local Improvement District ("Final Study"), dated October 1, 2019 and
35 prepared by Robert Macaulay with ABS Valuation (the City's appraiser). The Final Study
36 proposes assessments that are purportedly limited to paying for the LID-funded
37 components—namely, the Promenade, Overlook Walk, Pioneer Square Street
38 Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape Improvements,
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1 and Pier 58 (together, the “LID Improvements”). The Final Study purports to exclude
2 charges for other improvement projects in the Central Waterfront, and specifically those
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4 WSDOT had already agreed to pay for and construct: viaduct demolition, the new
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6 Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99 Tunnel,
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8 the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned fronting
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10 piers between Pike and Madison (together, the “WSDOT Improvements”). But because
11
12 construction was not complete on the LID Improvements or the WSDOT Improvements at
13
14 the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019 “Before” and
15
16 “After” valuations are both based on hypothetical conditions rather than actual facts. On
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18 February 4, 2020, Taxpayer timely filed an objection to the assessment, which was based on
19
20 the Final Study.
21

22 **IV. Matter Under Appeal**

23
24 Sound Vista appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
25
26 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
27
28 final assessment dated December 30, 2019 against the following property:
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30
31 King County Parcel No. 6094680050
32 Site Address: 1321 1st Ave, Seattle, Washington
33 Proposed Final LID Assessment for Parcel: \$122,411.85
34

35 See Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
36
37 the evidence and arguments raised before the Hearing Examiner into this appeal. In
38
39 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
40
41 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
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1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 106, Sections II.6, II.7, II.12, II.14, II.18, II.19, II.20, II.21, II.22, II.23, II.24,
8 II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4,
9 IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
11 IV.C.12, IV.C.14, IV.C.15, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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39 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
40 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
41 Public Works committee secure and provide appellants with such a record, so that the appeals can
42 then be supplemented with that additional information, so as to make the Committee's consideration
43 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
44 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
45 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
46 retained by Perkins Coie are part of this case file.
47

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$312,416.99 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” *See* Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
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26

27 **Legal Requirement:** Benefits must be special, not general
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30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
2 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
3 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
4 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
5 Final Study fails to meet basic standards for admissibility and must be remanded.
6

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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
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20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
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34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
14
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16 The proposed assessments are presumed correct, “unless overcome by clear, cogent
17 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
18 than the heightened presumption of correctness on judicial appeal because “applying these
19 elevated standards at the municipal hearing would afford unwarranted deference to a report
20 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
21 presumption is not evidence and its efficacy is lost when the other party adduces credible
22 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
23 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
24 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
25 presented credible evidence showing that the City’s proposed assessment is arbitrary,
26 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
27 to the City to prove the assessments are actual, measurable, special, non-speculative and
28 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Sound Vista appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
12 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
13 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
14 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
15 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
16 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
17 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
18 provided expert opinion showing that improvements actually diminished value of the
19 property). In fact, no independent evidence is required at all if, for example, objectors show
20 that the assessment was grounded on a fundamentally wrong basis due to an error in the
21 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
22 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
23 a property owner could simply point out that the square footage assumed in the City's
24 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
25 Examiner's Recommendation: Sections II.12, II.14, IV.A, IV.B.11(a), IV.C.2, IV.C.8, and
26 IV.C.11.
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1 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

2 2. RCW 35.43.040 provides cities and towns authority for ordering local
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4 improvements and for levying and collecting special assessments “on property specially
5 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed
6
7 upon all the property in accordance with the special benefits conferred thereon.” RCW
8
9 35.44.010.
10

11 3. No analysis of general benefits. Special assessments have been “held valid
12
13 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
14
15 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
16
17 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
18
19 they are for the construction of local improvements that are appurtenant to specific land and
20
21 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
22

23 4. Sound Vista’s property is not specially benefited by the LID Improvements.
24
25 The primary purpose and effect of the LID Improvements are to benefit “members of the
26
27 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
28
29 library is for the benefit of the members of the whole community individually and
30
31 collectively who may be served by it”). Mr. Macaulay’s own chapter of the LID Manual
32
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
34
35 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
36
37 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 that if an appraiser “identifies both general and special benefits, these benefits should be
2 clearly distinguished and explained, and only special benefits should be included in the
3 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
4
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
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7 183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
8
9 including those arising from construction necessary to meet basic design standards. *See*
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11 Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
12
13 construction costs related to meeting design standards which may be general benefits as
14
15 distinct from construction costs emanating from requirements of the LID project”). To the
16
17 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
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19 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
20
21 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
22
23 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
24
25

26 5. LID Improvements not necessary. Unlike typical LID projects, the
27
28 Waterfront LID improvements are largely unnecessary to the functionality of any particular
29
30 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
31
32 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
33
34 held invalid where owners would have benefitted equally from increase of only 9 feet);
35
36 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
37
38 intersection for new water main for hydrant held invalid because land was already afforded
39
40 functional hydrant at nearby street). Here, Taxpayer provided evidence the Improvements
41
42 are not necessary to the condo, which already has sufficient access to the waterfront through
43
44 stairs directly adjacent to the property, and easy access to other amenities. *See* 3/12/2020
45
46 (G. Vik) Hrg. Tr. at 125:9-129:21. And for residential properties, the assumption that an
47

1 increase in tourism will cause lifts in property value is both anecdotally and empirically
2 unsupported. The fact that there is no case law differentiating between binary improvements
3 and parks does not change the law prohibiting assessments on properties already adequately
4 served by existing amenities. See Examiner's Recommendation at IV.C.3 (reasoning that
5 "no case law is provided to support the differentiation between a hardscape benefit and the
6 more ephemeral benefits of park"). Nor does the Examiner's reasoning excuse the City's
7 failure to account for existing amenities as part of the special benefit calculation. As Dr.
8 Crompton testified, existing view amenities may in fact diminish the incremental effect of
9 new park improvements on the value of properties, much like turning on a weak light in an
10 already brightly illuminated room. See Hrg. Exhibit 94 (Crompton's Report) at 12-13.

20
21 6. To the extent benefits can be considered "special" as opposed to general, they
22 are nominal or nonexistent for many properties even in the Central Waterfront, which
23 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
24 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
25 change due to expansion of sewer service *near* owners' parcel which were already
26 connected). Here, the primary reason one would choose a condo like Sound Vista's is not
27 proximity to the waterfront, instead, as a high end residence it is the amenities offered
28 because it is linked to a hotel. See 3/12/2020 (P. Shorett) Hrg. Tr. at 19:2-11. Even if the
29 City could assess for a view change (and it has promised not to assess for viaduct removal),
30 the fair market value of Sound Vista's property has not changed because the LID
31 Improvements have not improved the property's waterfront view or access to the waterfront,
32 nor will they when the City anticipates completion in 2024. For these reasons, Taxpayer
33 appeals the following portions of the Examiner's Recommendation: Sections IV.C.3,
34 IV.B.9, and IV.C.3.

1 7. No analysis of special detriments. The Final Study fails to properly account
2 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
3 owners for removal and cleanup of underground storage tanks discovered during the
4 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
5 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
6 of how lost parking might be a detriment, and no property-specific parking analysis in any
7 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
8 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
9

10 8. Likewise, there was no analysis of the risks associated with disamenities such
11 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
12 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
13 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
14 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
15 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
16 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
17 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
18 the maintenance agreement. *Id.* at 13:4-14:2.
19

20 9. There was also no consideration of negative impacts from another four-plus
21 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
22 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
23 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 benefits calculations are inherently speculative, Washington’s eminent domain statute
2 specifically allows condemnees to postpone special benefits assessments until improvements
3 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
4

5
6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district “significantly” lagged in value). For these reasons,
10 Taxpayer appeals the following portions of the Examiner’s Recommendation: Sections
11 II.25, IV.B.8, and IV.B.9.
12

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14 10. Special benefit estimate is speculative. When calculating a special benefit,
15 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
16 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
17 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
18 P.2d 1078 (1958)).
19

20
21 11. Assuming without conceding that one day, the City’s planned LID
22 Improvements might increase the value of neighboring properties to some extent, that
23 potential benefit is many years away and speculative. While appraisers tolerate some degree
24 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
25 far too speculative to satisfy industry practices and standards. *See e.g.*, 3/12/2020 (P.
26 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
27 the level of precision implied in the Final Study due to the size of the LID and use of
28 hypotheticals).
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31 12. Although LIDs are sometimes finalized prior to completion of improvements,
32 this is typically just six month or a year prior, and the assessments are otherwise supported
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1 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
2 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
3 will not be realized for four or five years. In the meantime, there is permitting risk,
4 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
5 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
6 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
7 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
8 there is inherent uncertainty in valuing the future delivery of projects because "we can't read
9 the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: "I just don't know what the
10 market value would be as of the date the project would be finally constructed" because
11 "[t]here could be a lot of elements in the market that did occur between now and then that
12 impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
13 his estimates will be higher or lower than comparable sales in 2024 because "markets tend to
14 fluctuate over time" and "I can't predict the future").

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29 13. The record is clear that while no one can know what "special benefit" might
30 accrue to these properties in four years (if any), we do know that there are no actual benefits
31 now. The LID improvements provide no immediate special benefit to property owners
32 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
33 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
34 sewer system for future users).

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41 14. Further, there are no "plans and specifications" on file with the Clerk's Office
42 for the LID Improvements, and it is unlawful to move to final assessments without such
43 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*
44 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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1 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
2 dollars on projects still early in the design process. *See* Washington Attorney General
3 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
4 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
5 of programs and included “only so much of the overall costs” that took place within and
6 benefitted the assessed properties).
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12 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
13 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
14 anticipated to be delivered five years later. Even before COVID, it was speculative to
15 assume that market highs experienced in October 2019¹ would be sustained through 2024,
16 after an already extraordinarily long expansion period. *See*, 3/3/2020 (A. Gibbons) Hrg. Tr.
17 at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my
18 analysis in October 2019, who would have thought that this COVID issue would happen?”
19 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was
20 that the market was going to continue to go up”; they are already irrelevant. *See* Gibbons
21 Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although COVID does not change actual
22 values as of October 2019 (*see* Examiner’s Recommendation at 109), the pandemic has
23 impacted *current* values and rendered the hypothetical October 2019 Final Study valuations
24 outdated.
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38 16. As another example of how future events could affect the accuracy and
39 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
40 Examiner re-open the record to allow the City to explain whether the assessments against
41 property owners within the LID are, in fact, being used by the City to fund the emergency
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1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 17. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 19. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 20. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 22. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
25

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
2 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
3 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 23. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
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20

21 24. But even the assumption that the LID improvements would deliver benefits
22 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
23 on. Rather, those studies demonstrate that a discount period of five years is conservative.
24 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
25 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
26 indicates that during the construction period, the Greenway district "significantly" lagged in
27 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
28 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline.
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5 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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7 Improvements take a similarly long period of time after they are complete to start producing
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9 tangible property value benefits, each additional year of delay results in further discount to
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11 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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13 A.
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16 25. Applying the same discounting methods described above and in Mr. Gibbons
17 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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19 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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21 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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23 100% assessment should be no more than \$29,429.68. Anything more would permit the
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25 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
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27 place and providing benefit, and ignore the risks, construction disamenity, and time value of
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29 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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31 would counsel that the assessment should be only 39.2% of that assessment cap, or
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33 \$11,536.43.
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36 Attachment B includes two Excel spreadsheets applying these discounting methods
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38 to Taxpayer's assessment. It is undisputed that special benefits will not actually accrue until
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40 the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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42 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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44 present value would reduce Taxpayer's assessment to \$41,998, exclusive of any other flaws
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46 in the City's proposed assessment. The second spreadsheet shows even more drastic
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1 reductions after taking into account: discounting to present value for 5 years (*i.e.*, from 2024
2 when the City anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029
3 to account for the time it takes for the improvements to capture property value). After such
4 reductions, Taxpayer's assessment would be just \$41,998 (for the 5-year discount) or
5 \$11,540 (for the 10-year discount). Neither of these spreadsheets address other issues raised
6 by Taxpayer's appeal, but are intended to help demonstrate how unfair and inflated the
7 City's proposed hypothetical assessment is. The Hearing Examiner's Recommendation
8 simply dismisses Taxpayer's discounting argument without legal or factual analysis; that
9 failure is error.
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19 **Appraisal and Assessment Calculation Methods Are Flawed**

20 26. The "general rule is that each lot, piece, or parcel of land should be assessed
21 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
22 Wn.2d at 97.
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26 27. It is proper to sustain a challenge to an assessment, even without the appraisal
27 testimony from the owner, where the objector's expert establishes that the assessment was
28 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
29 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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34 28. The City's appraiser purports to utilize the income method of valuation but
35 relied on inaccurate revenue and market data, as discussed further below.
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39 29. The City's appraiser purports to utilize the comparable sales method of
40 valuation, but no City witness attempted "to characterize any one, or all of them, as
41 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
42 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
43 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
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1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
6
7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
8

9 30. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
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16 Macaulay did not calculate the actual market value of LID properties in October 2019, and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 *see also* Hamel Decl., ¶¶ 11, 12 (explaining that for condos, the “first task” was to determine
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26 current values but not explaining how they included the value of the hypothetical “WITH
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28 WSDOT” Before Improvements); Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020);
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30 *see also* Gibbons 1/30/2020 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018
31
32 Letter (attached to Appeal Petition) at 3-4; Shorett Appraisal Review (attached to Appeal
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34 Petition) at 2-14. Without any documented basis or support, Mr. Macaulay simply “ma[de]
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36 a judgment a call” on what occupancy and rates would have been for the commercial
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38 properties assuming all of the WSDOT Improvements are completed as of 2019. Macaulay
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40 Depo. at 129:19-130:11. This outright omission precludes any independent evaluation of
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42 the true market “Before” values. *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet
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44 professional appraisal standards; if an appraiser uses current sales data to infer values, then
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46 the appraiser must explain how he analyzed that data and other information to come up with
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1 the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not
2 just removal of the viaduct, but also other road, pedestrian and landscaping improvements
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4 WSDOT had already committed to make.
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7 31. However, because Mr. Macaulay testified that he did include some WSDOT-
8 related value-lift in the “Before” values, it follows that part of the special assessment
9 improperly is based on value attributable to the WSDOT Improvements. As shown by
10 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
11 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
12 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
13 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
14 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
15 to properly exclude the value of Before Improvements from the assessments. For these
16 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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18 Sections II.19, II.29, and IV.B.11(a)(ii)
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28 32. Special benefits were assigned rather than measured. ABS applied a uniform
29 special benefit percentage to every unit within a condominium building, notwithstanding
30 individual differences among the units. For example, he relied solely on King County
31 Assessor data for information regarding each condo, but for Taxpayer’s property, there was
32 no information about views.⁶ Incredulously, at the same time he insisted that the After value
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40 ⁶ There was no information about views from (1521 2nd Avenue Units 3800 and 3802, CWF-
41 0430 and CWF-0431) on King County Assessor’s site even though there are significant views from
42 these properties. *See*
43 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>;
44 <https://blue.kingcounty.com/Assessor/eRealProperty/Detail.aspx?ParcelNbr=2538831480>. This is
45 problematic given that other objectors’ cross-examinations—in particular regarding the Waterfront
46 Landing condos—effectively demonstrated that ABS Valuation made incorrect assumptions about
47 views for a significant number of properties. *See, e.g.,* 6/25/2020 Hrg. Tr. at 87:18-88:1; 89:7-91:23;

1 for each condo was calculated “parcel-by-parcel” and that the special benefit percentage was
2 simply a reflection of the difference between Before and After values. In fact, there is no
3 real way to check this work or verify his methods because the analysis does not exist either
4 within his report or in the backup data. However, the simple fact that every single condo
5 within a building received the exact same special benefit percentage increase is evidence
6 enough that Mr. Macaulay did not make an individual parcel-by-parcel special benefit
7 analysis. *See* Gibbons Decl. ISO Closing Stmt., ¶ 6 (dated 7/7/2020).
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14 33. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections II.19, IV.B.11(a)(iii), and IV.C.15.
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18 34. Special benefit falls within margin of error. The Final Special Benefit Study
19 applies an estimated value enhancement of less than 4%, which is generally within the
20 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
21 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
22 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
23 of one another, this difference is considered reasonable as it falls within the standard margin
24 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
25 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay’s micro-special benefit
26 percentages fall far below that 5% margin, “there is no way of authenticating” such
27 incremental changes because “[m]arket forces completely obliterate any tiny little noise
28 factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
29 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25.
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44 95:2-10; 97:2-99:14; 100:24-101:13 (for the Waterfront Landing, ABS Valuation did not discount
45 for view blockages in the Before condition as a result of the Pine Street Connector and instead
46 simply assigned per square foot values in \$25 increments based on incorrect assumptions about
47 corner units and units on higher floors).

1 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
2
3 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
4
5 appraiser to discern the micro-value differences between hypothetical conditions that are so
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7 similar (the WSDOT improvements compared to the LID improvements) “verges on being
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9 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.

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11 35. Even if it were possible to accurately tease out such a miniscule hypothetical
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13 value change due to improvements coming five years later, experts testified that there is no
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15 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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17 what he felt the changes (hypothetically) would be. See 3/12/2020 (J. Gordon) Hrg. Tr. at
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19 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at
20
21 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
22
23 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
24
25 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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27 36. No analysis of value increase attributable to individual components of the
28
29 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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31 percentage difference between hypothetical Before and After conditions. Throughout his
32
33 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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35 descriptions in the Addenda even though he testified that he relied on these to calculate
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37 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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39 someone might be able to determine how he attributed value to After conditions described in
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41 the Addenda, he answered that that was “not the scope of the assignment” because he was
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43 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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45 that the six components were not actually a continuous project, that he was viewing them
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47 together because the City asked him to, and that if he were to view them independently,

1 there was a low probability that properties in the north would specially benefit from
2 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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4 37. Not only did he fail to analyze benefits from each of these non-contiguous
5 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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7 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
8 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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10 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
11 objectives that guided regulators' assessment of architectural plans for buildings along a
12 "signature street" were so vague that they amounted to ad hoc review based on the
13 regulators' subjective impressions and feelings).⁷ It became clear through his testimony that
14 even though he used the renderings as "visual aid[s] in appraising the property in the before
15 and after" to "visually see what the differences would be," he could not explain what
16 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
17 when shown a rendering of a two-lane road going down to one-lane in the After condition
18 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
19 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
20 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
21 could explain the depiction of the same trees in the After condition nearly twice as tall as in
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41 ⁷ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
2
3 of the Examiner’s Recommendation: II.27 and IV.B.4.

4
5 38. Special assessment is not supported by comparable studies, data or reports.
6
7 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
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9 that the LID Improvements will lead to meaningfully increased real estate values for
10
11 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
12
13 comparable sales or information from the “over twenty-five studies and reports” to arrive at
14
15 very precise special benefit increases for the residential condominiums, including
16
17 Taxpayer’s property. For example, although Mr. Macaulay stated that no single report or
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19 study was directly on point due to the unique nature of the LID Improvements (*see, e.g.,*
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21 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments
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23 in his parcel-by-parcel analysis other than to say that the studies generally provided “some
24
25 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
26
27 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
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29 similarities and differences between these improvements and the comparable parks he
30
31 looked at).

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33 39. Ms. Hamel also explained that after considering the “over 25 studies and
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35 reports” as background, ABS concluded that there was “no consensus among the many
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37 reports reviewed as to a set block or foot radius that should be utilized.” Hamel Decl. at ¶
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39 33. So, they “took that information and calibrated it to the LID improvements and
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41 conditions in Seattle[.]” *Id.* However, there is no analysis and no documentation on how
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43 general principles articulated in the studies translated into specific property value increases.
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45 ABS does not explain what the studies indicate should be an outer limit on impacts to
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1 property value, and do not explain *how* the different streetscape and “park-like” elements
2 were treated—only that they were treated differently.
3

4 40. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
5 assignment of incremental increase of 0.5% to 4% to property values within the LID.
6
7 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
8 research misinterprets his work in critical ways, including because the LID Improvements
9 manifest the characteristics of a parkway (not a park), and his research indicates that most of
10 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
11 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
12 related value increases are in fact smaller; that estimated increases are “best guesses” rather
13 than predictions of property value increases in a particular city; and that percentages do not
14 account for diminishing returns after taking into account water views, which would be the
15 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
16 topography grants most properties in downtown a water view.
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18 41. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
19 that this was just one source of information that was not entirely relevant because, among
20 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
21 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
22 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
23 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
24 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
25 Crompton concluded that 500 feet via road from “park” improvements is just one or two
26 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
27 significantly beyond that which the park study indicated (even if it was legitimate to use the
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1 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
2 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
3 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
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5 Taxpayer’s property is not within 500 road network feet from the “park” improvements. *See*
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7 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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10 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
11 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
12 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
13 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
14 materials, it was clearly an important—if not *the* most important—source of information for
15 estimating special benefits (especially with respect to the condos).⁸ No City witness
16 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
17 parcel-by-parcel analysis.
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20 43. Ms. Hamel’s testimony that Crompton’s report is “one of the first studies to
21 look at various correlations between parks and real estate values” and that “his study was
22 cited in many of the research studies and economic reports we reviewed” suggests that
23 without this study, ABS would have little to no basis for the special benefit estimates for
24 condos. Hamel Decl. at ¶ 37 (dated 6/26/2020).
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27 44. The destination parks discussed in the Final Special Benefit Study do not
28 provide reliable, comparable, and valid support for the calculation of special assessments
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42 ⁸ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
2 critique of every case study cited concludes the changes to those “dwarf the difference
3 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
4 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
5 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
6 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
7 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
8 funded by a LID. And in virtually all of those cases, the park improvements dramatically
9 restored unimproved or blighted areas, and properties evaluated were within two or three
10 blocks of the park.

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21 45. ABS’s claimed reliance on three economic studies to support property value
22 increase is also flawed. The HR&A study does not inform what value increases are
23 expected from the LID Improvements because it projects increases to tourism from *all* of the
24 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
25 dissimilar parks in other cities,⁹ making the methodological application to the LID
26 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
27 conclusion that there would be *no new net visitors* from downtown residents as a result of
28 the LID Improvements and could not explain how this impacted his condo analysis.

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37 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
38 Property Values” primarily focused on whether the benefits accrue to the larger community
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43 ⁹ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 rather than properties adjacent to the park. And the 2014 New York City Department of
2 Transportation study is not based on real estate transactions and market sales and fails to
3 substantiate any link between increased retail sales and property values. Moreover, this
4 study only looked at impact either directly abutting the streetscape improvement, or a couple
5 hundred feet for plaza-like improvements.
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10 46. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
11 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
12 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
13 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
14 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
15 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
16 asked whether he considered that HR&A's estimated LID impact is six times greater than
17 TPL's assessment of Seattle's entire park system, his surmised that it was because the
18 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
19 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
20 assumptions to account for this difference, which may be partly explained by the fact that
21 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
22 approximately 3.44% of King County tourists visit Seattle primarily because of the city
23 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
24 waterfront improvements.
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40 47. Although proximity to the improvements is a key factor in all of these
41 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
42 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
43 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
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1 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
2 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
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4 Improvements is approximate 20 acres and it is not a community park.¹⁰
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7 48. There is no explanation in the Final Study or the supporting materials of how
8 the studies or comparable sales were used to derive values for Taxpayer's property. For
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
10 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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14 49. Failure to comply with USPAP. Taxpayer's assessment also rests on a
15 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
16 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
17 recognized) for developing the MAI standards for mass appraisals, testified that the Final
18 Study does not meet mass appraisal standards nor allow for independent assessment of the
19 accuracy of Mr. Macauley's conclusions.
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23 50. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
24 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
25 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
26 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
27 testimony suggests that he incorrectly believed that the only difference between direct
28 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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44 ¹⁰ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
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3 Gordon uses in doing his limited restricted report”).

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5 51. But the difference is not only in reporting—mass appraisal techniques must
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7 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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9 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
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11 parcel approach:

12 The mass appraisal technique is an appraisal method used to evaluate
13 a group of properties that are subject to similar market forces as of a
14 certain date through the use of market data, statistical analysis and
15 testing. As a result, the mass appraisal technique does not require or
16 involve analysis of each individual property’s specific data.
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19 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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22 52. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
23 universe of properties as a given date using standard methodology, employing common data,
24 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
25 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
26 model” is “a mathematical expression of how supply and demand factors interact in a
27 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
28 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
29 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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38 53. Regardless of client direction, Mr. Macaulay is required to comply with
39 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
40 economically feasible because it would have taken “an incredible amount of time and cost”
41 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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1 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
2 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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5 54. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
6 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
7 value, fails to calibrate the model structure to determine the contribution of the individual
8 characteristics affecting value, and does not review the mass appraisal results against actual
9 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
10 217:1;¹¹ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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15 55. Mr. Macaulay explained that factors like “aesthetic change in the area, the
16 proximity to the elements, the increase in market rent, market vacancy changes,
17 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
18 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
19 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
20 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
21 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
22 internal review process. *Id.* at 104:24-105:20. There is no documentation of the “internal
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35 ¹¹ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36 relationship between characteristics that affect value, and to calibrate that model to specify how
37 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
38 21). The purpose is to rationally determine what characteristics will create value, and by how much.
39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 review process” for the condos. 6/25/2020 Hrg. Tr. at 165:13-18. And because both the
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3 Before and After values were hypothetical, it was not possible to identify matched pair sales
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5 and no City witness explained how ABS Valuation made adjustments to “comparable” sales
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7 in order to check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6
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9 which requires him to explain his model structure.

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11 56. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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13 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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15 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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17 and appeals the Examiner’s denial of that motion.

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19 57. Finally, Taxpayer’s property is not appurtenant—or even in close
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21 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
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23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
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25 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
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27 property is not even within 500 road network feet from the core park improvements. And,
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29 as described above, the special assessment is overstated because the Final Study makes no
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31 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
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33 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
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35 improvements were not in in place—and, in fact, much of the waterfront is a construction
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37 zone following removal of the viaduct and now Pier 58 demolition. Under these
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39 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
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41 Mr. Macaulay at the very least should have discounted the special benefit estimates or
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43 waited to perform the Study until the improvements were at least close to complete.
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Erroneous Pre-Improvement Valuation

58. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's property.

59. The City's Final Study was used to compute the proposed final assessment of Sound Vista's property. The City's Study purportedly uses data from the King County Department of Assessments,¹² but the pre-improvement valuation information in the Final Study does not accurately reflect this data. Instead, the Final Study's "Market Value Without LID" values for properties differ from the Assessor's data drastically in some cases and less so in others with no apparent reason for this variation. This wide variation demonstrates that the Final Special Benefit Study is flawed because its pre-improvement valuation lacks proportionality and is not properly based on market data. The Final Special Benefit Study does not explain this difference—or any differences—between its pre-improvement valuation and its supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's Recommendation.

60. Thus, aside from multiple other reasons why computation of the special benefits was flawed (discussed further below), the assessment is based incorrectly on pre-improvement values that do not accurately reflect market data. For these reason, Taxpayer appeals the following portions of the Examiner's Recommendation: Section III at p. 106.

Erroneous Computation of Special Benefit

61. "Special benefit" is "the increase in fair market value attributable to the local improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property

¹² See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet (providing a "County Link" to the King County Department of Assessment's online "eReal Property" search tool).

1 may receive by reason of the improvement is not measured alone by the physical character
2 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
3 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
4 the particular tract or property benefited by the entire improvement, and is it assessed
5 proportionately with the other property included within the assessment district?” *Id.* 165–
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12 62. The proposed final assessment erroneously overstates the special benefit of
13 LID improvements in a number of ways.
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16 63. The City’s Study computed the proposed final assessment by multiplying the
17 market value of the property without the LID improvements by 3.00%, which the City
18 contends represents the estimated special benefit of the LID improvements applicable to all
19 condo owners in Sound Vista’s building. However, there is no analysis and no
20 documentation on how general principles articulated in the studies translated into the
21 specific property value increase for Taxpayer’s property.
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28 64. It also bears noting that any “internal review” of the special benefit estimates
29 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
30 error. Indeed, given all the same information, he seemed to suggest that it would be
31 perfectly reasonable for another experienced appraiser to come up with special benefit
32 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
33 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
34 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
35 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
36 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
37 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
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1 reasonable and unreasonable variations within the appraisal field. *See* Examiner's
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3 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
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5 special because it is arbitrarily assigned; and it is too small to realistically be supported by
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7 appraisal techniques.

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9 65. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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11 any seller or purchaser that the price was higher because of the LID improvements.”
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13 *Bellevue Plaza, Inc*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser “has not
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15 identified any seller or buyer, or any particular property where the existence of the LID
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17 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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19 explained that the property has not increased rental rates or revenue due to the forthcoming
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21 LID Improvements, because, among other reasons (and apart from COVID), the
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23 improvements ABS believes will generate value do not exist, and will not for a number of
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25 years to come. There are no comparable sales because the LID Improvements are not in
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27 place, nor will they be until the end of 2024 if completed on schedule.

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29 66. The fair market value of Sound Vista's property has not changed due to
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31 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
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33 benefited from installation of new water main and fire hydrant where it was already
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35 adequately supplied with water and afforded adequate fire protection). And in any event,
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37 any value attributable to removal of the viaduct was to be excluded from the assessment
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39 calculation.

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41 67. There is no special benefit because LID improvements in fact diminish the
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43 value of Sound Vista's property by increasing vehicle traffic, pedestrian traffic, and
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45 additional security challenges. *See Kusky*, 85 Wn. App. 493 (testimony of owners' expert
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1 that LID actually diminished value of property was sufficient to rebut presumption that
2 assessment was proper).

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5 68. Moreover, the assessment formula is an attempt to distribute costs that do not
6 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
7 “merely a mathematical model that distributes costs”).
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11 69. The Special Benefit Study fails to address whether the \$346,000,000
12 estimated LID project cost takes into account the investment that would have occurred in the
13 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
14 invested. This is a critical component of estimating which properties receive a direct benefit
15 from the improvements, versus more incidental benefits further from the park.
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21 70. The proposed final assessment substantially exceeds the special benefit to the
22 property and is grossly disproportionate to similarly situated properties within the LID. For
23 these reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
24 Sections II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.15.
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28 **State Environmental Policy Act and Other Environmental Permitting**

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31 71. While this appeal is not challenging the City’s environmental review and
32 permitting processes, those processes are relevant in determining the legality of the
33 assessments, and to assessing the delivery risk, the present value of the City’s plans, and
34 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
35 pursue projects that have not yet undergone environmental review (thus limiting the choice
36 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
37 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
38 is just beginning. Further, the City has segmented environmental review, and still has a
39 gauntlet of federal, state and tribal review processes to complete before it will be clear what
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1 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
2 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
3 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
4 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
5 committing to reconstruction of Pier 58 and major street improvements without
6 environmental review, or the City's Final Special Study has improperly included and is
7 proposing to assess the Taxpayer the costs and special benefits of improvements that may
8 not get built. Either way, it is faulty process.
9

10 **Due Process Rights**

11 72. The City's failed to notify Sound Vista sufficiently in advance of the hearing
12 to allow Sound Vista to obtain evidence and prepare to properly challenge the assessments.
13 Because LID assessments involve a deprivation of property, affected owners have the right
14 to a hearing as to whether the improvement resulted (or will result) in special benefits to
15 their properties and whether their assessments are proportionate, which necessarily includes
16 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
17 555, 569–70, 229 P.3d 761 (2010).
18

19 73. The LID statute specifies that cities must mail notices giving the time and
20 place of the hearing to the affected owners "[a]t least fifteen days before" the hearing and
21 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
22 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
23 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
24 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
25 secure their own appraisal), evaluate proportionality of the proposed assessments, and
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1 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
2 for anybody to get an appraisal”).

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4 74. The City’s Notice of Assessment was sent on December 30, 2019. And the
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6 Final Special Benefit Study has only been available for public review since January 7, 2020.
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8 Due to this short time frame, Sound Vista requested a prehearing conference and scheduling
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10 order that would preserve and protect Sound Vista’s right to analyze and respond to the
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12 Final Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
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14 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
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16 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
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18 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
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20 the Examiner’s Recommendation: I.B.
21

22 23 **VII. Relief Requested**

24 Sound Vista respectfully requests that the City Council:

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26 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
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28 and
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30 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
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32 assessment dated December 30, 2019; or
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34 b. Revise Taxpayer’s Waterfront Local Improvement District No. 6751
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36 proposed final assessment to \$0 (zero), or such amount as Taxpayer
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38 establishes at the hearing in this matter; or
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40 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
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42 and reduce Taxpayer’s assessment using recognized appraisal techniques
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44 consistent with USPAP and:
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- 1 i. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
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4 ii. Taking into account the effects of the COVID-19 pandemic on the
5 value of Taxpayer's property and other relevant developments since
6 October 2019;
7
8 iii. Accounting for and excluding (1) any special benefits from existing
9 or planned improvements that already provide similar benefits to
10 Taxpayer's property, and (2) any special detriments from construction
11 and other anticipated LID-related disamenities;
12
13 iv. Accounting for and including only those actual benefits anticipated to
14 accrue to Taxpayer's property based on its location relative to Pier 58,
15 Overlook Walk, and the Promenade, and specific elements of the LID
16 Improvements;
17
18 v. Discounting anticipated special benefits to present value, based on
19 reliable estimates regarding when special benefits will start accruing
20 following completion of the LID Improvements; and
21
22 vi. Accounting for such other issues specific to Taxpayer's property
23 relevant to calculation of such assessment; and
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37 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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PERKINS COIE LLP

5 By: 

6 R. Gerard Lutz, WSBA No. 17692

7 [JLutz@perkinscoie.com](mailto:RLutz@perkinscoie.com)

8 Megan Lin, WSBA No. 53716

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25 Attorneys for SOUND VISTA PROPERTIES
26 LLC
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FILED

4:25 pm, Tue, February 16, 2021

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0435
Date: Tuesday, February 16, 2021 3:59:21 PM
Attachments: [Sound Vista Amended LID Appeal before City Council CWF 0435.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Sound Vista Amended LID Appeal before City Council CWF 0435.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
18

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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0430 and
CWF-0431

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON SOUND VISTA
PROPERTIES LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
6094680050

33
34 **SOUND VISTA PROPERTIES LLC (“Taxpayer”)** files this amended appeal
35
36 pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution
37
38 31915, City of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk
39
40 dated December 30, 2019, the notice of the Seattle Office of the City Clerk dated February
41
42 1, 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
43
44 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
45
46 Recommendation issued February 1, 2021.
47

1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 SOUND VISTA PROPERTIES LLC
6 PO Box 1607
7 Bellevue, WA 98009-1607
8
9

10 **II. Taxpayer's Representatives**

11 SOUND VISTA PROPERTIES LLC representatives in this matter are:

12
13
14
15 R. Gerard Lutz, WSBA No. 17692
16 JLutz@perkinscoie.com
17 Perkins Coie LLP
18 10885 N.E. Fourth Street, Ste 700
19 Bellevue, Washington 98004
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26523
RMahon@perkinscoie.com
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

23 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

24
25 SOUND VISTA PROPERTIES LLC is the taxpayer for the property that is subject
26
27 to the proposed final assessment described in Section IV.
28

29
30 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
31
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34
35 objection to the assessment, which was based on the Final Study. Taxpayer further timely
36
37 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
38
39 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
40
41 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
42
43 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
44
45 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
46
47

1 as authorized by the Hearing Examiner, including without limitation all records pertaining to
2 the November 2020 through February 2021 remand hearing ordered by Council.
3

4
5 **IV. Amended Arguments on Appeal**

6 SOUND VISTA PROPERTIES LLC supplements its appeal of the Hearing
7 Examiner's recommendation to deny Taxpayer's objection to the City of Seattle's
8 Waterfront Local Improvement District No. 6751 proposed final assessment dated
9 December 30, 2019 against the following property:
10
11
12

13 King County Parcel No. 6094680050
14 Site Address: 1321 1st Ave, Seattle, Washington
15 Proposed Final LID Assessment for Parcel: \$122,411.85
16
17
18

19 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
20 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
21 amended appeal.
22
23

24
25
26 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
27 **Discounted to Present Value and Assessments Adjusted as Appropriate**
28

29 On remand, the City's appraiser acknowledged that special benefits to parcels can be
30 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
31 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
32 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
33 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
34 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
35 accepted that recommendation. The City's appraiser further acknowledged that benefit
36 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
37 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
38 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
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1 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
2
3 calculations to present value because the general benefits are not anticipated from the LID
4
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6
7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
8
9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
10
11 benefit calculation, and related assessments, to account for the delay between the assessment
12
13 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
14
15 standard appraisal practice, and renders the other proposed Waterfront LID special
16
17 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
18
19 “fundamentally wrong methods.”

20
21 All special benefit taxes assessed by a municipality must be based on “actual,
22
23 physical and material [special benefits that are] not merely speculative or conjectural.”
24
25 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
26
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
28
29 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
30
31 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
32
33 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
34
35 discount benefits the City estimated would accrue to the properties from improvements to be
36
37 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
38
39 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
40
41 property while treating all or most others (including Taxpayer’s) differently, and
42
43 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
44
45 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
46
47 for some properties because the benefits are too distant, while assessing other properties as

1 though distant benefits have already been secured. As Taxpayer identified in its September
2
3 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
4
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8
9 reject the improper calculation of the benefit or remand and require the appraiser to discount
10
11 the benefits to net present value.

12
13 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
14 **Downtown Property Owners and other Material Changes Since October**
15 **2019, the LID Should be Cancelled, or at Least Assessments**
16 **Recalculated, to take Into Account Property Value Reductions**

17
18 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
19
20 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
21
22 other relevant developments since October 2019." When Washington's first COVID
23
24 restrictions were imposed in March and April 2020, there was an assumption that they
25
26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
27
28 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
29
30 for another 5 years. Retail stores are boarded up. Residential property values are also down.
31
32 Homelessness and related challenges have gotten much worse. The City has already
33
34 imposed higher minimum wages and taxes on businesses to try to fund recovery. The West
35
36 Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58,
37
38 instead of the vibrant waterfront park hypothesized in the City's appraisal to exist as of
39
40 October 2019, collapsed, and is several years from completion, as a best case. In current
41
42 circumstances, a downtown tax to fund new, non-essential park improvements against
43
44 financially strapped taxpayers, and likely passed through to financially strapped tenants and
45
46 customers would be unfair to taxpayers and a misallocation of city resources. COVID threw
47

1 everyone for a loop. But as the City rethinks its budget priorities for the next few years, and
2
3 its potentially funding sources, Taxpayer respectfully requests that the City dissolve the
4
5 assessment, at least until property owners and businesses have a chance to recover, and that
6
7 any assessment take into account the changed circumstances since this appeal process
8
9 started on February 4, 2020 to avoid unnecessarily and perhaps permanently killing
10
11 downtown properties and businesses in the name of bettering them.
12

13 **V. Relief Requested**

14
15 Particularly in light of the Committee's decision not to take further comment from
16
17 appellants, Taxpayer respectfully request that each Committee member carefully review the
18
19 full record transmitted to Council before voting on Taxpayer's appeal.
20

21 SOUND VISTA PROPERTIES LLC respectfully reiterates its request from the
22
23 September 22, 2020 appeal that the City Council:
24

- 25 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
26
27 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
28
29 final assessment dated December 30, 2019; or
30
31 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
32
33 proposed final assessment to \$0 (zero), or such amount as Taxpayer
34
35 establishes at the hearing in this matter; or
36
37 c. Remand the matter to the Hearing Examiner or City appraiser to
38
39 recalculate and reduce Taxpayer's assessment using recognized appraisal
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41 techniques consistent with USPAP and:
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43 i. Excluding any property value increase attributable to viaduct
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45 removal and other planned WSDOT Improvements;
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- ii. Taking into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019;
 - iii. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to Taxpayer's property, and (2) any special detriments from construction and other anticipated LID-related disamenities;
 - iv. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;
 - v. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and
 - vi. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and

37 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

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22
23 Attorneys for SOUND VISTA PROPERTIES
24 LLC
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4:04 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case Nos. CWF-0436 and 0437
Date: Tuesday, September 22, 2020 3:06:11 PM
Attachments: [CWF-0436 and 0437.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case Nos. CWF-0436 and 0437.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0436 and CWF-0437

A – Master List of Evidence

B - E-110-002 and E-111-001 Grand Hyatt

C – Discounting for CWF-0436 and CWF-0437

CWF-0436 and 0437 Appeal Notice for Grand Hyatt

Kimball Mullins | Perkins Coie LLP**SENIOR PARALEGAL**

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Grand Hyatt

Map Nos.	E-110-002, E-111-001
Tax Parcel Nos.	619500-0030 (70% of hotel), 679212-0010 (30% of hotel)
Property key:	9518, 4744
Address	721 Pine Street
Zoning:	DOC2 500/300-550
Proximity to park	Fronts on both Pike and Pine, 2,300± feet to park, 13-minute walk
Sales history:	N/A

Ownership/Description: Hedreen LLC (619500-0030), comprised of Air Unit in Northwest Block (16.70% of total land area, improved with 457-room hotel built in 2001 (SF of NRA).

Hedreen Hotel LLC (679212-0010). The 7-story Ground Unit of the North (70.97% of total site area) was platted into a 2-parcel condominium known as The Hotel Unit. The Hotel Unit is in portions of six of the seven floors, totaling 155,326 SF of building area.

INCOME ANALYSIS Before	Year Built	2001
	Rooms	457
	Parking	0

Revenues					
	Occupancy rate:	80.0%			
	Occupied rooms:	133,444			
Revenues					
Room revenue	133,444	occupied rooms @	\$355.00	per occupied room	
Food & beverage revenue	133,444	occupied rooms @	\$40.00	per occupied room	
Parking & other income	0	available stalls @	\$0.00	per day per stall	
Total revenues					
Less: Departmental expenses					
Rooms	133,444	occupied rooms @	29.0%	of room revenue	
Food & beverage	133,444	occupied rooms @	79.0%	of food & beverage revenue	
Parking & other	0	occupied rooms @	0.0%	of parking & other income	
Total departmental expenses					
Total departmental net income					

	GBA	NRA		
Retail rental income	20,400	20,400	SF NRA @	\$32.00
Other rental income	0	0	0 stalls @	\$0.00
Other rental income	0	0	SF NRA @	\$0.00
Total Bldg Area & Gross Income	474,946	381,702	SF NRA @	\$92.76

Less: Undistributed expenses				
Admin, marketing, utilities, maintenance, insurance @		\$20,000	per available room	
Franchise fees @	7.5%	of room revenue		
Management fee @	3.0%	of total revenue		
Real estate taxes				

Replacement reserve @	4.0%	of total revenue
Total undistributed expenses		
Total operating expenses	67.5%	of total revenue
Hotel net operating income		

Indicated Hotel Value

Land Value

Total land value	37.99%	33,352	SF @	\$1,800.00
Allocation to 619500-0030	16.70%	14,661	SF @	\$1,800.00
Allocation to 679212-0010	21.29%	18,691	SF @	\$1,800.00

Residual Improvements

		381,702	SF @	\$469.65
Allocation to 619500-0030	70.0%	226,376	SF NRA @	\$623.39
Allocation to 679212-0010	30.0%	155,326	SF GBA @	\$245.59

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,800.00	\$60,034,000	\$179,268,000	N/A
With LID				
Scenario A1	\$1,827.00	\$60,935,000	\$180,698,000	0.80%
Scenario A2	\$1,827.00	\$60,935,000	\$183,029,000	2.10%
Scenario B1	\$1,827.00	\$60,935,000	\$183,079,000	2.13%
Scenario B2	\$1,827.00	\$60,935,000	\$181,037,000	0.99%
Percent change in land value	1.50%		average \$181,961,000	1.50%

Overall Summary

Without LID	\$1,800.00	\$60,034,000	\$179,268,000	N/A
With LID	\$1,827.00	\$60,935,000	\$181,960,000	1.50%

Total Building Area	0	SF			\$0
Less: Vacancy & credit Loss @			8%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management @	6%	(EGI)		\$0	
Bldg. Maint/Reserve	0.20	/SF		\$0	
				\$0	
NET OPERATING INCOME					\$0
CAPITILIZED @			7.25%		\$0
				R	\$0
CAPITILIZED @			7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$60.00	=	\$0
	0	@	\$65.00	=	\$0

Residual Builing	\$0
	\$0

Grand Hyatt

Scenario A - Rate and Vacancy Changes

<u>Ownership</u>	<u>APN</u>	<u>Description</u>
Washington St Convention Center	619500-0020	Convention
Hedreen LLC	619500-0030	Hotel Unit (
Hedreen LLC	679212-0010	Hotel Unit (
7th & Pine LLC	678212-0020	Parking/Ret.

Condominium, comprising
319,620 SF of GBA and 226,376

West Block Condominium
known as Pine Street Condominium.
SF, comprising 30% of Ground

		INCOME ANALYSIS After	Year Built	2001
		Revenues		
		Revenues		
Room	\$47,372,620	Room revenue		
Food & beverage	\$5,337,760	Food & beverage revenue		
Parking & other income	\$0	Parking & other income		
Total revenues	\$52,710,380	Total revenues		
Less: Departmental expenses		Less: Departmental expenses		
Room revenue	(\$13,738,060)	Rooms	29.0%	of room revenue
Food & beverage revenue	(\$4,216,830)	Food & beverage	79.0%	of food & beverage re
Parking & other income	\$0	Parking & other	0.0%	of parking & other inc
Total departmental expenses	(\$17,954,890)	Total departmental expenses		
Total departmental net income	\$34,755,490	Total departmental net income		
per SF =	\$652,800	Retail rental income	GBA 20,400	NRA 20,400
per month	\$0	Other rental income	0	0
per SF =	\$0	Other rental income	0	0
/SF =	\$35,408,290	Total Bldg Area & Gross Income	474,946	381,702
		Less: Undistributed expenses		
		Admin, marketing, utilities, maintenance, insurance @		
		Franchise fees @	7.5%	of room revenue
		Management fee @	3.0%	of total revenue
		Real estate taxes		

	(\$2,108,415) (\$18,058,906) (\$36,013,796) \$17,349,384
Capitalized @ Indicated value (R) \$239,302,000 Per SF NRA Per room	7.25% \$239,301,844 \$626.93 \$523,637
per SF = per SF = per SF =	\$60,034,000 \$26,390,000 \$33,644,000
per SF = per SF = per SF =	\$179,268,000 \$141,121,000 \$38,147,000

Replacement reserve @	4.0%	of total revenue
Total undistributed expenses		
Total operating expenses		
Net operating income		
Indicated Hotel Value		
Land Value		
Total land value		33,352
Allocation to 619500-0030		14,661
Allocation to 679212-0010		18,691
Residual Improvements		
		381,702
Allocation to 619500-0030	70.00%	226,376
Allocation to 679212-0010	30.00%	155,326

Total Estimated Value	Special Benefit	% Change	Per Room	Per Parcel Summary
\$239,302,000	N/A	N/A		
\$241,633,000	\$2,331,000	0.97%	\$5,101	
\$243,964,000	\$4,662,000	1.95%	\$10,201	
\$244,014,000	\$4,712,000	1.97%	\$10,311	
\$241,972,000	\$2,670,000	1.12%	\$5,842	
				Improvement allocations
				Allocation to 619500-0030
\$239,302,000	N/A			Allocation to 679212-0010
\$242,895,000	\$3,593,000	1.50%	\$7,862	Totals

Total Building A	0	SF			\$0
Less: Vacancy & credit Loss	@	6%			\$0
Effective Gross Income					\$0
Less: Expenses					
Management	6%	(EGI)		\$0	
Bldg. Maint/Res	0.20	/SF		\$0	
				\$0	
NET OPERATING INCOME					\$0
CAPITILIZED	@	7.25%			\$0
				R	\$0
CAPITILIZED	@	7.50%			\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$63.00	=	\$0
	0	@	\$68.00	=	\$0

Residual Builing	\$0
	\$0

	<u>Land %</u>	<u>Land Area</u>	<u>GBA</u>	<u>NRA</u>
Center Unit	12.33%	10,825	96,175	96,175
70%)	16.70%	14,661	319,620	226,376
30%)	21.29%	18,691	155,326	155,326
ail Unit	49.68%	43,613	363,531	13,424
	100.00%	87,790	934,652	491,301
Hotel		33,352	474,946	381,702

			Low	High
Occupancy rate:			80.00%	80.00%
Occupied rooms:			133,444	133,444
			0.60%	1.20%
<u>Per Room</u>				
\$357.13			\$47,656,856	\$47,941,091
\$40.24			\$5,369,787	\$5,401,813
\$0.00			\$0	\$0
			\$53,026,642	\$53,342,905
			(\$13,820,488)	(\$13,902,917)
venue			(\$4,242,131)	(\$4,267,432)
ome			\$0	\$0
			(\$18,062,620)	(\$18,170,349)
			\$34,964,023	\$35,172,556
<u>Per SF</u>				
SF NRA @	\$32.19	\$32.38	\$656,717	\$660,634
stalls @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$93.32	\$93.88	\$35,620,740	\$35,833,189
\$20,000 per available room			(\$9,140,000)	(\$9,140,000)
			(\$3,574,264)	(\$3,595,582)
			(\$1,590,799)	(\$1,600,287)
			(\$1,676,233)	(\$1,676,233)

			(\$2,121,066)	(\$2,133,716)
			(\$18,102,362)	(\$18,145,818)
			(\$36,164,982)	(\$36,316,167)
			\$17,518,377	\$17,687,371
Capitalized @			7.25%	7.25%
			\$241,632,792	\$243,963,739
(R)			\$241,633,000	\$243,964,000
Per SF NRA			\$633.04	\$639.15
Per room			\$528,737	\$533,838
% change			0.97%	1.95%
SF @	\$1,827.00	per SF =	\$60,935,000	\$60,935,000
SF @	\$1,827.00	per SF =	\$26,786,000	\$26,786,000
SF @	\$1,827.00	per SF =	\$34,149,000	\$34,149,000
SF @	\$473.40	\$479.51	\$180,698,000	\$183,029,000
SF @	\$628.85	\$636.06	\$142,357,000	\$143,989,000
SF @	\$246.84	\$251.34	\$38,341,000	\$39,040,000

1.50%

	<u>E110-002</u>	<u>E111-001</u>	<u>Totals</u>
Without LID	\$167,511,000	\$71,791,000	\$239,302,000
With LID	\$170,026,000	\$72,869,000	\$242,895,000
Special benefit	\$2,515,000	\$1,078,000	\$3,593,000
% difference	1.50%	1.50%	1.50%

Before	A1	% change	A2	% change
\$141,121,000	\$142,357,000	0.88%	\$143,989,000	2.03%
\$38,147,000	\$38,341,000	0.51%	\$39,040,000	2.34%
\$179,268,000	\$180,698,000	0.80%	\$183,029,000	2.10%

Grand Hyatt**Scenario B - OAR Changes**

INCOME ANALYSIS After		Year Built	2001
Potential Gross Income			
Revenues			
Room revenue	133,444	occupied rooms @	\$355.00 per occupied room
Food & beverage revenue	133,444	occupied rooms @	\$40.00 per occupied room
Parking & other income	0	available stalls @	\$0.00 per day per stall
Total revenues			
Less: Departmental expenses			
Rooms	29.0%	of room revenue	
Food & beverage	79.0%	of food & beverage revenue	
Parking & other	0.0%	of parking & other income	
Total departmental expenses			
Total departmental net income			
	<u>GBA</u>	<u>NRA</u>	
Retail rental income	20,400	20,400	SF NRA @ \$32.00 per SF =
Other rental income	0	0	stalls @ \$0.00 per month
Other rental income	0	0	SF NRA @ \$0.00 per SF =
Total Bldg Area & Gross Income	474,946	381,702	SF NRA @ \$92.76 /SF
Less: Undistributed expenses			
Admin, marketing, utilities, maintenance, insurance @			\$20,000 per available room
Franchise fees @	7.5%	of room revenue	
Management fee @	3.0%	of total revenue	
Real estate taxes			

Replacement reserve @	\$0.04	of total revenue			
Total undistributed expenses					
Total operating expenses					
Net operating income					
Indicated Hotel Value					
				Capitalized @	
				Indicated Value	
				(R)	
				Per SF NRA	
				Per room	
				% change	
Land Value					
Total land value		33,352	SF @	\$1,827.00	per SF =
Allocation to 619500-0030		14,661	SF @	\$1,827.00	per SF =
Allocation to 679212-0010		18,691	SF @	\$1,827.00	per SF =
Residual Improvements		381,702	SF @	\$479.64	\$474.29
Allocation to 619500-0030	70.0%	226,376	SF @	\$636.22	\$629.90
Allocation to 679212-0010	30.0%	155,326	SF @	\$251.44	\$247.50

Improvement allocations	Average	% change	B1	% change
Allocation to 619500-0030	\$143,241,000	1.50%	\$144,024,000	2.06%
Allocation to 679212-0010	\$38,720,000	1.50%	\$39,055,000	2.38%
Totals	\$181,961,000	1.50%	\$183,079,000	2.13%

		(\$2,108,415) (\$18,058,906) (\$36,013,796) \$17,349,384
Low	High	
7.11%	7.17%	
\$244,013,835	\$241,971,879	
\$244,014,000	\$241,972,000	
\$639.28	\$633.93	
\$533,947	\$529,479	
1.97%	1.12%	
\$60,935,000	\$60,935,000	1.50%
\$26,786,000	\$26,786,000	
\$34,149,000	\$34,149,000	
\$183,079,000	\$181,037,000	
\$144,024,000	\$142,594,000	
\$39,055,000	\$38,443,000	

B2	% change
\$142,594,000	1.04%
\$38,443,000	0.78%
\$181,037,000	0.99%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0436	NW Block Condo - Convention Center & Elliott Grand Hyatt Seattle	700 Pike Street	6195000030
CWF-0437	Pine Street Condo -- Elliott Grand Hyatt Seattle & Retail Parking/Retail	700 Pike Street	6792120010

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject	combined	\$3,593,000	34.29%
J	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$483,004

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0436	NW Block Condo - Convention Center & Elliott Grand Hyatt Seattle	700 Pike Street	6195000030
CWF-0437	Pine Street Condo -- Elliott Grand Hyatt Seattle & Retail Parking/Retail	700 Pike Street	6792120010

BEFORE		Appraiser	Value	
A	Final City Before Value	City	\$239,293,000	combined
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$168,400,000	combined, excl personal property
C	COVID 19 Discount and value		-12.5%	
D	(B*(1+C) unless no value for B, then A*(1+C)			
	Corrected FMV for Assessment		\$147,350,000	

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	combined	\$3,593,000		
H/A	As Percentage of Final City Before Value		1.502%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$2,212,470		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$758,726	\$208,472
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$297,421	\$81,721

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0436 and
0437

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON HEDREEN
HOTEL LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
6195000030 and 6792120010

33
34 Hedreen Hotel LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070,
35
36 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
37
38 Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
39
40 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
41

42
43 **I. Taxpayer / Appellant**

44 The Taxpayer filing this appeal is:
45
46

47 Hedreen Hotel LLC

1 217 Pine St. Suite 200
2 Seattle, WA 98101
3 Zahoor Ahmed
4 206-624-8909
5 ahmed@rchco.com
6

7
8 **II. Taxpayer's Representatives**

9 Taxpayer's representatives in this matter are:

10
11
12 R. Gerard Lutz, WSBA No. 17692
13 JLutz@perkinscoie.com
14 Megan Lin, WSBA No. 53716
15 MLin@perkinscoie.com
16 Perkins Coie LLP
17 10885 N.E. Fourth Street, Suite 700
18 Bellevue, Washington 98004
19 Telephone: 425.635.1400
20 Facsimile: 425.635.2400
21
22

23 Robert L. Mahon, WSBA No. 26523
24 RMahon@perkinscoie.com
25 1201 Third Avenue, Suite 4900
26 Seattle, Washington 98101
27 Telephone: 206.359.8000
28 Facsimile: 206.359.9000
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31 **III. Statement of Taxpayer's Interest**

32 Hedreen Hotel LLC is the taxpayer for the properties that are subject to the proposed
33 final assessment described in Section IV. These parcels together are the Grand Hyatt
34 Seattle, a 30-story hotel containing 457 guest rooms and 25,000 square feet of meeting
35 space.¹
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45 ¹ Mr. Gordon also explained that the building also includes a parking garage and retail space
46 which is a third parcel. But that is treated separately from the hotel in Case No. CWF-0438 (parcel
47 no. 6792120020).

1 The basis of the proposed assessment is a Final Special Benefit/Proportionate
2
3 Assessment Study for Waterfront Seattle Local Improvement District (“Final Study”), dated
4
5 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City’s
6
7 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
8
9 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
10
11 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
12
13 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
14
15 to exclude charges for other improvement projects in the Central Waterfront, and
16
17 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
18
19 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
20
21 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
22
23 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
24
25 because construction was not complete on the LID Improvements or the WSDOT
26
27 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
28
29 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
30
31 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
32
33 was based on the Final Study.

34 35 **IV. Matter Under Appeal**

36 Taxpayer appeals the Hearing Examiner’s recommendation to remand Taxpayer’s
37
38 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
39
40 final assessment dated December 30, 2019 against the following property:

41 King County Parcel No. 6195000030
42 Site Address: 700 Pike St. Seattle, Washington
43 Proposed Final LID Assessment for Parcel: \$985,276
44
45

46 *See* Examiner’s Recommendation at 61-62, 106.
47

1 Taxpayer also appeals the Hearing Examiner's recommendation to deny Taxpayer's
2 objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed
3 final assessment dated December 30, 2019 against the following property:
4

5
6 King County Parcel No. 6792120010
7 Site Address: 700 Pike St. Seattle, Washington
8 Proposed Final LID Assessment for Parcel: \$422,541
9

10 See Examiner's Recommendation at 61-62, 106.
11

12 Hedreen Hotel LLC owns real parcel nos. 6195000030 and 6792120010, which are
13 located at 700 Pike Street, Seattle, Washington and are the subject of Case Nos. CWF-0436
14 and CWF-0437. These properties are condominium units housing the Grand Hyatt Seattle.
15 For county property tax purposes, the properties are valued as a unit with 70% of the value
16 assigned to parcel no. 6195000030 and 30% of the value assigned to parcel no. 6792120010.
17 See Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 7. As John Gordon explained, the reason
18 there are two different case numbers for this hotel is because ownership of the hotel was
19 divided into the common areas of the hotel and the tower that houses the guest rooms.
20 4/13/2020 Hrg. Tr. at 91:15-92:9. But for all intents and purposes, it is a single hotel. For
21 this reason, both Mr. Gordon and ABS Valuation treated both parcels as a single
22 consolidated entity. *Id.*; see also Attachment B (ABS Spreadsheet). For this reason alone,
23 Taxpayer appeals the Hearing Examiner's recommendation to deny appeal CWF-0437
24 which is also part of the Grand Hyatt hotel. These cases should be treated together—
25 consistent with the appraisers' valuation—and both should be remanded.
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40 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
41 the Hearing Examiner into this appeal. In particular, Taxpayer points the City Council to
42 Taxpayer's initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its
43 case-in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close
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1 of the City's case-in-chief (dated 7/7/2020).² As discussed more fully below, Taxpayer
2 specifically appeals the following Findings and Recommendations in the Hearing
3 Examiner's September 8, 2020 Recommendation: Pages 61-62, 106, Sections II.6, II.7,
4 II.12, II.14, II.16, II.17, II.18, II.19, II.20, II.21, II.22, II.23, II.24, II.25, II.26, II.27, II.28,
5 II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7,
6 IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv),
7 IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14,
8 and IV.C.18.
9

10 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
11 recommendations on material issues raised during Taxpayer's appeal that were supported by
12 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
13 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
14 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
15 recommended anything other than denial of objectors' appeals were where the City's
16 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
17 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
18 special assessments based on "fundamentally wrong methods."
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20 The special benefit for which special taxes are assessed must be "actual, physical and
21 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
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² Because the City has not provided "metered index numbers," our appeals cannot reference them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated, citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors retained by Perkins Coie are part of this case file.

1 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
2 with the law, the assessments may not materially exceed the actual special benefit conferred
3 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
4 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
5 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
6 assessment. In this case, the proposed assessment fails each of the legal requirements for
7 special assessments and must be annulled as arbitrary or capricious, or founded on
8 fundamentally wrong methods.
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18 **Legal Requirement:** Actual, non-speculative special benefit

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20 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
21 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
22 October 2019 (they were not), and an “After” value purporting to assess the value of
23 properties with the LID improvements in place at least five years before anticipated
24 completion.
25
26

27 **Legal Requirement:** Cannot materially exceed the special benefit

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29 **ABS Study:** ABS calculates a special benefit of \$2,512,671 for parcel no. 6195000030
30 and \$1,076,724 for parcel no. 6792120010 for a total of \$3,589,395, assuming the LID
31 Improvements were in place and providing benefit in October 2019. However, the LID
32 Improvements will not be completed until the end of 2024 if the City meets its current
33 schedule, and many of WSDOT’s alternative improvements will not be built. The present
34 value of future improvements deliverable in five years is significantly lower than the
35 current value of improvements that already exist. Further, ABS’s own materials show that
36 benefits may not accrue for at least five years after they are completed, in 2029. If the
37 hypothesized special benefits are discounted to present value, the assessments materially
38 exceed the hypothesized special benefits.
39
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42 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID

43
44 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
45 prepared his Final Study in October 2019, and the City issued its preliminary roll in
46 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
47

1 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
2 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
3 and must be based on actual special benefits. While that does not mean ABS's appraisal
4 was wrong when completed, values and benefits need to be reanalyzed before assessments
5 are finalized in light of the unprecedented changes to the downtown real property market.
6

7
8 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
9 Assessment cannot include value attributable to future WSDOT Improvements.
10

11 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
12 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
13 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
14 the City's appraiser increased 2019 property market values as though WSDOT had
15 completed its work by 2019. The proposed assessment is against this hypothetical
16 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
17 higher than actual 2019 market values. The City is collecting an assessment against both
18 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
19 contravention of law and the City's promise not to impose an assessment based on the
20 value of viaduct demolition and the other components of WSDOT's planned work.
21
22

23
24 **Legal Requirement:** Benefits must be special, not general
25

26 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
27 due to the LID Improvements. However, the far-reaching and public nature of the
28 improvements make any benefit arising from them general—not special.
29

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31 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
32 or conjectural"
33

34 **ABS Study:** Not only are the improvements not yet "physical or material," but
35 environmental review and permitting for the City's proposed LID Improvements is not
36 complete, and the LID improvements are not anticipated to be complete until the end of
37 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
38 a manner consistent the City's then-current proposals, which were in many respects merely
39 conceptual designs.
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42 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
43

44 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
45 property (furniture, fixtures and equipment), but not personal property of other types of
46 property. It is not proportionate to assess against hotel personal property and not other
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personal property. Further, personal property is moveable, the value does not depend on location, and is likely to be fully depreciated and perhaps removed before the LID Improvements are in place. (Note also that personal property accounts are separate, and the City gave no notice of any LID assessment against personal property. The Examiner should have reversed personal property assessments on that basis as well.)

Legal Requirement: Must comply with appraisal standards

ABS Study: ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until the Examiner admonished ABS, ABS even asserted its analysis was "confidential and proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The Final Study fails to meet basic standards for admissibility and must be remanded.

Legal Requirement: Actual and measurable special benefit

ABS Study: ABS's proposed assessments are assigned rather than measured, as demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based on a host of "micro-judgments" that are not supported by any documentation, nor capable of replication or quality assurance/quality control. The assessments are undocumented, unreliable, and not supported by empirical studies, data, or reports.

Legal Requirement: Actual and measurable special benefit—Park benefits must be supported by empirical evidence

ABS Study: Dr. John Crompton, the world's preeminent expert regarding the economic value of parks and other public amenities and on whom ABS purported to rely, testified that ABS had completely misapplied his work and dramatically overstated both the distance to which economic benefits might extend from the LID Improvements and the extent of any anticipated benefit within the potentially benefited area.

Legal Requirement: Actual special benefit—Must take into account potential disamenities

ABS Study: The appraiser ignores the negative value impact of five years or more of construction, as well as other potential disamenities associated with public places.

Legal Requirement: Cannot prematurely commit to build

1 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
2 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
3 are being imposed. But finalizing the roll is a commitment by the City to build the
4 improvements, which is a violation of legal process and commits the City to build things it
5 may not secure permission to build.
6

7
8 In addition to these general objections, there are property-specific issues raised by
9 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
10 statement below.
11
12

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14 **V. Standard of Review**
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16 “When considering the assessment roll, the city council sits ‘as a board of
17 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
18 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
19 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
20 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
21
22

23 The proposed assessments are presumed correct, “unless overcome by clear, cogent
24 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
25 than the heightened presumption of correctness on judicial appeal because “applying these
26 elevated standards at the municipal hearing would afford unwarranted deference to a report
27 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
28 presumption is not evidence and its efficacy is lost when the other party adduces credible
29 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
30 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
31 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
32 presented credible evidence showing that the City’s proposed assessment is arbitrary,
33 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
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1 to the City to prove the assessments are actual, measurable, special, non-speculative and
2 proportionate. The City failed that burden.
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4 **VI. Grounds for Appeal**

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6 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
7 following grounds.
8
9

10 **Taxpayer Not Required to Provide A Special Benefit Study**

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12 1. Contrary to the Examiner's findings and recommendations, there is no
13 requirement that experts or property owners provide an alternative special benefit
14 calculation under these circumstances—to do so would also require the same improper
15 speculation the City's expert engaged in, given the timing and information provided. *See,*
16 *e.g.,* Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
17 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
18 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
19 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
20 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
21 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
22 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
23 provided expert opinion showing that improvements actually diminished value of the
24 property). In fact, no independent evidence is required at all if, for example, objectors show
25 that the assessment was grounded on a fundamentally wrong basis due to an error in the
26 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
27 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
28 a property owner could simply point out that the square footage assumed in the City's
29 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
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1 Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8,
2 and IV.C.11.
3

4
5 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

6
7 2. RCW 35.43.040 provides cities and towns authority for ordering local
8 improvements and for levying and collecting special assessments "on property specially
9 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
10 upon all the property in accordance with the special benefits conferred thereon." RCW
11 35.44.010.
12
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16 3. No analysis of general benefits. Special assessments have been "held valid
17 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
18 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
19 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
20 they are for the construction of local improvements that are appurtenant to specific land and
21 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
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25 4. Taxpayer's property is not specially benefited by the LID Improvements.
26 The primary purpose and effect of the LID Improvements are to benefit "members of the
27 whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public
28 library is for the benefit of the members of the whole community individually and
29 collectively who may be served by it"). Mr. Macaulay's own chapter of the LID Manual
30 states clearly that appraisers should "[c]onsider general benefits as well as special benefits"
31 (Hrg. Exhibit 117 (LID Manual) at 58³) and he admits that "general benefits probably accrue
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44 ³ "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
45 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
46 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
47 days of cross-examination of the City's witnesses (June 23, 25 and 26, 2020). For ease of reference,

1 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
2 that if an appraiser “identifies both general and special benefits, these benefits should be
3 clearly distinguished and explained, and only special benefits should be included in the
4 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
6 183:4; P. Shorett January 30, 2020 Appraisal Review (attached to Appeal Petition) at
7 Attachment p. 15 (explaining the examples in the Final Study only provide information
8 about general benefits and Study does not use proper measure of analysis to show special
9 benefits).

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19 5. It is undisputed that Mr. Macaulay did not analyze or measure general
20 benefits, including those arising from construction necessary to meet basic design standards.
21 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
22 construction costs related to meeting design standards which may be general benefits as
23 distinct from construction costs emanating from requirements of the LID project”). To the
24 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
25 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
26 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
27 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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35 6. LID Improvements not necessary. Unlike typical LID projects, the
36 Waterfront LID improvements are largely unnecessary to the functionality of any particular
37 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
38 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
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46 Taxpayer has attached a master list of the hearing exhibits and evidence as Attachment A to this
47 appeal notice.

1 held invalid where owners would have benefitted equally from increase of only 9 feet);
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3 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
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5 intersection for new water main for hydrant held invalid because land was already afforded
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7 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
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9 not necessary to their hotel business, which caters primarily to business travelers attending
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11 conventions and meetings and visiting Seattle companies. Hrg. Exhibit 114 (Decl. of Z.
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13 Ahmed) at ¶¶ 57, 64, 65. For this reason, the Grand Hyatt does not expect the LID
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15 Improvements to increase impact on demand for rooms or room rates. *Id.*

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17 7. The fact that there is no case law differentiating between binary
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19 improvements and parks does not change the law prohibiting assessments on properties
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21 already adequately served by existing amenities. *See* Examiner's Recommendation at
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23 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
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25 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
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27 reasoning excuse the City's failure to account for existing amenities as part of the special
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29 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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31 the incremental effect of new park improvements on the value of properties, much like
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33 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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35 (Crompton's Report) at 12-13.

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37 8. To the extent benefits can be considered "special" as opposed to general, they
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39 are nominal or nonexistent for many properties even in the Central Waterfront, which
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41 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
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43 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
44
45 change due to expansion of sewer service *near* owners' parcel which were already
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47 connected). Even if the City could assess for a view change (and it has promised not to

1 assess for viaduct removal), the fair market value of Taxpayer's property has not changed
2 because the LID Improvements have not improved the property's waterfront view or access
3 to the waterfront, nor will they when the City anticipates completion in 2024. For these
4 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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6 Sections IV.C.3, IV.B.9, and IV.C.3.
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10 9. No analysis of special detriments. The Final Study fails to properly account
11 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
12 owners for removal and cleanup of underground storage tanks discovered during the
13 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
14 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
15 of how lost parking might be a detriment, and no property-specific parking analysis in any
16 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
17 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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26 10. Likewise, there was no analysis of the risks associated with disamenities such
27 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
28 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
29 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
30 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
31 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
32 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.⁴ And if
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45 ⁴ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
2 the maintenance agreement. *Id.* at 13:4-14:2.

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5 11. There was also no consideration of negative impacts from another four-plus
6 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
7 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
8 law allowing him to dismiss these actual, non-speculative impacts. Because future special
9 benefits calculations are inherently speculative, Washington's eminent domain statute
10 specifically allows condemnees to postpone special benefits assessments until improvements
11 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
12 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
13 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
14 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
15 Greenway, the Greenway district "significantly" lagged in value).
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18 12. Meanwhile, Mr. Ahmed testified that the assessment is an immediate expense
19 for the Grand Hyatt that comes with no immediate increase in revenue, thereby decreasing
20 property values. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed), ¶¶ 65-67. Mr. Ahmed further
21 testified that the Grand Hyatt will receive no special benefit from the proposed
22 improvements, and in fact the property is more valuable without the proposed LID
23 improvements and the corresponding assessment. *Id.* For these reasons, Taxpayer appeals
24 the following portions of the Examiner's Recommendation: Sections II.25, IV.B.8, and
25 IV.B.9.
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28 13. Special benefit estimate is speculative. When calculating a special benefit,
29 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
30 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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4 14. Assuming without conceding that one day, the City’s planned LID
5 Improvements might increase the value of neighboring properties to some extent, that
6 potential benefit is many years away and speculative. While appraisers tolerate some degree
7 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
8 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
9 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
10 the level of precision implied in the Final Study due to the size of the LID and use of
11 hypotheticals).
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20 15. Although LIDs are sometimes finalized prior to completion of improvements,
21 this is typically just six month or a year prior, and the assessments are otherwise supported
22 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
23 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
24 will not be realized for four or five years. In the meantime, there is permitting risk,
25 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
26 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
27 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
28 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
29 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
30 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
31 market value would be as of the date the project would be finally constructed” because
32 “[t]here could be a lot of elements in the market that did occur between now and then that
33 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
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1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

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4 16. The record is clear that while no one can know what “special benefit” might
5 accrue to these properties in four years (if any), we do know that there are no actual benefits
6 now. The LID improvements provide no immediate special benefit to property owners
7 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
8 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
9 sewer system for future users). For example, notwithstanding the questionable hypothesis
10 that hotels will benefit from an expected increase in tourism (higher room rates or
11 occupancy) when the improvements are complete, it is undisputed that tourists are not
12 coming in larger numbers and paying higher room rates now because of something
13 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23.

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15 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
16 for the LID Improvements, and it is unlawful to move to final assessments without such
17 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
18 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
19 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
20 dollars on projects still early in the design process. *See* Washington Attorney General
21 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
22 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
23 of programs and included “only so much of the overall costs” that took place within and
24 benefitted the assessed properties).

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26 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
27 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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1 anticipated to be delivered five years later. Even before COVID, it was speculative to
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3 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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5 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
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7 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
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9 my analysis in October 2019, who would have thought that this COVID issue would
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11 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
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13 process was that the market was going to continue to go up”—in fact, it did not for
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15 Taxpayer’s property. *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that
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17 downtown hotel values had already dropped an estimated 10-15% from their October 2019
18
19 levels, and occupancy rates were at zero or in single digits. *See* Gordon Decl. (dated
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21 4/21/2020) at ¶ 9. Hotels without guests will derive no benefit, special or otherwise, from
22
23 the planned LID Improvements. And even assuming hotels recover prior to 2024, there is
24
25 no basis for assuming that values hypothesized in October 2019 will remain relevant; they
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27 are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020).
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29 Although COVID does not change actual values as of October 2019 (*see* Examiner’s
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31 Recommendation at 109), the pandemic has impacted *current* values and rendered the
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33 hypothetical October 2019 Final Study valuations outdated.

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35 19. As another example of how future events could affect the accuracy and
36
37 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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39 Examiner re-open the record to allow the City to explain whether the assessments against
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41 property owners within the LID are, in fact, being used by the City to fund the emergency
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43 dismantling and reconstruction of Pier 58.⁵ It has been reported that the City plans to use
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46 ⁵ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
47 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor->

1 LID funding to pay for the expedited, emergency repairs and replacement.⁶ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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11 20. There is also no certainty the improvements will be delivered on time. Mr.
12 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
13 delay in construction schedule would not constitute a “material change” under the City
14 Council’s ordinance authorizing the improvements. In other words, the City cannot
15 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
16 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
17 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
18 potential delays and project changes inherent in those processes, that call into question the
19 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
20 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
21 Decl., dated 4/15/2020).
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36 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
37 58 (Waterfront Park) Emergency Demolition Project, *available at*
38 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=)
39 [ry=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); see also Aug. 13, 2020 Ltr. from H.
40 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
41 *available at*
42 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
43 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).
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45 ⁶ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), *available at* [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
2 he could not point to a single one where the assessment roll was finalized five years in
3 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
4 he has never recommended final special assessments based on designs less than 30 percent
5 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
6 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
7 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
8 at 66:17-25. He performed no independent due diligence to determine the reliability of the
9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
10 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
11 agreed that if any of his assumptions are incorrect, his opinion of market value would need
12 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
13 68:11-18.

14 22. The City has cited no authority—and Taxpayer is aware of none—that
15 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
16 assess taxes for “actual” special benefits that will not accrue for another five years (if all
17 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
18 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
19 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
20 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
21 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
22 IV.C.14, and IV.C.18.

23 23. Failure to discount special benefit estimates to account for risks and present
24 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should

1 have accounted for risks associated with delivery of the improvements (including permitting
2 risk, construction risk, general economic risk) and any special damages associated with
3 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
4 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
5 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
7 the impact of future conditions [through] discounted cash flow analysis.”).
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15 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
16 future condition not in place at the date of valuation and can discount for the time value of
17 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
18 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
19 Discounting would also have been consistent with his approach for analyzing special
20 benefits to vacant land. He testified that the difference between similarly situated vacant
21 sites slated for development and already developed sites was that the labor, capital and risks
22 associated with development had not yet been borne for those vacant sites. Therefore, the
23 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
24 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
25 fully permitted, has not completed environmental review, and has not reached full design is
26 presently worth significantly less.
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38 25. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
39 present value, an appraiser would consider discount rates for land development to account
40 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
41 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
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1 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
2 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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5 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
6 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
7 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
8 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
9 ignoring momentarily all of the other methodological and other flaws discussed here and in
10 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
11 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
12 exceeds special benefits when reduced to present value. Further, to the extent the City is
13 arguing that because they are permitted to assess 100% of the special benefit, the special
14 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
15 is again wrong. After applying proper discounting, the City's proposed special benefit
16 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
17 100% of the total estimated special benefit.
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30 27. But even the assumption that the LID improvements would deliver benefits
31 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
32 on. Rather, those studies demonstrate that a discount period of five years is conservative.
33 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
34 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
35 indicates that during the construction period, the Greenway district "significantly" lagged in
36 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
37 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
38 30-31 (discussing New York City High Line and San Francisco Embarcadero
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1 improvements). Given the lengthy delay, any prediction of future special benefits is
2 speculative, especially during the construction phase where values are likely to decline.
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4 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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6 Improvements take a similarly long period of time after they are complete to start producing
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8 tangible property value benefits, each additional year of delay results in further discount to
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10 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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12 A.
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15 28. Applying the same discounting methods described above and in Mr. Gibbons
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17 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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19 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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21 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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23 100% assessment should be no more than \$338,121. Anything more would permit the City
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25 to assess Taxpayer based on a hypothetical assumption that these improvements are in place
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27 and providing benefit, and ignore the risks, construction disamenity, and time value of
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29 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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31 would counsel that the assessment should be only 39.2% of that assessment cap, or
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33 \$132,543.
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35 29. Attachment C includes two Excel spreadsheets applying these discounting
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37 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
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39 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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41 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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43 present value would reduce Taxpayer's assessment to \$483,004, exclusive of any other
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45 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
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47 reductions after taking into account: (1) Taxpayer's experts' estimated "Before" value based

1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
4 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
5 the time it takes for the improvements to capture property value). After such reductions,
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7 Taxpayer's assessment would be just \$297,421 (for the 5-year discount) or \$81,721 (for the
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9 10-year discount). Further, the spreadsheet concludes a "zero" benefit for this property
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11 because, based on Dr. Crompton's testimony, Taxpayer's property is more than 2,000 feet
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13 from the core "park" improvements and therefore too distant to receive any special benefit.
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15 Neither of these spreadsheets address other issues raised by Taxpayer's appeal, but are
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17 intended to help demonstrate how unfair and inflated the City's proposed hypothetical
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19 assessment is. The Hearing Examiner's Recommendation simply dismisses Taxpayer's
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21 discounting argument without legal or factual analysis; that failure is error.
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23

24 **Appraisal and Assessment Calculation Methods Are Flawed**

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26 30. The "general rule is that each lot, piece, or parcel of land should be assessed
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28 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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30 Wn.2d at 97.
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33 31. It is proper to sustain a challenge to an assessment, even without the appraisal
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35 testimony from the owner, where the objector's expert establishes that the assessment was
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37 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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39 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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41 32. The City's appraiser purports to utilize the income method of valuation but
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43 relied on inaccurate revenue and market data, as discussed further below.
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45 33. The City's appraiser purports to utilize the comparable sales method of
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47 valuation, but no City witness attempted "to characterize any one, or all of them, as

1 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
2 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
3 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
4 characterize any one, or all of them, as comparable to any particular property within the LID").
5 And no City witness could explain how specific adjustments were made to these sales to
6 account for value increases due to the hypothesized Before and After Improvements. For this
7 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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15 34. Special assessment improperly includes value lift from the Before
16 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
17 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
18 Improvements, which WSDOT had independently committed to fund. However, Mr.
19 Macaulay did not calculate the actual market value of LID properties in October 2019, and
20 did not separately analyze the hypothetical increase to property values attributable to
21 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
22 current value and then separately calculate a hypothetical "With WSDOT" Before value);
23 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
24 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
25 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
26 documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
27 occupancy and rates would have been for the commercial properties assuming all of the
28 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
29 outright omission precludes any independent evaluation of the true market "Before" values.
30 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
31 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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1 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
2 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
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4 other road, pedestrian and landscaping improvements WSDOT had already committed to
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6 make.
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9 35. However, because Mr. Macaulay testified that he did include some WSDOT-
10 related value-lift in the “Before” values, it follows that part of the special assessment
11
12 improperly is based on value attributable to the WSDOT Improvements. As shown by
13
14 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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16 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
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18 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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20 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
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22 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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24 to properly exclude the value of Before Improvements from the assessments. For these
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26 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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28 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)
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31 36. Special benefits were assigned rather than measured. Mr. Macaulay
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33 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
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35 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
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37 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 3/3/2020 (A. Gibbons)
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39 Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay
40
41 used to analyze the commercial properties, Taxpayer’s experts concluded that Mr. Macaulay
42
43 based adjustments on hypothesized very small increases to property revenue and very small
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45 reductions to cap rates to “calculate” an “After” value due to the coming 2024 LID
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1 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
2 based on “professional judgment” that are neither shown nor replicable.
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5 37. For these reasons, Taxpayer appeals the following portions of the Examiner’s
6 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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9 38. Special benefit falls within margin of error. The Final Special Benefit Study
10 applies an estimated value enhancement of less than 4%, which is generally within the
11 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
12 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
13 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
14 of one another, this difference is considered reasonable as it falls within the standard margin
15 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
16 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay’s micro-special benefit
17 percentages fall far below that 5% margin, “there is no way of authenticating” such
18 incremental changes because “[m]arket forces completely obliterate any tiny little noise
19 factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
20 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25.
21 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
22 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
23 appraiser to discern the micro-value differences between hypothetical conditions that are so
24 similar (the WSDOT improvements compared to the LID improvements) “verges on being
25 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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28 39. Even if it were possible to accurately tease out such a miniscule hypothetical
29 value change due to improvements coming five years later, experts testified that there is no
30 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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1 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
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3 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
8
9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 40. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
13
14 percentage difference between hypothetical Before and After conditions. Throughout his
15
16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
25
26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 41. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁷ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 42. Special assessment is not supported by comparable studies, data or reports.
25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for the commercial properties, including Taxpayer’s
30 property. For example, although Mr. Macaulay stated that no single report or study was
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41 ⁷ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
2 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
3 parcel-by-parcel analysis other than to say that the studies generally provided “some
4 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
5 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
6 similarities and differences between these improvements and the comparable parks he
7 looked at).

14 43. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
15 assignment of incremental increase of 0.5% to 4% to property values within the LID.
16 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
17 research misinterprets his work in critical ways, including because the LID Improvements
18 manifest the characteristics of a parkway (not a park), and his research indicates that most of
19 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
20 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
21 related value increases are in fact smaller; that estimated increases are “best guesses” rather
22 than predictions of property value increases in a particular city; and that percentages do not
23 account for diminishing returns after taking into account water views, which would be the
24 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
25 topography grants most properties in downtown a water view.

38 44. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
39 that this was just one source of information that was not entirely relevant because, among
40 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
41 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
42 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
4 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
5 significantly beyond that which the park study indicated (even if it was legitimate to use the
6 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
7 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
8 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
9 Taxpayer’s property is even not within 2,000 road network feet from the “park”
10 improvements. *See* Hrg. Exhibits 104 (Ellen Kersten Decl.) at Ex. E, F; 114 (Decl. of Z.
11 Ahmed) at ¶ 63.

12 45. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
13 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
14 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
15 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
16 materials, it was clearly an important—if not *the* most important—source of information for
17 estimating special benefits (especially with respect to the condos).⁸ No City witness
18 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
19 parcel-by-parcel analysis.

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⁸ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr. at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a park (or streetscape) improvement—other studies estimated premiums for real estate only much closer or cited to Dr. Crompton.

1 46. The destination parks discussed in the Final Special Benefit Study do not
2 provide reliable, comparable, and valid support for the calculation of special assessments
3 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
4 critique of every case study cited concludes the changes to those “dwarf the difference
5 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
6 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
7 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
8 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
9 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
10 funded by a LID. And in virtually all of those cases, the park improvements dramatically
11 restored unimproved or blighted areas, and properties evaluated were within two or three
12 blocks of the park.
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14 47. ABS’s claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁹ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
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22 ⁹ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
23 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
24 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
25 expected tourists visiting the LID park was calculated using data from only from New York City, a
26 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
27 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
28 how hotel visitors actually select hotels to stay in.
29

1 the LID Improvements and could not explain how this impacted his condo analysis.
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3 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
4 Property Values” primarily focused on whether the benefits accrue to the larger community
5 rather than properties adjacent to the park. And the 2014 New York City Department of
6 Transportation study is not based on real estate transactions and market sales and fails to
7 substantiate any link between increased retail sales and property values. Moreover, this
8 study only looked at impact either directly abutting the streetscape improvement, or a couple
9 hundred feet for plaza-like improvements.
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12 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
13 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
14 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
15 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
16 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
17 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
18 asked whether he considered that HR&A’s estimated LID impact is six times greater than
19 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
20 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
21 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
22 assumptions to account for this difference, which may be partly explained by the fact that
23 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
24 approximately 3.44% of King County tourists visit Seattle primarily because of the city
25 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
26 waterfront improvements.
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1 49. Although proximity to the improvements is a key factor in all of these
2 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
3 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
4 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
5 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
7 Improvements is approximate 20 acres and it is not a community park.¹⁰

8 50. There is no explanation in the Final Study or the supporting materials of how
9 the studies or comparable sales were used to derive values for Taxpayer's property. For
10 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
11 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

12 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
13 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
14 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
15 recognized) for developing the MAI standards for mass appraisals, testified that the Final
16 Study does not meet mass appraisal standards nor allow for independent assessment of the
17 accuracy of Mr. Macauley's conclusions.

18 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
21 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's

22 ¹⁰ *See*
23 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
24 connecting Seattle's central waterfront to downtown.").

1 testimony suggests that he incorrectly believed that the only difference between direct
2 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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4 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
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6 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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8 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
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10 Gordon uses in doing his limited restricted report”).
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13 53. But the difference is not only in reporting—mass appraisal techniques must
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15 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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17 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
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19 parcel approach:

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21 The mass appraisal technique is an appraisal method used to evaluate
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23 a group of properties that are subject to similar market forces as of a
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25 certain date through the use of market data, statistical analysis and
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27 testing. As a result, the mass appraisal technique does not require or
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29 involve analysis of each individual property’s specific data.
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32 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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35 54. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
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37 universe of properties as a given date using standard methodology, employing common data,
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39 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
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41 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
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43 model” is “a mathematical expression of how supply and demand factors interact in a
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45 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
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47 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

1 55. Regardless of client direction, Mr. Macaulay is required to comply with
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3 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
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5 economically feasible because it would have taken “an incredible amount of time and cost”
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7 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).

12 56. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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14 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
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16 value, fails to calibrate the model structure to determine the contribution of the individual
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18 characteristics affecting value, and does not review the mass appraisal results against actual
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20 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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22 217:1;¹¹ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

23 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
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25 proximity to the elements, the increase in market rent, market vacancy changes,
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27 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
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29 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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34 ¹¹ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
2 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
3 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
4 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
5 were hypothetical, it was not possible to identify matched pair sales and no City witness
6 explained how ABS Valuation made adjustments to “comparable” sales in order to check
7 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
8 him to explain his model structure.
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11 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
12 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
13 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
14 and appeals the Examiner’s denial of that motion.
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17 59. Finally, Taxpayer’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, the Grand
21 Hyatt is more than a 3/4 of a mile walk—more than 2,700 feet as a crow flies—from Pier 58
22 and the core “park” improvements. Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 63. And, as
23 described above, the special assessment is overstated because the Final Study makes no
24 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
25 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
26 improvements were not in in place—and, in fact, much of the waterfront is a construction
27 zone following removal of the viaduct and now Pier 58 demolition. Under these
28 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
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1 Mr. Macaulay at the very least should have discounted the special benefit estimates or
2 waited to perform the Study until the improvements were at least close to complete.
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4 **Erroneous Pre-Improvement Valuation**

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6 60. The proposed final assessment erroneously overstates the pre-improvement
7 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
8 benefit to the Taxpayer's property.
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11
12 61. The City's Final Study was used to compute the proposed final assessment of
13 Taxpayer's property. The City's Study purportedly uses data from the King County
14 Department of Assessments,¹² but the pre-improvement valuation information in the Final
15 Study does not accurately reflect this data. For example, the City's Study values parcel
16 6195000030 at \$167,511,400 and parcel 6792120010 at \$71,781,600, for a total of
17 \$239,293,000 as of October 1, 2019. But the King County assessor determined the true and
18 fair value of the parcels at \$185,398,000 (\$129,778,600 and \$55,619,400, respectively),
19 valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's
20 valuation is 129% of King County's assessed value for both parcels. The Final Special
21 Benefit Study does not explain this difference—or any differences—between its pre-
22 improvement valuation and its supposed source for market data. For this reason, Taxpayer
23 appeals Section IV.C.11 of the Examiner's Recommendation.
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27 62. Further, the City's analysis was based on unreliable market data. For the
28 hotels, Mr. Macaulay's decision to rely on inaccurate market data notably deviates from
29 standard appraisal practices because more reliable data in the form of STR reports are
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45 ¹² See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 readily available. Examiner Recommendation at Section IV.C.10; 3/12/2020 (J. Gordon)
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3 Hrg. Tr. at 196:5-197:12; 215:9-18. Without the STR reports or actual input from the hotels,
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5 Mr. Macaulay's "Before" valuations are drastically overstated in large part because he relies
6
7 on publicly available "room rack rates" to estimate hotel income. *See id.* (J. Gordon) at
8
9 162:3-18; 170:16-171:13; 179:25-180:14; 192:15-22. As the Examiner found, "Mr. Gordon
10
11 is a specialist expert in appraising hotels and his expert opinion, in addition to the specific
12
13 information he relied on for that opinion, is superior to the opinion and supporting data of
14
15 the City in its valuation." Examiner's Recommendation at II.16. The Examiner concluded
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17 that Mr. Gordon's valuations were more reliable "due to the specialist nature of Mr.
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19 Gordon's background and the specificity of the valuation data upon which he relied"—
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21 namely STR reports or actual revenue data from the hotel. *Id.* at IV.C.10. Therefore, "the
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23 valuation of [this] property should be remanded for recalculation by the City appraiser based
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25 on the information provided by [this] Objector." *Id.*

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27 63. Specifically, the evidence and testimony presented showed that the actual
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29 average daily room rate (ADR) for this property in 2019 was \$234. However, Mr. Macaulay
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31 incorrectly estimated an ADR of \$355 for this property which is 51% higher than actual
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33 ADR, far exceeds the most optimistic assumptions about future growth in hotel room rates
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35 for the Grand Hyatt, and is not a reasonable assumption in valuing a hotel of this type in the
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37 downtown Seattle market. In addition, the Grand Hyatt has significantly reduced operations
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39 as a result of the COVID-19 outbreak.

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41 64. Due to these errors alone, Mr. Macaulay artificially raised the property's
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43 Before value; Mr. Gordon valued the property at \$168,400,000 (without personal property),
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45 which is \$70,893,000 (or about 30%) less than ABS Valuation's estimate. Setting aside that
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47 ABS Valuation's inclusion of personal property when valuing hotels is disproportionate and

1 flawed, Mr. Gordon's estimate of value including personal property is \$175,300,000, which
2 is still significantly lower than ABS Valuation's estimate (\$239,293,000). See Fourth Decl.
3 of Gordon, at ¶ 5 (dated 7/7/2020).
4

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6 65. Taxpayer expects an opportunity to respond to the revised assessment once
7 that is provided (see Examiner's Recommendation at V) and appeals the remainder of
8 Section IV.C.10 of the Examiner's Recommendation rejecting Taxpayer's other bases for
9 reducing the assessment. For example, Taxpayer disagrees with the Examiner's conclusion
10 that one of the reasons Mr. Gordon's appraisals concludes a lower value for this property is
11 because he was not valuing the properties in the "Before" condition. Examiner's
12 Recommendation at Section II.16. This does not explain the 51% difference between ABS
13 Valuation's estimate and actual average room rates for the Grand Hyatt. Further, Mr.
14 Lukens—who reviewed ABS's valuation estimates for reasonableness—was not even aware
15 that the Before values were supposed to include the WSDOT Improvements. 6/26/2020
16 Hrg. Tr. at 165:2-166:22.
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19 66. Thus, aside from multiple other reasons why computation of the special
20 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
21 improvement values that do not accurately reflect market data. For these reason, Taxpayer
22 appeals Section II.16 of the Examiner's Recommendation.
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Erroneous Computation of Special Benefit

67. "Special benefit" is "the increase in fair market value attributable to the local
improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
may receive by reason of the improvement is not measured alone by the physical character
or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is

1 the particular tract or property benefited by the entire improvement, and is it assessed
2 proportionately with the other property included within the assessment district?” *Id.* 165–
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4 66.
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6 68. The proposed final assessment erroneously overstates the special benefit of
7
8 LID improvements in a number of ways.
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10 69. Overstated Before value led to overstated special benefit. ABS Valuation’s
11 overstated Before value resulted in an inflated special benefit estimate and assessment after
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13 Mr. Macaulay made micro adjustments to “Before” revenue and capitalization rates to
14
15 calculate an After value. Mr. Macaulay conceded that using his methods and his
16
17 spreadsheets, changing the room rate alone would change the special assessment. 6/25/2020
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19 Hrg. Tr. at 42:21-43:15 (explaining that changing the room rate will result in a different
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21 assessment and the same is true for every hotel); *see also* 6/23/2020 Hrg. Tr. at 111:9-11,
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23 132:12-133:10, 140:20-141:9. And he agreed that if Mr. Gordon’s numbers are accurate—
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25 and there is no evidence they are not—then ABS would need to redo the appraisal for the
26
27 Grand Hyatt to determine if adjustments are needed. *See id.* 137:20-138:13.
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30 70. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
31
32 the Grand Hyatt, Mr. Macaulay assumed room/rental rates would increase by 0.60% (low)
33
34 and 1.20% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not
35
36 possible to accurately conclude that the reason for this level of percentage increase would be
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38 due to the LID Improvements, and there appears to be no support for assignment of these
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40 percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same
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42 percentages (0.60% and 1.20%) to increase food and beverage revenue, and parking and
43
44 other income. He then uses this hypothesized increased revenue to calculate a new net
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1 operating income for the commercial properties and capitalizes that to come up with an
2 “After” valuation.
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5 71. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
6 operating income remains the same as in the hypothetical “Before” condition, but changes
7 the cap rate. For the Grand Hyatt, the cap rate goes from 7.25% to 7.11% (low scenario,
8 creating a bigger value increase) and 7.17% (high scenario, creating a lower value increase).
9 Mr. Gordon likewise explained that cap rate changes of 0.14% or 0.08% are not typically
10 measurable, and there appears to be no support for these changes in the Final Study or any
11 of its supporting materials.
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19 72. Mr. Macaulay then averages his four “After” values to arrive at a final special
20 benefit conclusion. For the Grand Hyatt, this is an increase in property value of 1.50% due
21 to the LID Improvements.
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23

24
25 73. Mr. Macaulay offered little justification for his micro adjustments to revenue
26 and capitalization rates. When asked precisely what the basis is for his special benefit
27 percentage increases to revenue for each commercial property, he could not point to
28 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
29 is nothing in the report to allow a reader to understand how he came up with these
30 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
31 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
32 the basis for his belief that certain factors—liked increased connectivity—will increase
33 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
34 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
35 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
36 sources equally even though there was no separate analysis done for food and beverage or
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1 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
2 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
3 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
4 properties.
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8 74. When asked the basis for making such adjustments for the hotels, Mr.
9 Macaulay pointed to “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7
10 (“Mr. Lukens helped significantly in that regard in helping, you know, look at probable
11 adjustments”). However, Mr. Lukens testified that he did not review the percentage
12 increases. *See* 6/25/2020 Hrg. Tr. at 170:24-172:20.¹³ And he did not review any work or
13 data to determine whether the revenue percentage adjustments in the spreadsheets were
14 reasonable, nor did he ever find them to be unreasonable or suggest any changes. *Id.* at
15 172:3-20. Instead, he appeared to be considering them for the first time on cross
16 examination, testifying that the adjustments “appear to be a kind of sensitivity analysis” and
17 “appear to be a very minor change.” *Id.* at 170:18-172:13. Likewise, he had no
18 understanding of what factors went into determining the change in capitalization rates in the
19 spreadsheets. *Id.* at 173:23-174:1. And he did not know how ABS Valuation reconciled the
20 four scenarios to come to final estimated special benefit. *Id.* at 174:22-175:4.
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39 ¹³ As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different
40 special benefit and capitalization rate increases to the parking and retail parcels associated with the
41 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
42 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special
43 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
44 parcels). When asked whether this was a matter of coincidence, his answer was that is “just our
45 estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
46 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
47 though it is one block closer to the waterfront.

1 75. Mr. Macaulay testified that he used comparable sales as a reasonableness
2 check for commercial properties. But as explained above, no City witness has explained
3 how anyone, or all, of the sales are comparable to any particular commercial property within
4 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
5 in order to make sales “comparable,” he would have had to make adjustments to account for
6 Before and After conditions, but there is no way to understand how adjustments were made
7 because he “didn’t do a separate sales comparison approach where we showed adjustments
8 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
9 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
10 *Id.* at 127:10-128:24.

21 76. It also bears noting that any “internal review” of the special benefit estimates
22 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
23 error. Indeed, given all the same information, he seemed to suggest that it would be
24 perfectly reasonable for another experienced appraiser to come up with special benefit
25 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
26 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
27 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
28 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
29 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
30 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
31 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
32 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
33 special because it is arbitrarily assigned; and it is too small to realistically be supported by
34 appraisal techniques.

1 77. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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3 any seller or purchaser that the price was higher because of the LID improvements.”
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5 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
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7 identified any seller or buyer, or any particular property where the existence of the LID
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9 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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11 explained that the property has not increased rental rates or revenue due to the forthcoming
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13 LID Improvements, because, among other reasons (and apart from COVID), the
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15 improvements ABS believes will generate value do not exist, and will not for a number of
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17 years to come. There are no comparable sales because the LID Improvements are not in
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19 place, nor will they be until the end of 2024 if completed on schedule.

20 78. The fair market value of Taxpayer’s property has not changed due to
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22 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
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24 benefited from installation of new water main and fire hydrant where it was already
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26 adequately supplied with water and afforded adequate fire protection). And in any event,
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28 any value attributable to removal of the viaduct was to be excluded from the assessment
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30 calculation.

31 79. There is no special benefit because LID improvements in fact diminish the
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33 value of Taxpayer’s property by drawing visitors away towards improvements that do not
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35 abut the property. *See Kusky*, 85 Wn. App. 493 (testimony of owners’ expert that LID
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37 actually diminished value of property was sufficient to rebut presumption that assessment
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39 was proper).

40 80. Moreover, the assessment formula is an attempt to distribute costs that do not
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42 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
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44 “merely a mathematical model that distributes costs”).
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1 81. The Special Benefit Study fails to address whether the \$346,000,000
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3 estimated LID project cost takes into account the investment that would have occurred in the
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5 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
6
7 invested. This is a critical component of estimating which properties receive a direct benefit
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9 from the improvements, versus more incidental benefits further from the park.

10 82. Assessments are disproportionate. Taxpayer also presented evidence
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12 showing that the assessments are disproportionate. For example, the City disproportionately
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14 assessed hotels a greater percentage of the cost of the Improvements even though there no
15
16 evidence that hotel properties will in fact benefit. And even within the hotels, the
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18 assessments are disproportionate. Mr. Gordon testified that the differences between the
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20 special benefit increases for the Hyatt at Olive 8, the Grand Hyatt, and Hyatt Regency—
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22 which are all very close together—made little sense and raised doubts as to proportionality.

23 83. Mr. Macaulay also included personal property in his valuation of hotels even
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25 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
26
27 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
28
29 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
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31 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
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33 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
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35 receiving a disproportionately high LID assessment in comparison to other property types,
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37 since hotels were the only property type subject to personal property LID assessments.
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39 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
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41 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
42
43 notice procedures because hotel property owners only received notice that their real estate
44
45 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
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1 84. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
2 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
3 a television at the waterfront Marriott is assigned a greater special benefit than the same
4 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
5 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
6 unreasonable to assign a value lift to personal property that is replaceable at the same cost
7 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
8 Shorette ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
9 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
10 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
11 for this error.
12

13 85. The only evidence the City provided specific to this property was to rebut
14 Mr. Gordon's "Before" valuation. But the Hearing Examiner has already found that Mr.
15 Gordon's valuation is more reliable. The remainder of the City's evidence and testimony
16 regarding this property provides general responses which have already been rebutted by
17 Objectors in their case-in-chief and cross-examination. Second Decl. of Bird, at ¶¶ 104-109
18 (dated 6/26/2020).
19

20 86. The proposed final assessment substantially exceeds the special benefit to the
21 property and is grossly disproportionate to similarly situated properties within the LID. For
22 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
23 Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.10.
24

25 **State Environmental Policy Act and Other Environmental Permitting**
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27 87. While this appeal is not challenging the City's environmental review and
28 permitting processes, those processes are relevant in determining the legality of the
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1 assessments, and to assessing the delivery risk, the present value of the City's plans, and
2 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
3 pursue projects that have not yet undergone environmental review (thus limiting the choice
4 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
5 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
6 is just beginning. Further, the City has segmented environmental review, and still has a
7 gauntlet of federal, state and tribal review processes to complete before it will be clear what
8 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
9 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
10 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
11 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
12 committing to reconstruction of Pier 58 and major street improvements without
13 environmental review, or the City's Final Special Study has improperly included and is
14 proposing to assess the Taxpayer the costs and special benefits of improvements that may
15 not get built. Either way, it is faulty process.

30 **Due Process Rights**

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32 88. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
33 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
34 Because LID assessments involve a deprivation of property, affected owners have the right
35 to a hearing as to whether the improvement resulted (or will result) in special benefits to
36 their properties and whether their assessments are proportionate, which necessarily includes
37 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
38 555, 569–70, 229 P.3d 761 (2010).
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1 89. The LID statute specifies that cities must mail notices giving the time and
2 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
3 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
4 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
5 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
6 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
7 secure their own appraisal), evaluate proportionality of the proposed assessments, and
8 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
9 for anybody to get an appraisal”).

10 90. The City’s Notice of Assessment was sent on December 30, 2019. And the
11 Final Special Benefit Study has only been available for public review since January 7, 2020.
12 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
13 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
14 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
15 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
16 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
17 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
18 the Examiner’s Recommendation: I.B.

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37 **VII. Relief Requested**

38 Taxpayer respectfully requests that the City Council:

39 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
40 assessment dated December 30, 2019; or
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- 1 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
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3 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
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5 hearing in this matter; or
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7 3. Grant the Examiner's recommended remand but with instructions recalculate
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9 and reduce Taxpayer's assessment using recognized appraisal techniques consistent with
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11 USPAP and;
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13 4. Award costs and attorney fees to Taxpayer/Appellant pursuant to 42 U.S.C. §
14
15 1988; and
16
17 a. Excluding any property value increase attributable to viaduct removal and
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19 other planned WSDOT Improvements;
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21 b. Excluding any value attributable to personal property;
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23 c. Taking into account the effects of the COVID-19 pandemic on the value of
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25 Taxpayer's property and other relevant developments since October 2019;
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27 d. Accounting for and excluding (1) any special benefits from existing or
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29 planned improvements that already provide similar benefits to Taxpayer's
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31 property, and (2) any special detriments from construction and other
32
33 anticipated LID-related disamenities;
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35 e. Accounting for and including only those actual benefits anticipated to accrue
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37 to Taxpayer's property based on its location relative to Pier 58, Overlook
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39 Walk, and the Promenade, and specific elements of the LID Improvements;
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41 f. Discounting anticipated special benefits to present value, based on reliable
42
43 estimates regarding when special benefits will start accruing following
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45 completion of the LID Improvements; and
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1 g. Accounting for such other issues specific to Taxpayer's property relevant to
2 calculation of such assessment; and
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4
5 3. Grant such further relief as the City Council deems just and proper.
6

7 DATED: September 22, 2020
8

PERKINS COIE LLP
9

10
11 By: 
12

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32 Attorneys for Hedreen Hotel LLC
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4:01 pm, Tue, February 16, 2021

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Subject: Waterfront LID Amended Appeal for Case No. CWF-0436 and CWF-0437
Date: Tuesday, February 16, 2021 3:41:22 PM
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CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
Grand Hyatt Amended LID Appeal before City.pdf

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0436 and
CWF-0437

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON HEDREEN
HOTEL LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
6195000030 and 6792120010

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35 HEDREEN HOTEL LLC (“Taxpayer”), also referred to as the Grand Hyatt Hotel,
36
37 files this amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090,
38
39 City of Seattle Resolution 31915, City of Seattle Resolution 31979, the notice of the Seattle
40
41 Office of the City Clerk dated December 30, 2019, the notice of the Seattle Office of the
42
43 City Clerk dated February 1, 2021, the Hearing Examiner’s Findings and Recommendation
44
45 issued September 8, 2020 (“Examiner’s Recommendation”) and the Hearing Examiner’s
46
47 Findings and Recommendation issued February 1, 2021.

1 **I. Hedreen Hotel LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 HEDREEN HOTEL LLC

6 217 Pine St. Suite 200

7 Seattle, WA 98101

8 Zahoor Ahmed

9 206-624-8909

10 ahmed@rchco.com

11
12 **II. Hedreen Hotel LLC's Representatives**

13 HEDREEN HOTEL LLC'S representatives in this matter are:

14
15
16
17 R. Gerard Lutz, WSBA No. 17692

18 JLutz@perkinscoie.com

19 Perkins Coie LLP

20 10885 N.E. Fourth Street, Ste 700

21 Bellevue, Washington 98004

22 Telephone: 425.635.1400

23 Facsimile: 425.635.2400

Robert L. Mahon, WSBA No.

26523

RMahon@perkinscoie.com

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

Telephone: 206.359.8000

Facsimile: 206.359.9000

24
25
26 **III. Statement of Hedreen Hotel LLC's Interest and Incorporation of Prior**
27 **Arguments**

28
29 HEDREEN HOTEL LLC is the taxpayer for the properties that are subject to the
30 proposed final assessment described in Section IV.

31
32 Hedreen Hotel LLC is amending its appeal as authorized in City of Seattle
33 Resolution 31979 to include additional arguments relevant to the revised Final
34
35 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
36
37 2020, Hedreen Hotel LLC timely filed an objection to the assessment, which was based on
38
39 the Final Study. Hedreen Hotel LLC further timely filed an appeal of the Hearing
40
41 Examiner's 2020 recommendations to the City Council. Hedreen Hotel LLC maintains and
42
43 incorporates all objections and arguments raised in its appeal filed with the City Clerk on
44
45 September 22, 2020. This amendment is a supplement is to be read together with Hedreen
46
47

1 Hotel LLC's appeal filed on September 22, 2020. Hedreen Hotel LLC incorporates by
2 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
3 as authorized by the Hearing Examiner, including without limitation all records pertaining to
4 the November 2020 through February 2021 remand hearing ordered by Council.
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9 **IV. Amended Arguments on Appeal**

10 HEDREEN HOTEL LLC supplements its appeal of the Hearing Examiner's
11 recommendation to deny in part and revise on remand in part Hedreen Hotel LLC's
12 objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 30, 2019 against the following property:
14
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16
17

18 King County Parcel No. 6195000030 and 6792120010
19 Site Address: 700 Pike St. Seattle, Washington
20 Proposed Final LID Assessment for Parcels: \$1306335¹
21
22

23 To avoid repetition, Hedreen Hotel LLC incorporates the evidence and arguments
24 raised before the Hearing Examiner and before the City in its September 22, 2020 appeal,
25 into this amended appeal.
26
27
28

29
30 **A. The Anticipated Special Benefits to Hedreen Hotel LLC's Property**
31 **should be Discounted to Present Value and Assessments Adjusted as**
32 **Appropriate**
33

34 On remand, the City's appraiser acknowledged that special benefits to parcels can be
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
37 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
38 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
39 the theatre parcel is too remotely to support a current assessment. *Id.* The Examiner
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46 ¹ The City has combined these parcels for purposes of a single appraisal and estimated
47 special benefit assessment.

1 accepted that recommendation. The City’s appraiser further acknowledged that benefit
2 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
3 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
4 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
5 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
6 calculations to present value because the general benefits are not anticipated from the LID
7 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
8 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
10 benefit calculation, and related assessments, to account for the delay between the assessment
11 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
12 standard appraisal practice, and renders the other proposed Waterfront LID special
13 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
14 “fundamentally wrong methods.”

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).

18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)

1 property while treating all or most others (including Taxpayer's) differently, and
2
3 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
4
5 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
6
7 for some properties because the benefit are too distant, while assessing other properties as
8
9 though distant benefits have already been secured. As Taxpayer identified in its September
10
11 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
12
13 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
14
15 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
16
17 reject the improper calculation of the benefit or remand and require the appraiser to discount
18
19 the benefits to net present value.
20

21 **B. The City's Appraiser's Disregard of Hotel STR Report Performance**
22 **Data is Another Example of How His Analysis is Unreliable, Not**
23 **Admissible under Frye or ER 702, and His Proposed Special**
24 **Assessments are not based on Actual, Measurable and Special Value**
25 **Increases from the anticipated LID Improvements.**
26

27 The City's appraiser was provided actual performance data for the remanded hotels,
28
29 including their average daily room rates, from which he had been instructed to "recalculate"
30
31 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
32
33 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
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35 would be "too low." Instead, he divined an alternative value from "comparable sales", and
36
37 then worked backwards to calculate small adjustments to his average daily room rate
38
39 assumptions, substituting them in his "income spreadsheets," and thereby correlating his
40
41 income analysis to his preconceived value estimate. His remand analysis demonstrates that
42
43 his whole "income approach to valuation", used for both hotels and other commercial
44
45 properties, is contrived speculation on speculation. The City's appraiser disregarded these
46
47 hotels' actual net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J.

1 Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on
2
3 Remand for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436). Taxpayer's
4
5 appraiser submitted an appraisal with room rates much closer to the actual performance of
6
7 the hotel and should be incorporated. *See* Declaration of John D. Gordon in City Council's
8
9 LID Remand, (Jan. 8, 2021).

10
11 For example, compare the room rate and valuation for the appraisals in the table
12
13 below, where the actual average daily room rate for 2019 was \$234. The Hedreen Hotel
14
15 LLC representative testified that the City Appraiser's assumed room rate was too high - it
16
17 not only had not been achieved, but even pre-Covid, was not reasonably achievable.
18
19

Grand Hyatt Hotel CWF-0436 and 0437	City's Revised Appraisal	Hedreen Hotel LLC's Appraisal
Hotel Value	\$228,902,000	\$175,300,000
Less Personal Property	\$6,900,000	\$6,900,000
Real Estate Value	\$222,002,000	\$168,400,000
Benefit Ratio	1.50%	1.50%
Special Benefit	\$3,333,000	\$2,528,000
Levy Ratio	39.19%	39.19%
LID Levy	\$1,306,335	\$990,824
Average Room Rate	\$345	\$240
Daily RevPAR	\$276	\$201

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37 To correct the "before value" alone, the City Council should instead adopt Hedreen
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39 Hotel LLC's valuation, which was developed using actual data, and otherwise applying the
40
41 City appraiser's assessment formula:
42
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Grand Hyatt Hotel CWF-0436 and 0437	Appraisal Amount
Hotel Value	\$119,527,000
Less Personal Property	\$3,300,000
Real Estate Value	\$116,227,000
Benefit Ratio	1.50%
Special Benefit	\$1,745,000
Levy Ratio	39.19%
LID Levy	\$683,935

The City's appraiser only slightly reduced his original values in ways that are still entirely inconsistent with historical performance data. The City's appraisal and analysis is speculative and should be rejected. The City Council should at least adopt Hedreen Hotel LLC's "before values" and resultant LID assessments.

C. In Light of Covid's Continuing Impact on Hedreen Hotel LLC and other Downtown Property Owners and other Material Changes Since October 2019, the LID Should be Cancelled, or at Least Assessments Recalculated, to take Into Account Property Value Reductions

In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e] into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019." When Washington's first COVID restrictions were imposed in March and April 2020, there was an assumption that they would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover for another 5 years. Retail stores are boarded up. Homelessness and related challenges have gotten much worse. The City has already imposed higher minimum wages and taxes on businesses to try to fund recovery. The West Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several

1 years from completion, as a best case. In current circumstances, a downtown tax to fund
2 new, non-essential park improvements against financially strapped taxpayers, and likely
3 passed through to financially strapped tenants and customers would be unfair to taxpayers
4 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
5 rethinks its budget priorities for the next few years, and its potentially funding sources,
6
7 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
8 property owners) have a chance to recover, and that any assessment take into account the
9 changed circumstances since this appeal process started on February 4, 2020 to avoid
10 unnecessarily and perhaps permanently killing downtown properties and businesses in the
11 name of bettering them.
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21 **V. Relief Requested**

22 Particularly in light of the Committee's decision not to take further comment,
23 Hedreen Hotel LLC respectfully request that each Committee member carefully review the
24 record transmitted to Council before voting on our appeal.
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27 HEDREEN HOTEL LLC respectfully reiterates its request from the September 22,
28 2020 appeal that the City Council:
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- 32 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
33 assessment dated December 30, 2019; or
34
35
- 36 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
37 proposed final assessment to \$0 (zero), or such amount as Taxpayer
38 establishes at the hearing in this matter; or
39
40
- 41 3. Grant the Examiner's recommended remand but with instructions to
42 recalculate and reduce Taxpayer's assessment using recognized appraisal
43 techniques consistent with USPAP and
44
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- 1 a. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
3
4 b. Taking into account the effects of the COVID-19 pandemic on the
5 value of Taxpayer's property and other relevant developments since
6 October 2019;
7
8 c. Accounting for and excluding (1) any special benefits from existing
9 or planned improvements that already provide similar benefits to
10 Taxpayer's property, and (2) any special detriments from construction
11 and other anticipated LID-related disamenities;
12
13 d. Accounting for and including only those actual benefits anticipated to
14 accrue to Taxpayer's property based on its location relative to Pier 58,
15 Overlook Walk, and the Promenade, and specific elements of the LID
16 Improvements;
17
18 e. Discounting anticipated special benefits to present value, based on
19 reliable estimates regarding when special benefits will start accruing
20 following completion of the LID Improvements; and
21
22 f. Accounting for such other issues specific to Taxpayer's property
23 relevant to calculation of such assessment; and
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37 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

PERKINS COIE LLP

5 By:

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22 Attorneys for HEDREEN HOTEL LLC
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4:04 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case Nos. CWF-0436 and 0437
Date: Tuesday, September 22, 2020 3:06:11 PM
Attachments: [CWF-0436 and 0437.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case Nos. CWF-0436 and 0437.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0436 and CWF-0437

A – Master List of Evidence

B - E-110-002 and E-111-001 Grand Hyatt

C – Discounting for CWF-0436 and CWF-0437

CWF-0436 and 0437 Appeal Notice for Grand Hyatt

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Grand Hyatt

Map Nos.	E-110-002, E-111-001
Tax Parcel Nos.	619500-0030 (70% of hotel), 679212-0010 (30% of hotel)
Property key:	9518, 4744
Address	721 Pine Street
Zoning:	DOC2 500/300-550
Proximity to park	Fronts on both Pike and Pine, 2,300± feet to park, 13-minute walk
Sales history:	N/A

Ownership/Description: Hedreen LLC (619500-0030), comprised of Air Unit in Northwest Block (16.70% of total land area, improved with 457-room hotel built in 2001 (SF of NRA).

Hedreen Hotel LLC (679212-0010). The 7-story Ground Unit of the North (70.97% of total site area) was platted into a 2-parcel condominium known as The Hotel Unit. The Hotel Unit is in portions of six of the seven floors, totaling 155,326 SF of building area.

INCOME ANALYSIS Before	Year Built	2001
	Rooms	457
	Parking	0

Revenues					
	Occupancy rate:	80.0%			
	Occupied rooms:	133,444			
Revenues					
Room revenue	133,444	occupied rooms @	\$355.00	per occupied room	
Food & beverage revenue	133,444	occupied rooms @	\$40.00	per occupied room	
Parking & other income	0	available stalls @	\$0.00	per day per stall	
Total revenues					
Less: Departmental expenses					
Rooms	133,444	occupied rooms @	29.0%	of room revenue	
Food & beverage	133,444	occupied rooms @	79.0%	of food & beverage revenue	
Parking & other	0	occupied rooms @	0.0%	of parking & other income	
Total departmental expenses					
Total departmental net income					

	GBA	NRA		
Retail rental income	20,400	20,400	SF NRA @	\$32.00
Other rental income	0	0	0 stalls @	\$0.00
Other rental income	0	0	SF NRA @	\$0.00
Total Bldg Area & Gross Income	474,946	381,702	SF NRA @	\$92.76

Less: Undistributed expenses				
Admin, marketing, utilities, maintenance, insurance @		\$20,000	per available room	
Franchise fees @	7.5%	of room revenue		
Management fee @	3.0%	of total revenue		
Real estate taxes				

Replacement reserve @	4.0%	of total revenue
Total undistributed expenses		
Total operating expenses	67.5%	of total revenue
Hotel net operating income		

Indicated Hotel Value

Land Value

Total land value	37.99%	33,352	SF @	\$1,800.00
Allocation to 619500-0030	16.70%	14,661	SF @	\$1,800.00
Allocation to 679212-0010	21.29%	18,691	SF @	\$1,800.00

Residual Improvements

		381,702	SF @	\$469.65
Allocation to 619500-0030	70.0%	226,376	SF NRA @	\$623.39
Allocation to 679212-0010	30.0%	155,326	SF GBA @	\$245.59

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,800.00	\$60,034,000	\$179,268,000	N/A
With LID				
Scenario A1	\$1,827.00	\$60,935,000	\$180,698,000	0.80%
Scenario A2	\$1,827.00	\$60,935,000	\$183,029,000	2.10%
Scenario B1	\$1,827.00	\$60,935,000	\$183,079,000	2.13%
Scenario B2	\$1,827.00	\$60,935,000	\$181,037,000	0.99%
Percent change in land value	1.50%		average \$181,961,000	1.50%

Overall Summary

Without LID	\$1,800.00	\$60,034,000	\$179,268,000	N/A
With LID	\$1,827.00	\$60,935,000	\$181,960,000	1.50%

Total Building Area	0	SF			\$0
Less: Vacancy & credit Loss @			8%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management @	6%	(EGI)		\$0	
Bldg. Maint/Reserve	0.20	/SF		\$0	
				\$0	
NET OPERATING INCOME					\$0
CAPITILIZED @			7.25%		\$0
				R	\$0
CAPITILIZED @			7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$60.00	=	\$0
	0	@	\$65.00	=	\$0

Residual Builing	\$0
	\$0

Grand Hyatt

Scenario A - Rate and Vacancy Changes

<u>Ownership</u>	<u>APN</u>	<u>Description</u>
Washington St Convention Center	619500-0020	Convention
Hedreen LLC	619500-0030	Hotel Unit (
Hedreen LLC	679212-0010	Hotel Unit (
7th & Pine LLC	678212-0020	Parking/Ret.

Condominium, comprising
319,620 SF of GBA and 226,376

West Block Condominium
known as Pine Street Condominium.
SF, comprising 30% of Ground

		INCOME ANALYSIS After	Year Built	2001
		Revenues		
		Revenues		
Room	\$47,372,620	Room revenue		
Food & beverage	\$5,337,760	Food & beverage revenue		
Parking & other income	\$0	Parking & other income		
Total revenues	\$52,710,380	Total revenues		
		Less: Departmental expenses		
Room revenue	(\$13,738,060)	Rooms	29.0%	of room revenue
Food & beverage revenue	(\$4,216,830)	Food & beverage	79.0%	of food & beverage re
Parking & other income	\$0	Parking & other	0.0%	of parking & other inc
Total departmental expenses	(\$17,954,890)	Total departmental expenses		
Total departmental net income	\$34,755,490	Total departmental net income		
			<u>GBA</u>	<u>NRA</u>
per SF =	\$652,800	Retail rental income	20,400	20,400
per month	\$0	Other rental income	0	0
per SF =	\$0	Other rental income	0	0
/SF =	\$35,408,290	Total Bldg Area & Gross Income	474,946	381,702
		Less: Undistributed expenses		
		Admin, marketing, utilities, maintenance, insurance @		
		Franchise fees @	7.5%	of room revenue
		Management fee @	3.0%	of total revenue
		Real estate taxes		

	(\$2,108,415) (\$18,058,906) (\$36,013,796) \$17,349,384
Capitalized @ Indicated value (R) \$239,302,000 Per SF NRA Per room	7.25% \$239,301,844 \$626.93 \$523,637
per SF = per SF = per SF =	\$60,034,000 \$26,390,000 \$33,644,000
per SF = per SF = per SF =	\$179,268,000 \$141,121,000 \$38,147,000

Replacement reserve @	4.0%	of total revenue
Total undistributed expenses		
Total operating expenses		
Net operating income		
Indicated Hotel Value		
Land Value		
Total land value		33,352
Allocation to 619500-0030		14,661
Allocation to 679212-0010		18,691
Residual Improvements		
		381,702
Allocation to 619500-0030	70.00%	226,376
Allocation to 679212-0010	30.00%	155,326

Total Estimated Value	Special Benefit	% Change	Per Room	Per Parcel Summary
\$239,302,000	N/A	N/A		
\$241,633,000	\$2,331,000	0.97%	\$5,101	
\$243,964,000	\$4,662,000	1.95%	\$10,201	
\$244,014,000	\$4,712,000	1.97%	\$10,311	
\$241,972,000	\$2,670,000	1.12%	\$5,842	
				Improvement allocations
				Allocation to 619500-0030
\$239,302,000	N/A			Allocation to 679212-0010
\$242,895,000	\$3,593,000	1.50%	\$7,862	Totals

Total Building A	0	SF			\$0
Less: Vacancy & credit Loss	@	6%			\$0
Effective Gross Income					\$0
Less: Expenses					
Management	6%	(EGI)		\$0	
Bldg. Maint/Res	0.20	/SF		\$0	
				\$0	
NET OPERATING INCOME					\$0
CAPITILIZED	@	7.25%			\$0
				R	\$0
CAPITILIZED	@	7.50%			\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$63.00	=	\$0
	0	@	\$68.00	=	\$0

Residual Builing	\$0
	\$0

	<u>Land %</u>	<u>Land Area</u>	<u>GBA</u>	<u>NRA</u>
Center Unit	12.33%	10,825	96,175	96,175
70%)	16.70%	14,661	319,620	226,376
30%)	21.29%	18,691	155,326	155,326
ail Unit	49.68%	43,613	363,531	13,424
	100.00%	87,790	934,652	491,301
Hotel		33,352	474,946	381,702

			Low	High
Occupancy rate:			80.00%	80.00%
Occupied rooms:			133,444	133,444
			0.60%	1.20%
<u>Per Room</u>				
\$357.13			\$47,656,856	\$47,941,091
\$40.24			\$5,369,787	\$5,401,813
\$0.00			\$0	\$0
			\$53,026,642	\$53,342,905
			(\$13,820,488)	(\$13,902,917)
venue			(\$4,242,131)	(\$4,267,432)
ome			\$0	\$0
			(\$18,062,620)	(\$18,170,349)
			\$34,964,023	\$35,172,556
<u>Per SF</u>				
SF NRA @	\$32.19	\$32.38	\$656,717	\$660,634
stalls @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$93.32	\$93.88	\$35,620,740	\$35,833,189
\$20,000 per available room			(\$9,140,000)	(\$9,140,000)
			(\$3,574,264)	(\$3,595,582)
			(\$1,590,799)	(\$1,600,287)
			(\$1,676,233)	(\$1,676,233)

			(\$2,121,066)	(\$2,133,716)
			(\$18,102,362)	(\$18,145,818)
			(\$36,164,982)	(\$36,316,167)
			\$17,518,377	\$17,687,371
Capitalized @			7.25%	7.25%
			\$241,632,792	\$243,963,739
(R)			\$241,633,000	\$243,964,000
Per SF NRA			\$633.04	\$639.15
Per room			\$528,737	\$533,838
% change			0.97%	1.95%
SF @	\$1,827.00	per SF =	\$60,935,000	\$60,935,000
SF @	\$1,827.00	per SF =	\$26,786,000	\$26,786,000
SF @	\$1,827.00	per SF =	\$34,149,000	\$34,149,000
SF @	\$473.40	\$479.51	\$180,698,000	\$183,029,000
SF @	\$628.85	\$636.06	\$142,357,000	\$143,989,000
SF @	\$246.84	\$251.34	\$38,341,000	\$39,040,000

1.50%

	<u>E110-002</u>	<u>E111-001</u>	<u>Totals</u>
Without LID	\$167,511,000	\$71,791,000	\$239,302,000
With LID	\$170,026,000	\$72,869,000	\$242,895,000
Special benefit	\$2,515,000	\$1,078,000	\$3,593,000
% difference	1.50%	1.50%	1.50%

Before	A1	% change	A2	% change
\$141,121,000	\$142,357,000	0.88%	\$143,989,000	2.03%
\$38,147,000	\$38,341,000	0.51%	\$39,040,000	2.34%
\$179,268,000	\$180,698,000	0.80%	\$183,029,000	2.10%

Grand Hyatt**Scenario B - OAR Changes**

INCOME ANALYSIS After		Year Built	2001
Potential Gross Income			
Revenues			
Room revenue	133,444	occupied rooms @	\$355.00 per occupied room
Food & beverage revenue	133,444	occupied rooms @	\$40.00 per occupied room
Parking & other income	0	available stalls @	\$0.00 per day per stall
Total revenues			
Less: Departmental expenses			
Rooms	29.0%	of room revenue	
Food & beverage	79.0%	of food & beverage revenue	
Parking & other	0.0%	of parking & other income	
Total departmental expenses			
Total departmental net income			
	<u>GBA</u>	<u>NRA</u>	
Retail rental income	20,400	20,400	SF NRA @ \$32.00 per SF =
Other rental income	0	0	stalls @ \$0.00 per month
Other rental income	0	0	SF NRA @ \$0.00 per SF =
Total Bldg Area & Gross Income	474,946	381,702	SF NRA @ \$92.76 /SF
Less: Undistributed expenses			
Admin, marketing, utilities, maintenance, insurance @			\$20,000 per available room
Franchise fees @	7.5%	of room revenue	
Management fee @	3.0%	of total revenue	
Real estate taxes			

Replacement reserve @	\$0.04	of total revenue			
Total undistributed expenses					
Total operating expenses					
Net operating income					
Indicated Hotel Value					
				Capitalized @	
				Indicated Value	
				(R)	
				Per SF NRA	
				Per room	
				% change	
Land Value					
Total land value		33,352	SF @	\$1,827.00	per SF =
Allocation to 619500-0030		14,661	SF @	\$1,827.00	per SF =
Allocation to 679212-0010		18,691	SF @	\$1,827.00	per SF =
Residual Improvements		381,702	SF @	\$479.64	\$474.29
Allocation to 619500-0030	70.0%	226,376	SF @	\$636.22	\$629.90
Allocation to 679212-0010	30.0%	155,326	SF @	\$251.44	\$247.50

Improvement allocations	Average	% change	B1	% change
Allocation to 619500-0030	\$143,241,000	1.50%	\$144,024,000	2.06%
Allocation to 679212-0010	\$38,720,000	1.50%	\$39,055,000	2.38%
Totals	\$181,961,000	1.50%	\$183,079,000	2.13%

			(\$2,108,415) (\$18,058,906) (\$36,013,796) \$17,349,384
Low	High		
7.11%	7.17%		
\$244,013,835	\$241,971,879		
\$244,014,000	\$241,972,000		
\$639.28	\$633.93		
\$533,947	\$529,479		
1.97%	1.12%		
\$60,935,000	\$60,935,000	1.50%	
\$26,786,000	\$26,786,000		
\$34,149,000	\$34,149,000		
\$183,079,000	\$181,037,000		
\$144,024,000	\$142,594,000		
\$39,055,000	\$38,443,000		

B2	% change
\$142,594,000	1.04%
\$38,443,000	0.78%
\$181,037,000	0.99%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0436	NW Block Condo - Convention Center & Elliott Grand Hyatt Seattle	700 Pike Street	6195000030
CWF-0437	Pine Street Condo -- Elliott Grand Hyatt Seattle & Retail Parking/Retail	700 Pike Street	6792120010

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject	combined	\$3,593,000	34.29%
J	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$483,004

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0436	NW Block Condo - Convention Center & Elliott Grand Hyatt Seattle	700 Pike Street	6195000030
CWF-0437	Pine Street Condo -- Elliott Grand Hyatt Seattle & Retail Parking/Retail	700 Pike Street	6792120010

BEFORE		Appraiser	Value	
A	Final City Before Value	City	\$239,293,000	combined
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$168,400,000	combined, excl personal property
C	COVID 19 Discount and value		-12.5%	
D	(B*(1+C) unless no value for B, then A*(1+C)			
	Corrected FMV for Assessment		\$147,350,000	

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	combined	\$3,593,000		
H/A	As Percentage of Final City Before Value		1.502%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$2,212,470		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$758,726	\$208,472
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$297,421	\$81,721

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0436 and
0437

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON HEDREEN
HOTEL LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
6195000030 and 6792120010

33
34 Hedreen Hotel LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070,
35
36 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
37
38 Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
39
40 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
41

42
43 **I. Taxpayer / Appellant**

44 The Taxpayer filing this appeal is:
45
46

47 Hedreen Hotel LLC

1 217 Pine St. Suite 200
2 Seattle, WA 98101
3 Zahoor Ahmed
4 206-624-8909
5 ahmed@rchco.com
6

7
8 **II. Taxpayer's Representatives**

9 Taxpayer's representatives in this matter are:

10
11
12 R. Gerard Lutz, WSBA No. 17692
13 JLutz@perkinscoie.com
14 Megan Lin, WSBA No. 53716
15 MLin@perkinscoie.com
16 Perkins Coie LLP
17 10885 N.E. Fourth Street, Suite 700
18 Bellevue, Washington 98004
19 Telephone: 425.635.1400
20 Facsimile: 425.635.2400
21
22

23 Robert L. Mahon, WSBA No. 26523
24 RMahon@perkinscoie.com
25 1201 Third Avenue, Suite 4900
26 Seattle, Washington 98101
27 Telephone: 206.359.8000
28 Facsimile: 206.359.9000
29
30

31 **III. Statement of Taxpayer's Interest**

32 Hedreen Hotel LLC is the taxpayer for the properties that are subject to the proposed
33 final assessment described in Section IV. These parcels together are the Grand Hyatt
34 Seattle, a 30-story hotel containing 457 guest rooms and 25,000 square feet of meeting
35 space.¹
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45 ¹ Mr. Gordon also explained that the building also includes a parking garage and retail space
46 which is a third parcel. But that is treated separately from the hotel in Case No. CWF-0438 (parcel
47 no. 6792120020).

1 The basis of the proposed assessment is a Final Special Benefit/Proportionate
2
3 Assessment Study for Waterfront Seattle Local Improvement District (“Final Study”), dated
4
5 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City’s
6
7 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
8
9 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
10
11 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
12
13 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
14
15 to exclude charges for other improvement projects in the Central Waterfront, and
16
17 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
18
19 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
20
21 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
22
23 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
24
25 because construction was not complete on the LID Improvements or the WSDOT
26
27 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
28
29 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
30
31 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
32
33 was based on the Final Study.

34 35 **IV. Matter Under Appeal**

36 Taxpayer appeals the Hearing Examiner’s recommendation to remand Taxpayer’s
37
38 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
39
40 final assessment dated December 30, 2019 against the following property:
41

42 King County Parcel No. 6195000030
43 Site Address: 700 Pike St. Seattle, Washington
44 Proposed Final LID Assessment for Parcel: \$985,276
45

46 *See* Examiner’s Recommendation at 61-62, 106.
47

1 Taxpayer also appeals the Hearing Examiner's recommendation to deny Taxpayer's
2 objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed
3 final assessment dated December 30, 2019 against the following property:
4
5

6 King County Parcel No. 6792120010
7 Site Address: 700 Pike St. Seattle, Washington
8 Proposed Final LID Assessment for Parcel: \$422,541
9

10 See Examiner's Recommendation at 61-62, 106.
11

12 Hedreen Hotel LLC owns real parcel nos. 6195000030 and 6792120010, which are
13 located at 700 Pike Street, Seattle, Washington and are the subject of Case Nos. CWF-0436
14 and CWF-0437. These properties are condominium units housing the Grand Hyatt Seattle.
15 For county property tax purposes, the properties are valued as a unit with 70% of the value
16 assigned to parcel no. 6195000030 and 30% of the value assigned to parcel no. 6792120010.
17 See Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 7. As John Gordon explained, the reason
18 there are two different case numbers for this hotel is because ownership of the hotel was
19 divided into the common areas of the hotel and the tower that houses the guest rooms.
20 4/13/2020 Hrg. Tr. at 91:15-92:9. But for all intents and purposes, it is a single hotel. For
21 this reason, both Mr. Gordon and ABS Valuation treated both parcels as a single
22 consolidated entity. *Id.*; see also Attachment B (ABS Spreadsheet). For this reason alone,
23 Taxpayer appeals the Hearing Examiner's recommendation to deny appeal CWF-0437
24 which is also part of the Grand Hyatt hotel. These cases should be treated together—
25 consistent with the appraisers' valuation—and both should be remanded.
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40 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
41 the Hearing Examiner into this appeal. In particular, Taxpayer points the City Council to
42 Taxpayer's initial Appeal Petition, *Frye* motion, Closing Brief submitted at the close of its
43 case-in-chief (dated 4/16/2020), and supplemental Closing Statement submitted at the close
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1 of the City's case-in-chief (dated 7/7/2020).² As discussed more fully below, Taxpayer
2 specifically appeals the following Findings and Recommendations in the Hearing
3 Examiner's September 8, 2020 Recommendation: Pages 61-62, 106, Sections II.6, II.7,
4 II.12, II.14, II.16, II.17, II.18, II.19, II.20, II.21, II.22, II.23, II.24, II.25, II.26, II.27, II.28,
5 II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7,
6 IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv),
7 IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14,
8 and IV.C.18.
9

10 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
11 recommendations on material issues raised during Taxpayer's appeal that were supported by
12 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
13 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
14 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
15 recommended anything other than denial of objectors' appeals were where the City's
16 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
17 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
18 special assessments based on "fundamentally wrong methods."
19

20 The special benefit for which special taxes are assessed must be "actual, physical and
21 material and not merely speculative or conjectural." *Heavens v. King Cty. Rural Library*
22

23 ² Because the City has not provided "metered index numbers," our appeals cannot reference
24 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
25 Public Works committee secure and provide appellants with such a record, so that the appeals can
26 then be supplemented with that additional information, so as to make the Committee's consideration
27 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
28 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
29 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
30 retained by Perkins Coie are part of this case file.
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1 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
2 with the law, the assessments may not materially exceed the actual special benefit conferred
3 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
4 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
5 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
6 assessment. In this case, the proposed assessment fails each of the legal requirements for
7 special assessments and must be annulled as arbitrary or capricious, or founded on
8 fundamentally wrong methods.
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18 **Legal Requirement:** Actual, non-speculative special benefit

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20 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
21 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
22 October 2019 (they were not), and an “After” value purporting to assess the value of
23 properties with the LID improvements in place at least five years before anticipated
24 completion.
25
26

27 **Legal Requirement:** Cannot materially exceed the special benefit

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29 **ABS Study:** ABS calculates a special benefit of \$2,512,671 for parcel no. 6195000030
30 and \$1,076,724 for parcel no. 6792120010 for a total of \$3,589,395, assuming the LID
31 Improvements were in place and providing benefit in October 2019. However, the LID
32 Improvements will not be completed until the end of 2024 if the City meets its current
33 schedule, and many of WSDOT’s alternative improvements will not be built. The present
34 value of future improvements deliverable in five years is significantly lower than the
35 current value of improvements that already exist. Further, ABS’s own materials show that
36 benefits may not accrue for at least five years after they are completed, in 2029. If the
37 hypothesized special benefits are discounted to present value, the assessments materially
38 exceed the hypothesized special benefits.
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42 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID

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44 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
45 prepared his Final Study in October 2019, and the City issued its preliminary roll in
46 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
47

1 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
2 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
3 and must be based on actual special benefits. While that does not mean ABS's appraisal
4 was wrong when completed, values and benefits need to be reanalyzed before assessments
5 are finalized in light of the unprecedented changes to the downtown real property market.
6

7
8 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
9 Assessment cannot include value attributable to future WSDOT Improvements.
10

11 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
12 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
13 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
14 the City's appraiser increased 2019 property market values as though WSDOT had
15 completed its work by 2019. The proposed assessment is against this hypothetical
16 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
17 higher than actual 2019 market values. The City is collecting an assessment against both
18 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
19 contravention of law and the City's promise not to impose an assessment based on the
20 value of viaduct demolition and the other components of WSDOT's planned work.
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23
24 **Legal Requirement:** Benefits must be special, not general
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26 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
27 due to the LID Improvements. However, the far-reaching and public nature of the
28 improvements make any benefit arising from them general—not special.
29

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31 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
32 or conjectural"
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34 **ABS Study:** Not only are the improvements not yet "physical or material," but
35 environmental review and permitting for the City's proposed LID Improvements is not
36 complete, and the LID improvements are not anticipated to be complete until the end of
37 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
38 a manner consistent the City's then-current proposals, which were in many respects merely
39 conceptual designs.
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42 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
43
44

45 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
46 property (furniture, fixtures and equipment), but not personal property of other types of
47 property. It is not proportionate to assess against hotel personal property and not other

personal property. Further, personal property is moveable, the value does not depend on location, and is likely to be fully depreciated and perhaps removed before the LID Improvements are in place. (Note also that personal property accounts are separate, and the City gave no notice of any LID assessment against personal property. The Examiner should have reversed personal property assessments on that basis as well.)

Legal Requirement: Must comply with appraisal standards

ABS Study: ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until the Examiner admonished ABS, ABS even asserted its analysis was "confidential and proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The Final Study fails to meet basic standards for admissibility and must be remanded.

Legal Requirement: Actual and measurable special benefit

ABS Study: ABS's proposed assessments are assigned rather than measured, as demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based on a host of "micro-judgments" that are not supported by any documentation, nor capable of replication or quality assurance/quality control. The assessments are undocumented, unreliable, and not supported by empirical studies, data, or reports.

Legal Requirement: Actual and measurable special benefit—Park benefits must be supported by empirical evidence

ABS Study: Dr. John Crompton, the world's preeminent expert regarding the economic value of parks and other public amenities and on whom ABS purported to rely, testified that ABS had completely misapplied his work and dramatically overstated both the distance to which economic benefits might extend from the LID Improvements and the extent of any anticipated benefit within the potentially benefited area.

Legal Requirement: Actual special benefit—Must take into account potential disamenities

ABS Study: The appraiser ignores the negative value impact of five years or more of construction, as well as other potential disamenities associated with public places.

Legal Requirement: Cannot prematurely commit to build

1 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
2 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
3 are being imposed. But finalizing the roll is a commitment by the City to build the
4 improvements, which is a violation of legal process and commits the City to build things it
5 may not secure permission to build.
6

7
8 In addition to these general objections, there are property-specific issues raised by
9 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
10 statement below.
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12

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14 **V. Standard of Review**
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16 “When considering the assessment roll, the city council sits ‘as a board of
17 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
18 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
19 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
20 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
21
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23 The proposed assessments are presumed correct, “unless overcome by clear, cogent
24 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
25 than the heightened presumption of correctness on judicial appeal because “applying these
26 elevated standards at the municipal hearing would afford unwarranted deference to a report
27 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
28 presumption is not evidence and its efficacy is lost when the other party adduces credible
29 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
30 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
31 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
32 presented credible evidence showing that the City’s proposed assessment is arbitrary,
33 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
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1 to the City to prove the assessments are actual, measurable, special, non-speculative and
2 proportionate. The City failed that burden.
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4 **VI. Grounds for Appeal**

5 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
6 following grounds.
7

8 **Taxpayer Not Required to Provide A Special Benefit Study**

9
10 1. Contrary to the Examiner's findings and recommendations, there is no
11 requirement that experts or property owners provide an alternative special benefit
12 calculation under these circumstances—to do so would also require the same improper
13 speculation the City's expert engaged in, given the timing and information provided. *See*,
14 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
15 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
16 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
17 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
18 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
19 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
20 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
21 provided expert opinion showing that improvements actually diminished value of the
22 property). In fact, no independent evidence is required at all if, for example, objectors show
23 that the assessment was grounded on a fundamentally wrong basis due to an error in the
24 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
25 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
26 a property owner could simply point out that the square footage assumed in the City's
27 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
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1 Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8,
2 and IV.C.11.
3

4
5 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

6
7 2. RCW 35.43.040 provides cities and towns authority for ordering local
8 improvements and for levying and collecting special assessments "on property specially
9 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
10 upon all the property in accordance with the special benefits conferred thereon." RCW
11 35.44.010.
12
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16 3. No analysis of general benefits. Special assessments have been "held valid
17 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
18 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
19 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
20 they are for the construction of local improvements that are appurtenant to specific land and
21 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
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25 4. Taxpayer's property is not specially benefited by the LID Improvements.
26 The primary purpose and effect of the LID Improvements are to benefit "members of the
27 whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public
28 library is for the benefit of the members of the whole community individually and
29 collectively who may be served by it"). Mr. Macaulay's own chapter of the LID Manual
30 states clearly that appraisers should "[c]onsider general benefits as well as special benefits"
31 (Hrg. Exhibit 117 (LID Manual) at 58³) and he admits that "general benefits probably accrue
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44 ³ "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
45 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
46 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
47 days of cross-examination of the City's witnesses (June 23, 25 and 26, 2020). For ease of reference,

1 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
2 that if an appraiser “identifies both general and special benefits, these benefits should be
3 clearly distinguished and explained, and only special benefits should be included in the
4 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
6 183:4; P. Shorett January 30, 2020 Appraisal Review (attached to Appeal Petition) at
7 Attachment p. 15 (explaining the examples in the Final Study only provide information
8 about general benefits and Study does not use proper measure of analysis to show special
9 benefits).

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19 5. It is undisputed that Mr. Macaulay did not analyze or measure general
20 benefits, including those arising from construction necessary to meet basic design standards.
21 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
22 construction costs related to meeting design standards which may be general benefits as
23 distinct from construction costs emanating from requirements of the LID project”). To the
24 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
25 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
26 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
27 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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37 6. LID Improvements not necessary. Unlike typical LID projects, the
38 Waterfront LID improvements are largely unnecessary to the functionality of any particular
39 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
40 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
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47 Taxpayer has attached a master list of the hearing exhibits and evidence as Attachment A to this
appeal notice.

1 held invalid where owners would have benefitted equally from increase of only 9 feet);
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3 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
4
5 intersection for new water main for hydrant held invalid because land was already afforded
6
7 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
8
9 not necessary to their hotel business, which caters primarily to business travelers attending
10
11 conventions and meetings and visiting Seattle companies. Hrg. Exhibit 114 (Decl. of Z.
12
13 Ahmed) at ¶¶ 57, 64, 65. For this reason, the Grand Hyatt does not expect the LID
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15 Improvements to increase impact on demand for rooms or room rates. *Id.*

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17 7. The fact that there is no case law differentiating between binary
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19 improvements and parks does not change the law prohibiting assessments on properties
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21 already adequately served by existing amenities. *See* Examiner's Recommendation at
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23 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
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25 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
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27 reasoning excuse the City's failure to account for existing amenities as part of the special
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29 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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31 the incremental effect of new park improvements on the value of properties, much like
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33 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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35 (Crompton's Report) at 12-13.

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37 8. To the extent benefits can be considered "special" as opposed to general, they
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39 are nominal or nonexistent for many properties even in the Central Waterfront, which
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41 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
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43 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
44
45 change due to expansion of sewer service *near* owners' parcel which were already
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47 connected). Even if the City could assess for a view change (and it has promised not to

1 assess for viaduct removal), the fair market value of Taxpayer's property has not changed
2 because the LID Improvements have not improved the property's waterfront view or access
3 to the waterfront, nor will they when the City anticipates completion in 2024. For these
4 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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6 Sections IV.C.3, IV.B.9, and IV.C.3.
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10 9. No analysis of special detriments. The Final Study fails to properly account
11 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
12 owners for removal and cleanup of underground storage tanks discovered during the
13 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
14 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
15 of how lost parking might be a detriment, and no property-specific parking analysis in any
16 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
17 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
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26 10. Likewise, there was no analysis of the risks associated with disamenities such
27 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
28 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
29 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
30 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
31 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
32 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.⁴ And if
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45 ⁴ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
2 the maintenance agreement. *Id.* at 13:4-14:2.

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5 11. There was also no consideration of negative impacts from another four-plus
6 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
7 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
8 law allowing him to dismiss these actual, non-speculative impacts. Because future special
9 benefits calculations are inherently speculative, Washington's eminent domain statute
10 specifically allows condemnees to postpone special benefits assessments until improvements
11 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
12 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
13 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
14 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
15 Greenway, the Greenway district "significantly" lagged in value).
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18 12. Meanwhile, Mr. Ahmed testified that the assessment is an immediate expense
19 for the Grand Hyatt that comes with no immediate increase in revenue, thereby decreasing
20 property values. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed), ¶¶ 65-67. Mr. Ahmed further
21 testified that the Grand Hyatt will receive no special benefit from the proposed
22 improvements, and in fact the property is more valuable without the proposed LID
23 improvements and the corresponding assessment. *Id.* For these reasons, Taxpayer appeals
24 the following portions of the Examiner's Recommendation: Sections II.25, IV.B.8, and
25 IV.B.9.
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28 13. Special benefit estimate is speculative. When calculating a special benefit,
29 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
30 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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1 becomes pure speculation.” *Id.* (quoting *In re Local Imp. 6097*, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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4 14. Assuming without conceding that one day, the City’s planned LID
5 Improvements might increase the value of neighboring properties to some extent, that
6 potential benefit is many years away and speculative. While appraisers tolerate some degree
7 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
8 far too speculative to satisfy industry practices and standards. *See. e.g.*, 3/12/2020 (P.
9 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
10 the level of precision implied in the Final Study due to the size of the LID and use of
11 hypotheticals).
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20 15. Although LIDs are sometimes finalized prior to completion of improvements,
21 this is typically just six month or a year prior, and the assessments are otherwise supported
22 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
23 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
24 will not be realized for four or five years. In the meantime, there is permitting risk,
25 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
26 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
27 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
28 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
29 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
30 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
31 market value would be as of the date the project would be finally constructed” because
32 “[t]here could be a lot of elements in the market that did occur between now and then that
33 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
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1 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
2 fluctuate over time” and “I can’t predict the future”).

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4 16. The record is clear that while no one can know what “special benefit” might
5 accrue to these properties in four years (if any), we do know that there are no actual benefits
6 now. The LID improvements provide no immediate special benefit to property owners
7 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
8 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
9 sewer system for future users). For example, notwithstanding the questionable hypothesis
10 that hotels will benefit from an expected increase in tourism (higher room rates or
11 occupancy) when the improvements are complete, it is undisputed that tourists are not
12 coming in larger numbers and paying higher room rates now because of something
13 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23.

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15 17. Further, there are no “plans and specifications” on file with the Clerk’s Office
16 for the LID Improvements, and it is unlawful to move to final assessments without such
17 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
18 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
19 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
20 dollars on projects still early in the design process. *See* Washington Attorney General
21 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
22 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
23 of programs and included “only so much of the overall costs” that took place within and
24 benefitted the assessed properties).

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26 18. The COVID-19 crisis highlights how fundamentally speculative and unfair it
27 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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1 anticipated to be delivered five years later. Even before COVID, it was speculative to
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3 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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5 after an already extraordinarily long expansion period. *See, e.g.*, 3/3/2020 (A. Gibbons)
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7 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
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9 my analysis in October 2019, who would have thought that this COVID issue would
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11 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
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13 process was that the market was going to continue to go up”—in fact, it did not for
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15 Taxpayer’s property. *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that
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17 downtown hotel values had already dropped an estimated 10-15% from their October 2019
18
19 levels, and occupancy rates were at zero or in single digits. *See* Gordon Decl. (dated
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21 4/21/2020) at ¶ 9. Hotels without guests will derive no benefit, special or otherwise, from
22
23 the planned LID Improvements. And even assuming hotels recover prior to 2024, there is
24
25 no basis for assuming that values hypothesized in October 2019 will remain relevant; they
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27 are already irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020).
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29 Although COVID does not change actual values as of October 2019 (*see* Examiner’s
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31 Recommendation at 109), the pandemic has impacted *current* values and rendered the
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33 hypothetical October 2019 Final Study valuations outdated.

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35 19. As another example of how future events could affect the accuracy and
36
37 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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39 Examiner re-open the record to allow the City to explain whether the assessments against
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41 property owners within the LID are, in fact, being used by the City to fund the emergency
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43 dismantling and reconstruction of Pier 58.⁵ It has been reported that the City plans to use
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46 ⁵ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
47 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor->

1 LID funding to pay for the expedited, emergency repairs and replacement.⁶ If true, the City
2 would be improperly imposing costs on property owners within the LID for improvements
3 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
4 habitat and City infrastructure—this does not provide any special benefit to LID property
5 owners.
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11 20. There is also no certainty the improvements will be delivered on time. Mr.
12 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
13 delay in construction schedule would not constitute a “material change” under the City
14 Council’s ordinance authorizing the improvements. In other words, the City cannot
15 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
16 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
17 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
18 potential delays and project changes inherent in those processes, that call into question the
19 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
20 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
21 Decl., dated 4/15/2020).
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36 [approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
37 58 (Waterfront Park) Emergency Demolition Project, *available at*
38 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=)
39 [ry=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=); see also Aug. 13, 2020 Ltr. from H.
40 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
41 *available at*
42 [https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?que](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=)
43 [ry=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=](https://www.govonlineaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=).
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45 ⁶ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
46 2020), *available at* [https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/)
47 [waterfront-park/](https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/).

1 21. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
2 he could not point to a single one where the assessment roll was finalized five years in
3 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
4 he has never recommended final special assessments based on designs less than 30 percent
5 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
6 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
7 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
8 at 66:17-25. He performed no independent due diligence to determine the reliability of the
9 City’s estimates for completion of the LID Improvements, or to ensure that proposed
10 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
11 agreed that if any of his assumptions are incorrect, his opinion of market value would need
12 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
13 68:11-18.

14 22. The City has cited no authority—and Taxpayer is aware of none—that
15 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
16 assess taxes for “actual” special benefits that will not accrue for another five years (if all
17 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
18 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
19 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
20 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
21 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
22 IV.C.14, and IV.C.18.

23 23. Failure to discount special benefit estimates to account for risks and present
24 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should

1 have accounted for risks associated with delivery of the improvements (including permitting
2 risk, construction risk, general economic risk) and any special damages associated with
3 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
4 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
5 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
6 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
7 the impact of future conditions [through] discounted cash flow analysis.”).
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14 24. Mr. Macaulay acknowledged that appraisers can discount the value of a
15 future condition not in place at the date of valuation and can discount for the time value of
16 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
17 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
18 Discounting would also have been consistent with his approach for analyzing special
19 benefits to vacant land. He testified that the difference between similarly situated vacant
20 sites slated for development and already developed sites was that the labor, capital and risks
21 associated with development had not yet been borne for those vacant sites. Therefore, the
22 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
23 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
24 fully permitted, has not completed environmental review, and has not reached full design is
25 presently worth significantly less.
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38 25. The City’s hotel expert, Mr. Lukens, likewise explained that to calculate
39 present value, an appraiser would consider discount rates for land development to account
40 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
41 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
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1 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
2 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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5 26. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
6 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
7 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
8 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
9 ignoring momentarily all of the other methodological and other flaws discussed here and in
10 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
11 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
12 exceeds special benefits when reduced to present value. Further, to the extent the City is
13 arguing that because they are permitted to assess 100% of the special benefit, the special
14 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
15 is again wrong. After applying proper discounting, the City's proposed special benefit
16 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
17 100% of the total estimated special benefit.
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30 27. But even the assumption that the LID improvements would deliver benefits
31 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
32 on. Rather, those studies demonstrate that a discount period of five years is conservative.
33 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
34 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
35 indicates that during the construction period, the Greenway district "significantly" lagged in
36 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
37 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
38 30-31 (discussing New York City High Line and San Francisco Embarcadero
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1 improvements). Given the lengthy delay, any prediction of future special benefits is
2 speculative, especially during the construction phase where values are likely to decline.
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4 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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6 Improvements take a similarly long period of time after they are complete to start producing
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8 tangible property value benefits, each additional year of delay results in further discount to
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10 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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12 A.
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15 28. Applying the same discounting methods described above and in Mr. Gibbons
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17 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
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19 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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21 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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23 100% assessment should be no more than \$338,121. Anything more would permit the City
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25 to assess Taxpayer based on a hypothetical assumption that these improvements are in place
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27 and providing benefit, and ignore the risks, construction disamenity, and time value of
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29 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
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31 would counsel that the assessment should be only 39.2% of that assessment cap, or
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33 \$132,543.
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35 29. Attachment C includes two Excel spreadsheets applying these discounting
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37 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
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39 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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41 demonstrates that discounting the City's hypothetical October 2019 special benefits to
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43 present value would reduce Taxpayer's assessment to \$483,004, exclusive of any other
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45 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
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47 reductions after taking into account: (1) Taxpayer's experts' estimated "Before" value based

1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
4 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
5 the time it takes for the improvements to capture property value). After such reductions,
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7 Taxpayer's assessment would be just \$297,421 (for the 5-year discount) or \$81,721 (for the
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9 10-year discount). Further, the spreadsheet concludes a "zero" benefit for this property
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11 because, based on Dr. Crompton's testimony, Taxpayer's property is more than 2,000 feet
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13 from the core "park" improvements and therefore too distant to receive any special benefit.
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15 Neither of these spreadsheets address other issues raised by Taxpayer's appeal, but are
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17 intended to help demonstrate how unfair and inflated the City's proposed hypothetical
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19 assessment is. The Hearing Examiner's Recommendation simply dismisses Taxpayer's
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21 discounting argument without legal or factual analysis; that failure is error.
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24 **Appraisal and Assessment Calculation Methods Are Flawed**

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26 30. The "general rule is that each lot, piece, or parcel of land should be assessed
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28 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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30 Wn.2d at 97.
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33 31. It is proper to sustain a challenge to an assessment, even without the appraisal
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35 testimony from the owner, where the objector's expert establishes that the assessment was
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37 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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39 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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41 32. The City's appraiser purports to utilize the income method of valuation but
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43 relied on inaccurate revenue and market data, as discussed further below.
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45 33. The City's appraiser purports to utilize the comparable sales method of
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47 valuation, but no City witness attempted "to characterize any one, or all of them, as

1 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
2 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
3 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
4 characterize any one, or all of them, as comparable to any particular property within the LID").
5 And no City witness could explain how specific adjustments were made to these sales to
6 account for value increases due to the hypothesized Before and After Improvements. For this
7 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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15 34. Special assessment improperly includes value lift from the Before
16 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
17 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
18 Improvements, which WSDOT had independently committed to fund. However, Mr.
19 Macaulay did not calculate the actual market value of LID properties in October 2019, and
20 did not separately analyze the hypothetical increase to property values attributable to
21 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
22 current value and then separately calculate a hypothetical "With WSDOT" Before value);
23 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
24 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
25 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
26 documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
27 occupancy and rates would have been for the commercial properties assuming all of the
28 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
29 outright omission precludes any independent evaluation of the true market "Before" values.
30 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
31 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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1 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
2 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
3
4 other road, pedestrian and landscaping improvements WSDOT had already committed to
5
6 make.
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9 35. However, because Mr. Macaulay testified that he did include some WSDOT-
10 related value-lift in the “Before” values, it follows that part of the special assessment
11
12 improperly is based on value attributable to the WSDOT Improvements. As shown by
13
14 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
15
16 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
17
18 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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20 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
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22 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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24 to properly exclude the value of Before Improvements from the assessments. For these
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26 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
27
28 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)
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31 36. Special benefits were assigned rather than measured. Mr. Macaulay
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33 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
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35 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
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37 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 3/3/2020 (A. Gibbons)
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39 Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay
40
41 used to analyze the commercial properties, Taxpayer’s experts concluded that Mr. Macaulay
42
43 based adjustments on hypothesized very small increases to property revenue and very small
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45 reductions to cap rates to “calculate” an “After” value due to the coming 2024 LID
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1 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
2 based on “professional judgment” that are neither shown nor replicable.
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5 37. For these reasons, Taxpayer appeals the following portions of the Examiner’s
6 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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9 38. Special benefit falls within margin of error. The Final Special Benefit Study
10 applies an estimated value enhancement of less than 4%, which is generally within the
11 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
12 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
13 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
14 of one another, this difference is considered reasonable as it falls within the standard margin
15 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
16 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay’s micro-special benefit
17 percentages fall far below that 5% margin, “there is no way of authenticating” such
18 incremental changes because “[m]arket forces completely obliterate any tiny little noise
19 factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
20 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25.
21 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
22 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
23 appraiser to discern the micro-value differences between hypothetical conditions that are so
24 similar (the WSDOT improvements compared to the LID improvements) “verges on being
25 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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28 39. Even if it were possible to accurately tease out such a miniscule hypothetical
29 value change due to improvements coming five years later, experts testified that there is no
30 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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1 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
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3 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
8
9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

10
11 40. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
13
14 percentage difference between hypothetical Before and After conditions. Throughout his
15
16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
25
26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 41. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁷ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 42. Special assessment is not supported by comparable studies, data or reports.
25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for the commercial properties, including Taxpayer’s
30 property. For example, although Mr. Macaulay stated that no single report or study was
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41 ⁷ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
2 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
3 parcel-by-parcel analysis other than to say that the studies generally provided “some
4 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
5 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
6 similarities and differences between these improvements and the comparable parks he
7 looked at).

14 43. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
15 assignment of incremental increase of 0.5% to 4% to property values within the LID.
16 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
17 research misinterprets his work in critical ways, including because the LID Improvements
18 manifest the characteristics of a parkway (not a park), and his research indicates that most of
19 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
20 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
21 related value increases are in fact smaller; that estimated increases are “best guesses” rather
22 than predictions of property value increases in a particular city; and that percentages do not
23 account for diminishing returns after taking into account water views, which would be the
24 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
25 topography grants most properties in downtown a water view.

38 44. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
39 that this was just one source of information that was not entirely relevant because, among
40 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
41 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
42 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3 Crompton concluded that 500 feet via road from “park” improvements is just one or two
4 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
5 significantly beyond that which the park study indicated (even if it was legitimate to use the
6 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
7 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
8 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
9 Taxpayer’s property is even not within 2,000 road network feet from the “park”
10 improvements. *See* Hrg. Exhibits 104 (Ellen Kersten Decl.) at Ex. E, F; 114 (Decl. of Z.
11 Ahmed) at ¶ 63.

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13 45. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
14 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
15 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
16 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
17 materials, it was clearly an important—if not *the* most important—source of information for
18 estimating special benefits (especially with respect to the condos).⁸ No City witness
19 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
20 parcel-by-parcel analysis.

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⁸ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr. at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a park (or streetscape) improvement—other studies estimated premiums for real estate only much closer or cited to Dr. Crompton.

1 46. The destination parks discussed in the Final Special Benefit Study do not
2 provide reliable, comparable, and valid support for the calculation of special assessments
3 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
4 critique of every case study cited concludes the changes to those “dwarf the difference
5 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
6 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
7 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
8 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
9 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
10 funded by a LID. And in virtually all of those cases, the park improvements dramatically
11 restored unimproved or blighted areas, and properties evaluated were within two or three
12 blocks of the park.
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14 47. ABS’s claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁹ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study’s
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
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22 ⁹ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
23 Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose
24 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
25 expected tourists visiting the LID park was calculated using data from only from New York City, a
26 notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to
27 increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to
28 how hotel visitors actually select hotels to stay in.
29

1 the LID Improvements and could not explain how this impacted his condo analysis.
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3 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
4 Property Values” primarily focused on whether the benefits accrue to the larger community
5 rather than properties adjacent to the park. And the 2014 New York City Department of
6 Transportation study is not based on real estate transactions and market sales and fails to
7 substantiate any link between increased retail sales and property values. Moreover, this
8 study only looked at impact either directly abutting the streetscape improvement, or a couple
9 hundred feet for plaza-like improvements.
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12 48. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
13 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
14 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
15 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
16 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
17 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
18 asked whether he considered that HR&A’s estimated LID impact is six times greater than
19 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
20 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
21 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
22 assumptions to account for this difference, which may be partly explained by the fact that
23 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
24 approximately 3.44% of King County tourists visit Seattle primarily because of the city
25 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
26 waterfront improvements.
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1 49. Although proximity to the improvements is a key factor in all of these
2 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
3 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
4 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
5 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
7 Improvements is approximate 20 acres and it is not a community park.¹⁰

8 50. There is no explanation in the Final Study or the supporting materials of how
9 the studies or comparable sales were used to derive values for Taxpayer's property. For
10 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
11 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

12 51. Failure to comply with USPAP. Taxpayer's assessment also rests on a
13 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
14 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
15 recognized) for developing the MAI standards for mass appraisals, testified that the Final
16 Study does not meet mass appraisal standards nor allow for independent assessment of the
17 accuracy of Mr. Macauley's conclusions.

18 52. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
21 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
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23 ¹⁰ *See*
24 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
25 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
26 connecting Seattle's central waterfront to downtown.").

1 testimony suggests that he incorrectly believed that the only difference between direct
2 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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4 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
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6 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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8 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
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10 Gordon uses in doing his limited restricted report”).
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13 53. But the difference is not only in reporting—mass appraisal techniques must
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15 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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17 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
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19 parcel approach:

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21 The mass appraisal technique is an appraisal method used to evaluate
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23 a group of properties that are subject to similar market forces as of a
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25 certain date through the use of market data, statistical analysis and
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27 testing. As a result, the mass appraisal technique does not require or
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29 involve analysis of each individual property’s specific data.
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32 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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35 54. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
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37 universe of properties as a given date using standard methodology, employing common data,
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39 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
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41 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
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43 model” is “a mathematical expression of how supply and demand factors interact in a
44
45 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
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47 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

1 55. Regardless of client direction, Mr. Macaulay is required to comply with
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3 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
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5 economically feasible because it would have taken “an incredible amount of time and cost”
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7 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
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9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
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11 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).

12 56. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
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14 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
15
16 value, fails to calibrate the model structure to determine the contribution of the individual
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18 characteristics affecting value, and does not review the mass appraisal results against actual
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20 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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22 217:1;¹¹ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

23 57. Mr. Macaulay explained that factors like “aesthetic change in the area, the
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25 proximity to the elements, the increase in market rent, market vacancy changes,
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27 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
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29 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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34 ¹¹ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
47

1 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
2 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
3 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
4 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
5 were hypothetical, it was not possible to identify matched pair sales and no City witness
6 explained how ABS Valuation made adjustments to “comparable” sales in order to check
7 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
8 him to explain his model structure.
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11 58. For these reasons, Taxpayer appeals the following portions of the Examiner’s
12 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
13 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
14 and appeals the Examiner’s denial of that motion.
15

16
17 59. Finally, Taxpayer’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, the Grand
21 Hyatt is more than a 3/4 of a mile walk—more than 2,700 feet as a crow flies—from Pier 58
22 and the core “park” improvements. Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 63. And, as
23 described above, the special assessment is overstated because the Final Study makes no
24 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
25 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
26 improvements were not in in place—and, in fact, much of the waterfront is a construction
27 zone following removal of the viaduct and now Pier 58 demolition. Under these
28 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
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1 Mr. Macaulay at the very least should have discounted the special benefit estimates or
2 waited to perform the Study until the improvements were at least close to complete.
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4 **Erroneous Pre-Improvement Valuation**

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6 60. The proposed final assessment erroneously overstates the pre-improvement
7 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
8 benefit to the Taxpayer's property.
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12 61. The City's Final Study was used to compute the proposed final assessment of
13 Taxpayer's property. The City's Study purportedly uses data from the King County
14 Department of Assessments,¹² but the pre-improvement valuation information in the Final
15 Study does not accurately reflect this data. For example, the City's Study values parcel
16 6195000030 at \$167,511,400 and parcel 6792120010 at \$71,781,600, for a total of
17 \$239,293,000 as of October 1, 2019. But the King County assessor determined the true and
18 fair value of the parcels at \$185,398,000 (\$129,778,600 and \$55,619,400, respectively),
19 valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's
20 valuation is 129% of King County's assessed value for both parcels. The Final Special
21 Benefit Study does not explain this difference—or any differences—between its pre-
22 improvement valuation and its supposed source for market data. For this reason, Taxpayer
23 appeals Section IV.C.11 of the Examiner's Recommendation.
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27 62. Further, the City's analysis was based on unreliable market data. For the
28 hotels, Mr. Macaulay's decision to rely on inaccurate market data notably deviates from
29 standard appraisal practices because more reliable data in the form of STR reports are
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45 ¹² See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 readily available. Examiner Recommendation at Section IV.C.10; 3/12/2020 (J. Gordon)
2
3 Hrg. Tr. at 196:5-197:12; 215:9-18. Without the STR reports or actual input from the hotels,
4
5 Mr. Macaulay's "Before" valuations are drastically overstated in large part because he relies
6
7 on publicly available "room rack rates" to estimate hotel income. *See id.* (J. Gordon) at
8
9 162:3-18; 170:16-171:13; 179:25-180:14; 192:15-22. As the Examiner found, "Mr. Gordon
10
11 is a specialist expert in appraising hotels and his expert opinion, in addition to the specific
12
13 information he relied on for that opinion, is superior to the opinion and supporting data of
14
15 the City in its valuation." Examiner's Recommendation at II.16. The Examiner concluded
16
17 that Mr. Gordon's valuations were more reliable "due to the specialist nature of Mr.
18
19 Gordon's background and the specificity of the valuation data upon which he relied"—
20
21 namely STR reports or actual revenue data from the hotel. *Id.* at IV.C.10. Therefore, "the
22
23 valuation of [this] property should be remanded for recalculation by the City appraiser based
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25 on the information provided by [this] Objector." *Id.*

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27 63. Specifically, the evidence and testimony presented showed that the actual
28
29 average daily room rate (ADR) for this property in 2019 was \$234. However, Mr. Macaulay
30
31 incorrectly estimated an ADR of \$355 for this property which is 51% higher than actual
32
33 ADR, far exceeds the most optimistic assumptions about future growth in hotel room rates
34
35 for the Grand Hyatt, and is not a reasonable assumption in valuing a hotel of this type in the
36
37 downtown Seattle market. In addition, the Grand Hyatt has significantly reduced operations
38
39 as a result of the COVID-19 outbreak.

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41 64. Due to these errors alone, Mr. Macaulay artificially raised the property's
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43 Before value; Mr. Gordon valued the property at \$168,400,000 (without personal property),
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45 which is \$70,893,000 (or about 30%) less than ABS Valuation's estimate. Setting aside that
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47 ABS Valuation's inclusion of personal property when valuing hotels is disproportionate and

1 flawed, Mr. Gordon's estimate of value including personal property is \$175,300,000, which
2 is still significantly lower than ABS Valuation's estimate (\$239,293,000). See Fourth Decl.
3 of Gordon, at ¶ 5 (dated 7/7/2020).
4

5
6 65. Taxpayer expects an opportunity to respond to the revised assessment once
7 that is provided (see Examiner's Recommendation at V) and appeals the remainder of
8 Section IV.C.10 of the Examiner's Recommendation rejecting Taxpayer's other bases for
9 reducing the assessment. For example, Taxpayer disagrees with the Examiner's conclusion
10 that one of the reasons Mr. Gordon's appraisals concludes a lower value for this property is
11 because he was not valuing the properties in the "Before" condition. Examiner's
12 Recommendation at Section II.16. This does not explain the 51% difference between ABS
13 Valuation's estimate and actual average room rates for the Grand Hyatt. Further, Mr.
14 Lukens—who reviewed ABS's valuation estimates for reasonableness—was not even aware
15 that the Before values were supposed to include the WSDOT Improvements. 6/26/2020
16 Hrg. Tr. at 165:2-166:22.
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19 66. Thus, aside from multiple other reasons why computation of the special
20 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
21 improvement values that do not accurately reflect market data. For these reason, Taxpayer
22 appeals Section II.16 of the Examiner's Recommendation.
23
24

25 **Erroneous Computation of Special Benefit**

26 67. "Special benefit" is "the increase in fair market value attributable to the local
27 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
28 may receive by reason of the improvement is not measured alone by the physical character
29 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
30 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is
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1 the particular tract or property benefited by the entire improvement, and is it assessed
2 proportionately with the other property included within the assessment district?” *Id.* 165–
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4 66.
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6 68. The proposed final assessment erroneously overstates the special benefit of
7
8 LID improvements in a number of ways.
9

10 69. Overstated Before value led to overstated special benefit. ABS Valuation’s
11 overstated Before value resulted in an inflated special benefit estimate and assessment after
12
13 Mr. Macaulay made micro adjustments to “Before” revenue and capitalization rates to
14
15 calculate an After value. Mr. Macaulay conceded that using his methods and his
16
17 spreadsheets, changing the room rate alone would change the special assessment. 6/25/2020
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19 Hrg. Tr. at 42:21-43:15 (explaining that changing the room rate will result in a different
20
21 assessment and the same is true for every hotel); *see also* 6/23/2020 Hrg. Tr. at 111:9-11,
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23 132:12-133:10, 140:20-141:9. And he agreed that if Mr. Gordon’s numbers are accurate—
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25 and there is no evidence they are not—then ABS would need to redo the appraisal for the
26
27 Grand Hyatt to determine if adjustments are needed. *See id.* 137:20-138:13.
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29

30 70. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
31
32 the Grand Hyatt, Mr. Macaulay assumed room/rental rates would increase by 0.60% (low)
33
34 and 1.20% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not
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36 possible to accurately conclude that the reason for this level of percentage increase would be
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38 due to the LID Improvements, and there appears to be no support for assignment of these
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40 percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same
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42 percentages (0.60% and 1.20%) to increase food and beverage revenue, and parking and
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44 other income. He then uses this hypothesized increased revenue to calculate a new net
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1 operating income for the commercial properties and capitalizes that to come up with an
2 “After” valuation.
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4
5 71. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
6 operating income remains the same as in the hypothetical “Before” condition, but changes
7 the cap rate. For the Grand Hyatt, the cap rate goes from 7.25% to 7.11% (low scenario,
8 creating a bigger value increase) and 7.17% (high scenario, creating a lower value increase).
9 Mr. Gordon likewise explained that cap rate changes of 0.14% or 0.08% are not typically
10 measurable, and there appears to be no support for these changes in the Final Study or any
11 of its supporting materials.
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15 72. Mr. Macaulay then averages his four “After” values to arrive at a final special
16 benefit conclusion. For the Grand Hyatt, this is an increase in property value of 1.50% due
17 to the LID Improvements.
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19

20
21 73. Mr. Macaulay offered little justification for his micro adjustments to revenue
22 and capitalization rates. When asked precisely what the basis is for his special benefit
23 percentage increases to revenue for each commercial property, he could not point to
24 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
25 is nothing in the report to allow a reader to understand how he came up with these
26 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
27 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
28 the basis for his belief that certain factors—liked increased connectivity—will increase
29 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
30 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
31 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
32 sources equally even though there was no separate analysis done for food and beverage or
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1 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
2 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
3 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
4 properties.
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8 74. When asked the basis for making such adjustments for the hotels, Mr.
9 Macaulay pointed to “discussions with Mr. Lukens.” *Id.* at 116:5-19; 117:1-8; 126:3-7
10 (“Mr. Lukens helped significantly in that regard in helping, you know, look at probable
11 adjustments”). However, Mr. Lukens testified that he did not review the percentage
12 increases. *See* 6/25/2020 Hrg. Tr. at 170:24-172:20.¹³ And he did not review any work or
13 data to determine whether the revenue percentage adjustments in the spreadsheets were
14 reasonable, nor did he ever find them to be unreasonable or suggest any changes. *Id.* at
15 172:3-20. Instead, he appeared to be considering them for the first time on cross
16 examination, testifying that the adjustments “appear to be a kind of sensitivity analysis” and
17 “appear to be a very minor change.” *Id.* at 170:18-172:13. Likewise, he had no
18 understanding of what factors went into determining the change in capitalization rates in the
19 spreadsheets. *Id.* at 173:23-174:1. And he did not know how ABS Valuation reconciled the
20 four scenarios to come to final estimated special benefit. *Id.* at 174:22-175:4.
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39 ¹³ As another example of how arbitrary Mr. Macaulay’s methods are, he assigned different
40 special benefit and capitalization rate increases to the parking and retail parcels associated with the
41 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
42 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special
43 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
44 parcels). When asked whether this was a matter of coincidence, his answer was that is “just our
45 estimate of how the market would react.” 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
46 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
47 though it is one block closer to the waterfront.

1 75. Mr. Macaulay testified that he used comparable sales as a reasonableness
2 check for commercial properties. But as explained above, no City witness has explained
3 how anyone, or all, of the sales are comparable to any particular commercial property within
4 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
5 in order to make sales “comparable,” he would have had to make adjustments to account for
6 Before and After conditions, but there is no way to understand how adjustments were made
7 because he “didn’t do a separate sales comparison approach where we showed adjustments
8 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
9 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
10 *Id.* at 127:10-128:24.

21 76. It also bears noting that any “internal review” of the special benefit estimates
22 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
23 error. Indeed, given all the same information, he seemed to suggest that it would be
24 perfectly reasonable for another experienced appraiser to come up with special benefit
25 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
26 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
27 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
28 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
29 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
30 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
31 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
32 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
33 special because it is arbitrarily assigned; and it is too small to realistically be supported by
34 appraisal techniques.

1 77. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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3 any seller or purchaser that the price was higher because of the LID improvements.”
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5 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
6
7 identified any seller or buyer, or any particular property where the existence of the LID
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9 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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11 explained that the property has not increased rental rates or revenue due to the forthcoming
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13 LID Improvements, because, among other reasons (and apart from COVID), the
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15 improvements ABS believes will generate value do not exist, and will not for a number of
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17 years to come. There are no comparable sales because the LID Improvements are not in
18
19 place, nor will they be until the end of 2024 if completed on schedule.

20 78. The fair market value of Taxpayer’s property has not changed due to
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22 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
23
24 benefited from installation of new water main and fire hydrant where it was already
25
26 adequately supplied with water and afforded adequate fire protection). And in any event,
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28 any value attributable to removal of the viaduct was to be excluded from the assessment
29
30 calculation.

31 79. There is no special benefit because LID improvements in fact diminish the
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33 value of Taxpayer’s property by drawing visitors away towards improvements that do not
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35 abut the property. *See Kusky*, 85 Wn. App. 493 (testimony of owners’ expert that LID
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37 actually diminished value of property was sufficient to rebut presumption that assessment
38
39 was proper).

40 80. Moreover, the assessment formula is an attempt to distribute costs that do not
41
42 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
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44 “merely a mathematical model that distributes costs”).
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1 81. The Special Benefit Study fails to address whether the \$346,000,000
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3 estimated LID project cost takes into account the investment that would have occurred in the
4
5 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
6
7 invested. This is a critical component of estimating which properties receive a direct benefit
8
9 from the improvements, versus more incidental benefits further from the park.

10 82. Assessments are disproportionate. Taxpayer also presented evidence
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12 showing that the assessments are disproportionate. For example, the City disproportionately
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14 assessed hotels a greater percentage of the cost of the Improvements even though there no
15
16 evidence that hotel properties will in fact benefit. And even within the hotels, the
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18 assessments are disproportionate. Mr. Gordon testified that the differences between the
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20 special benefit increases for the Hyatt at Olive 8, the Grand Hyatt, and Hyatt Regency—
21
22 which are all very close together—made little sense and raised doubts as to proportionality.
23

24 83. Mr. Macaulay also included personal property in his valuation of hotels even
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26 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
27
28 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
29
30 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
31
32 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
33
34 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
35
36 receiving a disproportionately high LID assessment in comparison to other property types,
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38 since hotels were the only property type subject to personal property LID assessments.
39
40 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
41
42 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
43
44 notice procedures because hotel property owners only received notice that their real estate
45
46 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
47

1 84. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
2 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
3 a television at the waterfront Marriott is assigned a greater special benefit than the same
4 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
5 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
6 unreasonable to assign a value lift to personal property that is replaceable at the same cost
7 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
8 Shorette ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
9 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
10 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
11 for this error.
12

13 85. The only evidence the City provided specific to this property was to rebut
14 Mr. Gordon's "Before" valuation. But the Hearing Examiner has already found that Mr.
15 Gordon's valuation is more reliable. The remainder of the City's evidence and testimony
16 regarding this property provides general responses which have already been rebutted by
17 Objectors in their case-in-chief and cross-examination. Second Decl. of Bird, at ¶¶ 104-109
18 (dated 6/26/2020).
19

20 86. The proposed final assessment substantially exceeds the special benefit to the
21 property and is grossly disproportionate to similarly situated properties within the LID. For
22 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
23 Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.10.
24

25 **State Environmental Policy Act and Other Environmental Permitting**
26

27 87. While this appeal is not challenging the City's environmental review and
28 permitting processes, those processes are relevant in determining the legality of the
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1 assessments, and to assessing the delivery risk, the present value of the City's plans, and
2 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
3 pursue projects that have not yet undergone environmental review (thus limiting the choice
4 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
5 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
6 is just beginning. Further, the City has segmented environmental review, and still has a
7 gauntlet of federal, state and tribal review processes to complete before it will be clear what
8 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
9 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
10 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
11 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
12 committing to reconstruction of Pier 58 and major street improvements without
13 environmental review, or the City's Final Special Study has improperly included and is
14 proposing to assess the Taxpayer the costs and special benefits of improvements that may
15 not get built. Either way, it is faulty process.

30 **Due Process Rights**

31
32 88. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
33 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
34 Because LID assessments involve a deprivation of property, affected owners have the right
35 to a hearing as to whether the improvement resulted (or will result) in special benefits to
36 their properties and whether their assessments are proportionate, which necessarily includes
37 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
38 555, 569–70, 229 P.3d 761 (2010).
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1 89. The LID statute specifies that cities must mail notices giving the time and
2 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
3 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
4 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
5 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
6 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
7 secure their own appraisal), evaluate proportionality of the proposed assessments, and
8 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
9 for anybody to get an appraisal”).

10 90. The City’s Notice of Assessment was sent on December 30, 2019. And the
11 Final Special Benefit Study has only been available for public review since January 7, 2020.
12 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
13 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
14 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
15 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
16 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
17 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
18 the Examiner’s Recommendation: I.B.

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37 **VII. Relief Requested**

38 Taxpayer respectfully requests that the City Council:

39 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
40 assessment dated December 30, 2019; or
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- 1 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
2
3 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
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5 hearing in this matter; or
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7 3. Grant the Examiner's recommended remand but with instructions recalculate
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9 and reduce Taxpayer's assessment using recognized appraisal techniques consistent with
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11 USPAP and;
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13 4. Award costs and attorney fees to Taxpayer/Appellant pursuant to 42 U.S.C. §
14
15 1988; and
16
17 a. Excluding any property value increase attributable to viaduct removal and
18
19 other planned WSDOT Improvements;
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21 b. Excluding any value attributable to personal property;
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23 c. Taking into account the effects of the COVID-19 pandemic on the value of
24
25 Taxpayer's property and other relevant developments since October 2019;
26
27 d. Accounting for and excluding (1) any special benefits from existing or
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29 planned improvements that already provide similar benefits to Taxpayer's
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31 property, and (2) any special detriments from construction and other
32
33 anticipated LID-related disamenities;
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35 e. Accounting for and including only those actual benefits anticipated to accrue
36
37 to Taxpayer's property based on its location relative to Pier 58, Overlook
38
39 Walk, and the Promenade, and specific elements of the LID Improvements;
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41 f. Discounting anticipated special benefits to present value, based on reliable
42
43 estimates regarding when special benefits will start accruing following
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45 completion of the LID Improvements; and
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1 g. Accounting for such other issues specific to Taxpayer's property relevant to
2 calculation of such assessment; and
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4
5 3. Grant such further relief as the City Council deems just and proper.
6

7 DATED: September 22, 2020

PERKINS COIE LLP

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13 By: 

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4:01 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
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Subject: Waterfront LID Amended Appeal for Case No. CWF-0436 and CWF-0437
Date: Tuesday, February 16, 2021 3:41:22 PM
Attachments: [Grand Hyatt Amended LID Appeal before City.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
Grand Hyatt Amended LID Appeal before City.pdf

Kimball Mullins | Perkins Coie LLP

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Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0436 and
CWF-0437

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON HEDREEN
HOTEL LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NOS.
6195000030 and 6792120010

33
34 HEDREEN HOTEL LLC (“Taxpayer”), also referred to as the Grand Hyatt Hotel,
35 files this amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090,
36 City of Seattle Resolution 31915, City of Seattle Resolution 31979, the notice of the Seattle
37 Office of the City Clerk dated December 30, 2019, the notice of the Seattle Office of the
38 City Clerk dated February 1, 2021, the Hearing Examiner’s Findings and Recommendation
39 issued September 8, 2020 (“Examiner’s Recommendation”) and the Hearing Examiner’s
40 Findings and Recommendation issued February 1, 2021.
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1 **I. Hedreen Hotel LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4 HEDREEN HOTEL LLC

5 217 Pine St. Suite 200

6 Seattle, WA 98101

7 Zahoor Ahmed

8 206-624-8909

9 ahmed@rchco.com

10
11 **II. Hedreen Hotel LLC's Representatives**

12 HEDREEN HOTEL LLC'S representatives in this matter are:

13
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28
29 **III. Statement of Hedreen Hotel LLC's Interest and Incorporation of Prior Arguments**

30 HEDREEN HOTEL LLC is the taxpayer for the properties that are subject to the
31 proposed final assessment described in Section IV.

32 Hedreen Hotel LLC is amending its appeal as authorized in City of Seattle
33 Resolution 31979 to include additional arguments relevant to the revised Final
34 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
35 2020, Hedreen Hotel LLC timely filed an objection to the assessment, which was based on
36 the Final Study. Hedreen Hotel LLC further timely filed an appeal of the Hearing
37 Examiner's 2020 recommendations to the City Council. Hedreen Hotel LLC maintains and
38 incorporates all objections and arguments raised in its appeal filed with the City Clerk on
39 September 22, 2020. This amendment is a supplement is to be read together with Hedreen

1 Hotel LLC's appeal filed on September 22, 2020. Hedreen Hotel LLC incorporates by
2 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
3 as authorized by the Hearing Examiner, including without limitation all records pertaining to
4 the November 2020 through February 2021 remand hearing ordered by Council.
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9 **IV. Amended Arguments on Appeal**

10 HEDREEN HOTEL LLC supplements its appeal of the Hearing Examiner's
11 recommendation to deny in part and revise on remand in part Hedreen Hotel LLC's
12 objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 30, 2019 against the following property:
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18 King County Parcel No. 6195000030 and 6792120010
19 Site Address: 700 Pike St. Seattle, Washington
20 Proposed Final LID Assessment for Parcels: \$1306335¹
21
22

23 To avoid repetition, Hedreen Hotel LLC incorporates the evidence and arguments
24 raised before the Hearing Examiner and before the City in its September 22, 2020 appeal,
25 into this amended appeal.
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30 **A. The Anticipated Special Benefits to Hedreen Hotel LLC's Property**
31 **should be Discounted to Present Value and Assessments Adjusted as**
32 **Appropriate**
33

34 On remand, the City's appraiser acknowledged that special benefits to parcels can be
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
37 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
38 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
39 the theatre parcel is too remotely to support a current assessment. *Id.* The Examiner
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46 ¹ The City has combined these parcels for purposes of a single appraisal and estimated
47 special benefit assessment.

1 accepted that recommendation. The City’s appraiser further acknowledged that benefit
2 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
3 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
4 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
5 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
6 calculations to present value because the general benefits are not anticipated from the LID
7 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
8 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
10 benefit calculation, and related assessments, to account for the delay between the assessment
11 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
12 standard appraisal practice, and renders the other proposed Waterfront LID special
13 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
14 “fundamentally wrong methods.”

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)

1 property while treating all or most others (including Taxpayer's) differently, and
2
3 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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5 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
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7 for some properties because the benefit are too distant, while assessing other properties as
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9 though distant benefits have already been secured. As Taxpayer identified in its September
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11 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
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13 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
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15 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
16
17 reject the improper calculation of the benefit or remand and require the appraiser to discount
18
19 the benefits to net present value.
20

21 **B. The City's Appraiser's Disregard of Hotel STR Report Performance**
22 **Data is Another Example of How His Analysis is Unreliable, Not**
23 **Admissible under Frye or ER 702, and His Proposed Special**
24 **Assessments are not based on Actual, Measurable and Special Value**
25 **Increases from the anticipated LID Improvements.**
26

27 The City's appraiser was provided actual performance data for the remanded hotels,
28
29 including their average daily room rates, from which he had been instructed to "recalculate"
30
31 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
32
33 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
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35 would be "too low." Instead, he divined an alternative value from "comparable sales", and
36
37 then worked backwards to calculate small adjustments to his average daily room rate
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39 assumptions, substituting them in his "income spreadsheets," and thereby correlating his
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41 income analysis to his preconceived value estimate. His remand analysis demonstrates that
42
43 his whole "income approach to valuation", used for both hotels and other commercial
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45 properties, is contrived speculation on speculation. The City's appraiser disregarded these
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47 hotels' actual net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J.

1 Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on
2 Remand for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436). Taxpayer's
3 appraiser submitted an appraisal with room rates much closer to the actual performance of
4 the hotel and should be incorporated. *See* Declaration of John D. Gordon in City Council's
5 LID Remand, (Jan. 8, 2021).
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10 For example, compare the room rate and valuation for the appraisals in the table
11 below, where the actual average daily room rate for 2019 was \$234. The Hedreen Hotel
12 LLC representative testified that the City Appraiser's assumed room rate was too high - it
13 not only had not been achieved, but even pre-Covid, was not reasonably achievable.
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Grand Hyatt Hotel CWF-0436 and 0437	City's Revised Appraisal	Hedreen Hotel LLC's Appraisal
Hotel Value	\$228,902,000	\$175,300,000
Less Personal Property	\$6,900,000	\$6,900,000
Real Estate Value	\$222,002,000	\$168,400,000
Benefit Ratio	1.50%	1.50%
Special Benefit	\$3,333,000	\$2,528,000
Levy Ratio	39.19%	39.19%
LID Levy	\$1,306,335	\$990,824
Average Room Rate	\$345	\$240
Daily RevPAR	\$276	\$201

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37 To correct the "before value" alone, the City Council should instead adopt Hedreen
38 Hotel LLC's valuation, which was developed using actual data, and otherwise applying the
39 City appraiser's assessment formula:
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Grand Hyatt Hotel CWF-0436 and 0437	Appraisal Amount
Hotel Value	\$119,527,000
Less Personal Property	\$3,300,000
Real Estate Value	\$116,227,000
Benefit Ratio	1.50%
Special Benefit	\$1,745,000
Levy Ratio	39.19%
LID Levy	\$683,935

The City's appraiser only slightly reduced his original values in ways that are still entirely inconsistent with historical performance data. The City's appraisal and analysis is speculative and should be rejected. The City Council should at least adopt Hedreen Hotel LLC's "before values" and resultant LID assessments.

C. In Light of Covid's Continuing Impact on Hedreen Hotel LLC and other Downtown Property Owners and other Material Changes Since October 2019, the LID Should be Cancelled, or at Least Assessments Recalculated, to take Into Account Property Value Reductions

In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e] into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019." When Washington's first COVID restrictions were imposed in March and April 2020, there was an assumption that they would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover for another 5 years. Retail stores are boarded up. Homelessness and related challenges have gotten much worse. The City has already imposed higher minimum wages and taxes on businesses to try to fund recovery. The West Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several

1 years from completion, as a best case. In current circumstances, a downtown tax to fund
2 new, non-essential park improvements against financially strapped taxpayers, and likely
3 passed through to financially strapped tenants and customers would be unfair to taxpayers
4 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
5 rethinks its budget priorities for the next few years, and its potentially funding sources,
6
7 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
8 property owners) have a chance to recover, and that any assessment take into account the
9 changed circumstances since this appeal process started on February 4, 2020 to avoid
10 unnecessarily and perhaps permanently killing downtown properties and businesses in the
11 name of bettering them.
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21 **V. Relief Requested**

22 Particularly in light of the Committee's decision not to take further comment,
23 Hedreen Hotel LLC respectfully request that each Committee member carefully review the
24 record transmitted to Council before voting on our appeal.
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27 HEDREEN HOTEL LLC respectfully reiterates its request from the September 22,
28 2020 appeal that the City Council:
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- 32 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
33 assessment dated December 30, 2019; or
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- 35 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
36 proposed final assessment to \$0 (zero), or such amount as Taxpayer
37 establishes at the hearing in this matter; or
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- 39 3. Grant the Examiner's recommended remand but with instructions to
40 recalculate and reduce Taxpayer's assessment using recognized appraisal
41 techniques consistent with USPAP and
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- 1 a. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
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5 b. Taking into account the effects of the COVID-19 pandemic on the
6 value of Taxpayer's property and other relevant developments since
7 October 2019;
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10 c. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
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16 d. Accounting for and including only those actual benefits anticipated to
17 accrue to Taxpayer's property based on its location relative to Pier 58,
18 Overlook Walk, and the Promenade, and specific elements of the LID
19 Improvements;
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22 e. Discounting anticipated special benefits to present value, based on
23 reliable estimates regarding when special benefits will start accruing
24 following completion of the LID Improvements; and
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27 f. Accounting for such other issues specific to Taxpayer's property
28 relevant to calculation of such assessment; and
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37 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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4

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4:05 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0438
Date: Tuesday, September 22, 2020 3:07:52 PM
Attachments: [CWF 0438.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0438.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0438
A – Master List of Evidence
B – E-111-002 Hyatt Parking
C - Discounting for CWF 0438
CWF-0438 Appeal Notice for Parking Retail at Grand Hyatt

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Grand Hyatt Parking/Retail

Map Nos.	E-111-002
Tax Parcel Nos.	679212-0020
Property key:	4746
Address	721 Pine Street
Zoning:	DOC2 500/300-550
Proximity to park	Fronts on both Pike and Pine, 2,300± feet to park, 13-minute walk
Sales history:	N/A

Ownership/Description: 7th & Pine, LLC (679212-0020), which is the Parking/Retail Unit of P totaling 363,531 SF and containing 950 parking stalls. The analysis a leasing stalls for hotel operations, with the remainder utilized for m

Parking/Retail Unit				
Hotel occupancy rate:	80.0%	Total stalls:	950	GBA: 363,531
Hotel occupied daily stalls:	133,444		457	hotel rooms
Daily parking & other income	133,444	available stalls @	\$46.00	per day per :
Related expenses	133,444	available stalls @	25.0%	of parking &
Net daily parking income				
Monthly parking	468	available stalls @	\$320	per month
	<u>GBA</u>	<u>NRA</u>		
Retail rental income (absolute NNN)	13,424	13,424	SF NRA @	\$30.00
Parking/retail net operating income				
Indicated Value				
Land Value				
Total land value		87,790	SF @	\$1,800.00
Allocation to 679212-0020 (parking/retail)	49.68%	43,613	SF @	\$1,800.00
Residual Improvements				
Allocation to 679212-0020 (parking/retail)		363,531	SF GBA @	\$42.20
Special Benefit Summary				

	Land		Improved	% Change
	Per SF	Total		
Without LID	\$1,800.00	\$78,504,000	\$15,340,000	N/A
With LID				
Scenario A1	\$1,827.00	\$79,681,000	\$15,476,000	0.89%
Scenario A2	\$1,827.00	\$79,681,000	\$15,664,000	2.11%
Scenario B1	\$1,827.00	\$79,681,000	\$15,742,000	2.62%
Scenario B2	\$1,827.00	\$79,681,000	\$15,475,000	0.88%

Percent change in land value	1.50%	average	\$15,589,000	1.62%
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Overall Summary

Without LID	\$1,800.00	\$78,504,000	\$15,340,000	N/A
With LID	\$1,827.00	\$79,681,000	\$15,565,000	1.47%

Total Building Area	0	SF			\$0
Less: Vacancy & credit Loss @			8%		\$0
Effective Gross Income					\$0
Less: Expenses					
Management @	6%	(EGI)		\$0	
Bldg. Maint/Reserve	0.20	/SF		\$0	
				\$0	
NET OPERATING INCOME					\$0
CAPITILIZED @			7.25%		\$0
				R	\$0
CAPITILIZED @			7.50%		\$0
				R	\$0
Land Value	0	@	\$0.00	=	\$0
	0	@	\$60.00	=	\$0
	0	@	\$65.00	=	\$0
Residual Builing					\$0
					\$0

Grand Hyatt Parking/Retail

Scenario A - Rate and Vacancy Changes

Ownership	APN
Washington St Convention Center P	619500-0020
Hedreen LLC	619500-0030
Hedreen LLC	679212-0010
7th & Pine LLC	678212-0020

ine Street Condominium,
assumes that the Grand Hyatt is
onthly parking.

SF	
stall	\$6,138,424
! other income	(\$1,534,606)
	\$4,603,818
	\$1,797,120
per SF =	\$402,720
	\$6,803,658
Capitalized @	7.25%
Indicated value	\$93,843,559
(R)	\$93,844,000
Per SF GBA	\$258.15
per SF =	\$158,022,000
per SF =	\$78,504,000
per SF =	\$15,340,000

Total

Estimated Value

Special Benefit % Change

\$93,844,000	N/A	N/A
\$95,157,000	\$1,313,000	1.40%
\$95,345,000	\$1,501,000	1.60%
\$95,423,000	\$1,579,000	1.68%
\$95,156,000	\$1,312,000	1.40%

Parking/Retail Unit	
Daily parking & other income	
Related expenses	133,444 available
Net daily parking income	
Monthly parking	468 available
	<u>GBA</u> <u>NRA</u>
Retail rental income (absolute NNN)	13,424 13,424
Parking/retail net operating income	
Indicated Value	
Land Value	
Total land value	
Allocation to 679212-0020 (parking/retail)	
Residual Improvements	
Allocation to 679212-0020 (parking/retail)	

\$93,844,000	N/A	
\$95,246,000	\$1,402,000	1.49%

Total Building Ar	0	SF		
Less: Vacancy & credit Loss @			6%	
Effective Gross Income				
Less: Expenses				
Management	6%	(EGI)		\$0
Bldg. Maint/Rese	0.20	/SF		\$0
				\$0
NET OPERATING INCOME				
CAPITILIZED @			7.25%	
				R
CAPITILIZED @			7.50%	
				R
Land Value	0	@	\$0.00	=
	0	@	\$63.00	=
	0	@	\$68.00	=
Residual Builing				

<u>Description</u>	<u>Land %</u>	<u>Land Area</u>	<u>GBA</u>	<u>NRA</u>
Convention Center Unit	12.33%	10,825	96,175	96,175
Hotel Unit (70%)	16.70%	14,661	319,620	226,376
Hotel Unit (30%)	21.29%	18,691	155,326	155,326
Parking/Retail Unit	49.68%	43,613	363,531	13,424
	100.00%	87,790	934,652	491,301
Hotel		33,352	474,946	381,702

				Low	High	
		<u>Per Stall</u>	<u>Per Stall</u>	1.40%	1.60%	
		\$46.64	\$46.74	\$6,224,362	\$6,236,639	
stalls @	25.0%	of parking income		(\$1,556,090)	(\$1,559,160)	
				\$4,668,271	\$4,677,479	
stalls @		\$324.48	\$325.12	\$1,822,280	\$1,825,874	
		<u>Per SF</u>	<u>Per SF</u>			
		\$30.42	\$30.48	\$408,358	\$409,164	
				\$6,898,909	\$6,912,517	
		Capitalized @		7.25%	7.25%	
		Indicated value		\$95,157,368	\$95,345,056	
		(R)		\$95,157,000	\$95,345,000	
		Per SF GBA		\$261.76	\$262.27	
		% change		1.40%	1.60%	
87,790	SF @	\$1,827.00	per SF =	\$160,392,000	\$160,392,000	1.50%
43,613	SF @	\$1,827.00	per SF =	\$79,681,000	\$79,681,000	
363,531	SF @	\$42.57	\$43.09	\$15,476,000	\$15,664,000	

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Grand Hyatt Parking/Retail**Scenario B - OAR Changes**

Parking/Retail Unit				
Daily parking & other income	133,444	available stalls @	\$46.00	per day
Related expenses	133,444	available stalls @	25%	of parkin
Net daily parking income				
Monthly parking	468	available stalls @	\$320	per mor
	<u>GBA</u>	<u>NRA</u>		
Retail rental income (absolute NNN)	13,424	13,424	SF NRA @	\$30.00
Parking/retail net operating income				
Indicated Value				
			Capitalized @	
			Indicated Value	
			(R)	
			Per SF GBA	
			% change	
Land Value				
Total land value	87,790	SF @	\$1,827.00	per SF =
Allocation to 679212-0020 (parking/retail)	43,613	SF @	\$1,827.00	per SF =
Residual Improvements				
Allocation to 679212-0020 (parking/retail)	363,531	SF @	\$43.30	\$42.57

per stall	\$6,138,424
ng income	(\$1,534,606)
	\$4,603,818
nth	\$1,797,120
per SF =	\$402,720
	\$6,803,658
7.13%	7.15%
\$95,422,973	\$95,156,056
\$95,423,000	\$95,156,000
\$262.49	\$261.75
1.68%	1.40%
\$160,392,000	\$160,392,000
\$79,681,000	\$79,681,000
\$15,742,000	\$15,475,000

1.50%

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0438	Pine Street Condo -- Elliott Grand Hyatt Seattle & Retail Parking/Retail	700 Pike Street	6792120020

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$1,402,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$188,470

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0438	Pine Street Condo -- Elliott Grand Hyatt Seattle & Retail Parking/Retail	700 Pike Street	6792120020

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$93,822,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	N/A (parking/retail of Grand Hyatt)
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$82,094,250

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$1,402,000		
H/A	As Percentage of Final City Before Value		1.494%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$1,226,750		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$420,691	\$115,592
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$164,911	\$45,312

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	Yes			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$0	\$0	\$0

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0438

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON 7TH & PINE
LLC’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
6792120020

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33
34 7th & Pine LLC (“Taxpayer”) files this appeal pursuant to RCW 35.44.070, Seattle
35 Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office
36 of the City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
37 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
38
39
40

41
42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:
44

45
46 7th & Pine LLC
47 217 Pine St. Suite 200

1 Seattle, WA 98101
2 Zahoor Ahmed
3 206-624-8909
4 ahmed@rchco.com
5

6 **II. Taxpayer's Representatives**

7 Taxpayer's representatives in this matter are:
8

9
10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 MLin@perkinscoie.com
14 Perkins Coie LLP
15 10885 N.E. Fourth Street, Suite 700
16 Bellevue, Washington 98004
17 Telephone: 425.635.1400
18 Facsimile: 425.635.2400
19

20
21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27

28 **III. Statement of Taxpayer's Interest**

29
30 7th & Pine LLC is the taxpayer for the property that is subject to the proposed final
31 assessment described in Section IV. This property is a condominium unit that contains the
32 retail and parking spaces in the building at 700 Pike Street that is also occupied by the Grand
33 Hyatt Seattle.
34

35 The basis of the proposed assessment is a Final Special Benefit/Proportionate
36 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
37 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
38 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
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1 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
2 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4 to exclude charges for other improvement projects in the Central Waterfront, and
5 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
6 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
7 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
8 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
9 because construction was not complete on the LID Improvements or the WSDOT
10 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
11 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
12 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which
13 was based on the Final Study.
14

15 **IV. Matter Under Appeal**

16 Taxpayer appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
17 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
18 final assessment dated December 30, 2019 against the following property:
19

20 King County Parcel No. 6792120020
21 Site Address: 700 Pike St., Seattle, Washington
22 Proposed Final LID Assessment for Parcel: \$549,334
23

24 *See* Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
25 the evidence and arguments raised before the Hearing Examiner into this appeal. In
26 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
27 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
28

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4
5 As discussed more fully below, Taxpayer specifically appeals the following Findings
6 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
7
8 Pages 61-62, 106, Sections II.6, II.7, II.14, II.16, II.17, II.18, II.19, II.20, II.21, II.22, II.23,
9 II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3,
10 IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
11 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5, IV.C.8, IV.C.11,
12 IV.C.12, IV.C.14, and IV.C.18.
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$1,402,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

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11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
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14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
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26

27 **Legal Requirement:** Benefits must be special, not general
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29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
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11 **Legal Requirement:** Must comply with appraisal standards
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13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
18
19

20 **Legal Requirement:** Actual and measurable special benefit
21

22 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
23 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
24 on a host of "micro-judgments" that are not supported by any documentation, nor capable
25 of replication or quality assurance/quality control. The assessments are undocumented,
26 unreliable, and not supported by empirical studies, data, or reports.
27
28

29 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
30 supported by empirical evidence
31

32 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
33 value of parks and other public amenities and on whom ABS purported to rely, testified
34 that ABS had completely misapplied his work and dramatically overstated both the
35 distance to which economic benefits might extend from the LID Improvements and the
36 extent of any anticipated benefit within the potentially benefited area.
37
38

39 **Legal Requirement:** Actual special benefit—Must take into account potential
40 disamenities
41

42 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
43 construction, as well as other potential disamenities associated with public places.
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1 **Legal Requirement:** Cannot prematurely commit to build

2
3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
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11 In addition to these general objections, there are property-specific issues raised by
12 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
13 statement below.
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17 **V. Standard of Review**

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19 “When considering the assessment roll, the city council sits ‘as a board of
20 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
21 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
22 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
23 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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26
27 The proposed assessments are presumed correct, “unless overcome by clear, cogent
28 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
29 than the heightened presumption of correctness on judicial appeal because “applying these
30 elevated standards at the municipal hearing would afford unwarranted deference to a report
31 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
32 presumption is not evidence and its efficacy is lost when the other party adduces credible
33 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
34 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
35 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
36 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
4

5 **VI. Grounds for Appeal**

6 Taxpayer appeals the Hearing Examiner's Findings and Recommendations on the
7 following grounds.
8

9 **Taxpayer Not Required to Provide A Special Benefit Study**

10 1. Contrary to the Examiner's findings and recommendations, there is no
11 requirement that experts or property owners provide an alternative special benefit
12 calculation under these circumstances—to do so would also require the same improper
13 speculation the City's expert engaged in, given the timing and information provided. *See*,
14 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
15 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
16 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
17 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
18 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
19 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
20 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
21 provided expert opinion showing that improvements actually diminished value of the
22 property). In fact, no independent evidence is required at all if, for example, objectors show
23 that the assessment was grounded on a fundamentally wrong basis due to an error in the
24 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
25 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
26 a property owner could simply point out that the square footage assumed in the City's
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1 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
2 Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8,
3 and IV.C.11.
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6
7 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
8

9 2. RCW 35.43.040 provides cities and towns authority for ordering local
10 improvements and for levying and collecting special assessments "on property specially
11 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
12 upon all the property in accordance with the special benefits conferred thereon." RCW
13 35.44.010.
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16
17 3. No analysis of general benefits. Special assessments have been "held valid
18 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
19 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
20 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
21 they are for the construction of local improvements that are appurtenant to specific land and
22 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
23
24

25 4. Taxpayer's property is not specially benefited by the LID Improvements.
26 The primary purpose and effect of the LID Improvements are to benefit "members of the
27 whole community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public
28 library is for the benefit of the members of the whole community individually and
29 collectively who may be served by it"). Mr. Macaulay's own chapter of the LID Manual
30 states clearly that appraisers should "[c]onsider general benefits as well as special benefits"
31 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that "general benefits probably accrue
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46 ² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
47 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil

1 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
2 that if an appraiser “identifies both general and special benefits, these benefits should be
3 clearly distinguished and explained, and only special benefits should be included in the
4 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
5 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-
6 183:4. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
7 including those arising from construction necessary to meet basic design standards. *See*
8 Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
9 construction costs related to meeting design standards which may be general benefits as
10 distinct from construction costs emanating from requirements of the LID project”). To the
11 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
12 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
13 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
14 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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29 5. LID Improvements not necessary. Unlike typical LID projects, the
30 Waterfront LID improvements are largely unnecessary to the functionality of any particular
31 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
32 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
33 held invalid where owners would have benefitted equally from increase of only 9 feet);
34 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
35 intersection for new water main for hydrant held invalid because land was already afforded
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45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 functional hydrant at nearby street). Mr. Ahmed testified that the LID Improvements are not
2 necessary to the functionality or continued use of this property by our tenants as a retail
3 space or a parking garage. Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 73.
4

5
6 6. The fact that there is no case law differentiating between binary
7 improvements and parks does not change the law prohibiting assessments on properties
8 already adequately served by existing amenities. See Examiner's Recommendation at
9 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
10 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
11 reasoning excuse the City's failure to account for existing amenities as part of the special
12 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
13 the incremental effect of new park improvements on the value of properties, much like
14 turning on a weak light in an already brightly illuminated room. See Hrg. Exhibit 94
15 (Crompton's Report) at 12-13.
16

17 7. To the extent benefits can be considered "special" as opposed to general, they
18 are nominal or nonexistent for many properties even in the Central Waterfront, which
19 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
20 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
21 change due to expansion of sewer service *near* owners' parcel which were already
22 connected). Even if the City could assess for a view change (and it has promised not to
23 assess for viaduct removal), the fair market value of Taxpayer's property has not changed
24 because the LID Improvements have not improved the property's waterfront view or access
25 to the waterfront, nor will they when the City anticipates completion in 2024. For these
26 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
27 Sections IV.C.3, IV.B.9, and IV.C.3.
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1 8. No analysis of special detriments. The Final Study fails to properly account
2 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
3 owners for removal and cleanup of underground storage tanks discovered during the
4 improvement project). Although Mr. Macaulay claims he analyzed impacts on the City's
5 planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation
6 of how lost parking might be a detriment, and no property-specific parking analysis in any
7 of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12; *see also* 6/26/2020 Hrg.
8 Tr. at 153:18-154:19 (did not actually analyze impact of decreased parking on condos).
9

10 9. Likewise, there was no analysis of the risks associated with disamenities such
11 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
12 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
13 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
14 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
15 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
16 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
17 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
18 the maintenance agreement. *Id.* at 13:4-14:2.
19

20 10. There was also no consideration of negative impacts from another four-plus
21 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
22 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
23 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 benefits calculations are inherently speculative, Washington’s eminent domain statute
2 specifically allows condemnees to postpone special benefits assessments until improvements
3 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
4

5
6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district “significantly” lagged in value).
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13 11. Meanwhile, Mr. Ahmed testified that the assessment is an immediate expense
14 for this property that comes with no immediate increase in revenue, thereby decreasing
15 property values. *See* Hrg. Exhibit 114 (Decl. of Z. Ahmed), ¶ 74. Mr. Ahmed explained
16 that a restaurant, retailer, or parking garage operator will not be able to charge more or
17 attract more customers because of proposed future improvements located almost 3/4 of a
18 mile away. *Id.* In fact, if the City is correct and the improvements, when constructed, attract
19 visitors to the waterfront, the tenants at this property may see a decrease in business as
20 visitors patronize businesses nearer the waterfront. *Id.* Accordingly, Mr. Ahmed further
21 testified that the property is more valuable without the proposed LID improvements and the
22 corresponding assessment. *Id.*, ¶¶ 75, 76. For these reasons, Taxpayer appeals the
23 following portions of the Examiner’s Recommendation: Sections II.25, IV.B.8, and IV.B.9.
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27 12. Special benefit estimate is speculative. When calculating a special benefit,
28 “[f]air market value cannot include a speculative value.” *Bellevue Plaza, Inc.*, 121 Wn.2d at
29 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
30 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
31 P.2d 1078 (1958)).
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1 13. Assuming without conceding that one day, the City's planned LID
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3 Improvements might increase the value of neighboring properties to some extent, that
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5 potential benefit is many years away and speculative. While appraisers tolerate some degree
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7 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
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9 far too speculative to satisfy industry practices and standards. *See. e.g.,* 3/12/2020 (P.
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11 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
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13 the level of precision implied in the Final Study due to the size of the LID and use of
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15 hypotheticals).

16 14. Although LIDs are sometimes finalized prior to completion of improvements,
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18 this is typically just six month or a year prior, and the assessments are otherwise supported
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20 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
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22 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
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24 will not be realized for four or five years. In the meantime, there is permitting risk,
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26 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
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28 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
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30 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
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32 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
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34 there is inherent uncertainty in valuing the future delivery of projects because "we can't read
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36 the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: "I just don't know what the
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38 market value would be as of the date the project would be finally constructed" because
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40 "[t]here could be a lot of elements in the market that did occur between now and then that
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42 impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
43
44 his estimates will be higher or lower than comparable sales in 2024 because "markets tend to
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46 fluctuate over time" and "I can't predict the future").
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1 15. The record is clear that while no one can know what “special benefit” might
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3 accrue to these properties in four years (if any), we do know that there are no actual benefits
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5 now. The LID improvements provide no immediate special benefit to property owners
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7 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
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9 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
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11 sewer system for future users).

12 16. Further, there are no “plans and specifications” on file with the Clerk’s Office
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14 for the LID Improvements, and it is unlawful to move to final assessments without such
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16 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
17
18 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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20 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
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22 dollars on projects still early in the design process. *See* Washington Attorney General
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24 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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26 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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28 of programs and included “only so much of the overall costs” that took place within and
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30 benefitted the assessed properties).

31 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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33 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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35 anticipated to be delivered five years later. Even before COVID, it was speculative to
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37 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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39 after an already extraordinarily long expansion period. *See, e.g.,* 3/3/2020 (A. Gibbons)
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41 Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing
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43 my analysis in October 2019, who would have thought that this COVID issue would
44
45 happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought
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1 process was that the market was going to continue to go up.” But there is no basis for
2 assuming that values hypothesized in October 2019 will remain relevant; they are already
3 irrelevant. *See* Gibbons Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Although
4
5 COVID does not change actual values as of October 2019 (*see* Examiner’s
6
7 Recommendation at 109), the pandemic has impacted *current* values and rendered the
8
9 hypothetical October 2019 Final Study valuations outdated.
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13 18. As another example of how future events could affect the accuracy and
14 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
15 Examiner re-open the record to allow the City to explain whether the assessments against
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17 property owners within the LID are, in fact, being used by the City to fund the emergency
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19 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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21 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
22
23 would be improperly imposing costs on property owners within the LID for improvements
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25 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
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27 habitat and City infrastructure—this does not provide any special benefit to LID property
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29 owners.
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34 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; *See* Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; *see also* Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 19. There is also no certainty the improvements will be delivered on time. Mr.
2
3 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
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5 delay in construction schedule would not constitute a “material change” under the City
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7 Council’s ordinance authorizing the improvements. In other words, the City cannot
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9 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
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11 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
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13 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
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15 potential delays and project changes inherent in those processes, that call into question the
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17 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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19 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
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21 Decl., dated 4/15/2020).

22 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
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24 he could not point to a single one where the assessment roll was finalized five years in
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26 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
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28 he has never recommended final special assessments based on designs less than 30 percent
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30 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
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32 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
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34 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
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36 at 66:17-25. He performed no independent due diligence to determine the reliability of the
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38 City’s estimates for completion of the LID Improvements, or to ensure that proposed
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40 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
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42 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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44 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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46 68:11-18.
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1 21. The City has cited no authority—and Taxpayer is aware of none—that
2 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
3 assess taxes for “actual” special benefits that will not accrue for another five years (if all
4 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
5 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
6 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
7 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
8 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
9 IV.C.14, and IV.C.18.

10 22. Failure to discount special benefit estimates to account for risks and present
11 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
12 have accounted for risks associated with delivery of the improvements (including permitting
13 risk, construction risk, general economic risk) and any special damages associated with
14 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
15 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
16 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
17 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
18 the impact of future conditions [through] discounted cash flow analysis.”).

19 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
20 future condition not in place at the date of valuation and can discount for the time value of
21 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
22 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.
23 Discounting would also have been consistent with his approach for analyzing special
24 benefits to vacant land. He testified that the difference between similarly situated vacant

1 sites slated for development and already developed sites was that the labor, capital and risks
2 associated with development had not yet been borne for those vacant sites. Therefore, the
3 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
4 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
5 fully permitted, has not completed environmental review, and has not reached full design is
6 presently worth significantly less.
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12 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
13 present value, an appraiser would consider discount rates for land development to account
14 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
15 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
16 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
17 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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25 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
26 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
27 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
28 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
29 ignoring momentarily all of the other methodological and other flaws discussed here and in
30 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
31 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
32 exceeds special benefits when reduced to present value. Further, to the extent the City is
33 arguing that because they are permitted to assess 100% of the special benefit, the special
34 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
35 is again wrong. After applying proper discounting, the City's proposed special benefit
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1 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
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3 100% of the total estimated special benefit.

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5 26. But even the assumption that the LID improvements would deliver benefits
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7 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
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9 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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11 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A’s study
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13 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files)
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15 indicates that during the construction period, the Greenway district “significantly” lagged in
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17 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
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19 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
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21 30-31 (discussing New York City High Line and San Francisco Embarcadero
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23 improvements). Given the lengthy delay, any prediction of future special benefits is
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25 speculative, especially during the construction phase where values are likely to decline.
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27 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
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29 Improvements take a similarly long period of time after they are complete to start producing
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31 tangible property value benefits, each additional year of delay results in further discount to
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33 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
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35 A.

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37 27. Applying the same discounting methods described above and in Mr. Gibbons
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39 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
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41 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
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43 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
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45 100% assessment should be no more than \$132,068. Anything more would permit the City
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47 to assess Taxpayer based on a hypothetical assumption that these improvements are in place

1 and providing benefit, and ignore the risks, construction disamenity, and time value of
2 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
3 would counsel that the assessment should be only 39.2% of that assessment cap, or \$51,770.
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6 28. Attachment C includes two Excel spreadsheets applying these discounting
7 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
8 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
9 demonstrates that discounting the City's hypothetical October 2019 special benefits to
10 present value would reduce Taxpayer's assessment to \$188,470, exclusive of any other
11 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
12 reductions after taking into account: (1) a rough discount for property value loss due to
13 COVID-19; and (2) discounting to present value for 5 years (*i.e.*, from 2024 when the City
14 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
15 the time it takes for the improvements to capture property value). After such reductions,
16 Taxpayer's assessment would be just \$169,911 (for the 5-year discount) or \$45,312 (for the
17 10-year discount). Further, the spreadsheet concludes a "zero" benefit for this property
18 because, based on Dr. Crompton's testimony, Taxpayer's property is more than 2,000 feet
19 from the core "park" improvements and therefore too distant to receive any special benefit.
20 Neither of these spreadsheets address other issues raised by Taxpayer's appeal, but are
21 intended to help demonstrate how unfair and inflated the City's proposed hypothetical
22 assessment is. The Hearing Examiner's Recommendation simply dismisses Taxpayer's
23 discounting argument without legal or factual analysis; that failure is error.
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1 **Appraisal and Assessment Calculation Methods Are Flawed**

2 29. The “general rule is that each lot, piece, or parcel of land should be assessed
3 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
4 Wn.2d at 97.
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8 30. It is proper to sustain a challenge to an assessment, even without the appraisal
9 testimony from the owner, where the objector’s expert establishes that the assessment was
10 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
11 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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15 31. The City’s appraiser purports to utilize the income method of valuation but
16 relied on inaccurate revenue and market data, as discussed further below.
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19 32. The City’s appraiser purports to utilize the comparable sales method of
20 valuation, but no City witness attempted “to characterize any one, or all of them, as
21 comparable to [Taxpayer’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
22 “several serious flaws” in ABS’s LID analysis in that case, including that the appraiser
23 “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
24 characterize any one, or all of them, as comparable to any particular property within the LID”).
25 And no City witness could explain how specific adjustments were made to these sales to
26 account for value increases due to the hypothesized Before and After Improvements. For this
27 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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38 33. Special assessment improperly includes value lift from the Before
39 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
40 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
41 Improvements, which WSDOT had independently committed to fund. However, Mr.
42 Macaulay did not calculate the actual market value of LID properties in October 2019, and
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1 did not separately analyze the hypothetical increase to property values attributable to
2 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
3 current value and then separately calculate a hypothetical "With WSDOT" Before value);
4 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
5 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
6 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
7 documented basis or support, Mr. Macaulay simply "ma[de] a judgment a call" on what
8 occupancy and rates would have been for the commercial properties assuming all of the
9 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
10 outright omission precludes any independent evaluation of the true market "Before" values.
11 *See* 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
12 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
13 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
14 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
15 other road, pedestrian and landscaping improvements WSDOT had already committed to
16 make.

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18 34. However, because Mr. Macaulay testified that he did include some WSDOT-
19 related value-lift in the "Before" values, it follows that part of the special assessment
20 improperly is based on value attributable to the WSDOT Improvements. As shown by
21 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
22 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
23 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
24 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
25 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone

1 to properly exclude the value of Before Improvements from the assessments. For these
2 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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4 Sections II.19, II.29, and IV.B.11(a)(ii).
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6 35. Special benefits were assigned rather than measured. Mr. Macaulay
7 arbitrarily "assigns" special benefits to Before values instead of measuring them for each
8 property. See 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
9 Shorette) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 176:1-10; 3/3/2020 (A. Gibbons)
10 Hrg Tr. at 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay
11 used to analyze the commercial properties, Taxpayer's experts concluded that Mr. Macaulay
12 based adjustments on hypothesized very small increases to property revenue and very small
13 reductions to cap rates to "calculate" an "After" value due to the coming 2024 LID
14 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
15 based on "professional judgment" that are neither shown nor replicable.
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17 36. For these reasons, Taxpayer appeals the following portions of the Examiner's
18 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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20 37. Special benefit falls within margin of error. The Final Special Benefit Study
21 applies an estimated value enhancement of less than 4%, which is generally within the
22 margin of error for appraisals and, therefore, not a reliable difference. See *Bellevue Plaza,*
23 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
24 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
25 of one another, this difference is considered reasonable as it falls within the standard margin
26 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
27 (P. Shorette) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay's micro-special benefit
28 percentages fall far below that 5% margin, "there is no way of authenticating" such
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1 incremental changes because “[m]arket forces completely obliterate any tiny little noise
2 factor like that.” See 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
3 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25.
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5 Additionally, the fact that “Before” values are also based on a hypothetical that adds some
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7 unstated incremental value to actual 2019 values exacerbates this issue—the ability for an
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9 appraiser to discern the micro-value differences between hypothetical conditions that are so
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11 similar (the WSDOT improvements compared to the LID improvements) “verges on being
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13 ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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16 38. Even if it were possible to accurately tease out such a miniscule hypothetical
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18 value change due to improvements coming five years later, experts testified that there is no
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20 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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22 what he felt the changes (hypothetically) would be. See 3/12/2020 (J. Gordon) Hrg. Tr. at
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24 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A. Gibbons) Hrg. Tr. at
25
26 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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28 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
29
30 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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33 39. No analysis of value increase attributable to individual components of the
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35 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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37 percentage difference between hypothetical Before and After conditions. Throughout his
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39 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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41 descriptions in the Addenda even though he testified that he relied on these to calculate
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43 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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45 someone might be able to determine how he attributed value to After conditions described in
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47 the Addenda, he answered that that was “not the scope of the assignment” because he was

1 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
2 that the six components were not actually a continuous project, that he was viewing them
3 together because the City asked him to, and that if he were to view them independently,
4 there was a low probability that properties in the north would specially benefit from
5 improvements in the south and vice versa. See 6/25/2020 Hrg. Tr. at 27:18-28:5.
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10 40. Not only did he fail to analyze benefits from each of these non-contiguous
11 improvements, his familiarity with descriptions as whole was tenuous at best. See, e.g.,
12 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
13 arose from specific Before/After descriptions in the Addenda); cf. *Anderson v. City of*
14 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
15 objectives that guided regulators' assessment of architectural plans for buildings along a
16 "signature street" were so vague that they amounted to ad hoc review based on the
17 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
18 even though he used the renderings as "visual aid[s] in appraising the property in the before
19 and after" to "visually see what the differences would be," he could not explain what
20 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
21 when shown a rendering of a two-lane road going down to one-lane in the After condition
22 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
23 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. See RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
2 could explain the depiction of the same trees in the After condition nearly twice as tall as in
3 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
4 of the Examiner’s Recommendation: II.27 and IV.B.4.
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8 41. Special assessment is not supported by comparable studies, data or reports.
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10 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
11 that the LID Improvements will lead to meaningfully increased real estate values for
12 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
13 comparable sales or information from the “over twenty-five studies and reports” to arrive at
14 very precise special benefit increases for the commercial properties, including Taxpayer’s
15 property. For example, although Mr. Macaulay stated that no single report or study was
16 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
17 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
18 parcel-by-parcel analysis other than to say that the studies generally provided “some
19 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
20 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
21 similarities and differences between these improvements and the comparable parks he
22 looked at).
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25 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
26 assignment of incremental increase of 0.5% to 4% to property values within the LID.
27 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
28 research misinterprets his work in critical ways, including because the LID Improvements
29 manifest the characteristics of a parkway (not a park), and his research indicates that most of
30 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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1 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
2 related value increases are in fact smaller; that estimated increases are “best guesses” rather
3 than predictions of property value increases in a particular city; and that percentages do not
4 account for diminishing returns after taking into account water views, which would be the
5 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
6 topography grants most properties in downtown a water view.
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12 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
13 that this was just one source of information that was not entirely relevant because, among
14 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
15 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
16 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
17 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
18 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
19 Crompton concluded that 500 feet via road from “park” improvements is just one or two
20 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
21 significantly beyond that which the park study indicated (even if it was legitimate to use the
22 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
23 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
24 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
25 Taxpayer’s property is not even 2,000 road network feet from the “park” improvements.
26 *See* Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.
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42 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
43 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
44 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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1 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
2 materials, it was clearly an important—if not *the* most important—source of information for
3 estimating special benefits (especially with respect to the condos).⁷ No City witness
4 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
5 parcel-by-parcel analysis.
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10 45. The destination parks discussed in the Final Special Benefit Study do not
11 provide reliable, comparable, and valid support for the calculation of special assessments
12 here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s
13 critique of every case study cited concludes the changes to those “dwarf the difference
14 between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4;
15 Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at
16 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing
17 Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are
18 not in fact comparable). None of the parks cited in the Final Special Benefit Study were
19 funded by a LID. And in virtually all of those cases, the park improvements dramatically
20 restored unimproved or blighted areas, and properties evaluated were within two or three
21 blocks of the park.
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24 46. ABS’s claimed reliance on three economic studies to support property value
25 increase is also flawed. The HR&A study does not inform what value increases are
26 expected from the LID Improvements because it projects increases to tourism from *all* of the
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
2 dissimilar parks in other cities,⁸ making the methodological application to the LID
3 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
4 conclusion that there would be *no new net visitors* from downtown residents as a result of
5 the LID Improvements and could not explain how this impacted his condo analysis.
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10 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
11 Property Values" primarily focused on whether the benefits accrue to the larger community
12 rather than properties adjacent to the park. And the 2014 New York City Department of
13 Transportation study is not based on real estate transactions and market sales and fails to
14 substantiate any link between increased retail sales and property values. Moreover, this
15 study only looked at impact either directly abutting the streetscape improvement, or a couple
16 hundred feet for plaza-like improvements.
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24 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
25 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
26 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
27 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
28 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
29 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
30 asked whether he considered that HR&A's estimated LID impact is six times greater than
31 TPL's assessment of Seattle's entire park system, he surmised that it was because the
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⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated expected tourists visiting the LID park was calculated using data from only from New York City, a notorious tourist destination.

1 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
2 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
3 assumptions to account for this difference, which may be partly explained by the fact that
4 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
5 approximately 3.44% of King County tourists visit Seattle primarily because of the city
6 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
7 waterfront improvements.
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15 48. Although proximity to the improvements is a key factor in all of these
16 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
17 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
18 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
19 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
20 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
21 Improvements is approximate 20 acres and it is not a community park.⁹
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29 49. There is no explanation in the Final Study or the supporting materials of how
30 the studies or comparable sales were used to derive values for Taxpayer's property. For
31 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
32 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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37 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
38 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
39 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 recognized) for developing the MAI standards for mass appraisals, testified that the Final
2 Study does not meet mass appraisal standards nor allow for independent assessment of the
3 accuracy of Mr. Macauley's conclusions.
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6 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
7 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
8 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
9 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
10 testimony suggests that he incorrectly believed that the only difference between direct
11 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
12 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
13 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
14 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
15 Gordon uses in doing his limited restricted report").
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17 52. But the difference is not only in reporting—mass appraisal techniques must
18 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
19 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
20 parcel approach:
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22 The mass appraisal technique is an appraisal method used to evaluate
23 a group of properties that are subject to similar market forces as of a
24 certain date through the use of market data, statistical analysis and
25 testing. As a result, the mass appraisal technique does not require or
26 involve analysis of each individual property's specific data.
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28 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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30 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
31 universe of properties as a given date using standard methodology, employing common data,
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1 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
2 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
3 model” is “a mathematical expression of how supply and demand factors interact in a
4 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
5 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
6 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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12 54. Regardless of client direction, Mr. Macaulay is required to comply with
13 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
14 economically feasible because it would have taken “an incredible amount of time and cost”
15 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
16 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
17 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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23 55. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
24 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
25 value, fails to calibrate the model structure to determine the contribution of the individual
26 characteristics affecting value, and does not review the mass appraisal results against actual
27 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
28 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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37 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
38 relationship between characteristics that affect value, and to calibrate that model to specify how
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
40 21). The purpose is to rationally determine what characteristics will create value, and by how much.
41 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
42 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
43 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
44 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
45 include explanation of the model specification, data requirements, calibration methods, and
46 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
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1 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
2 proximity to the elements, the increase in market rent, market vacancy changes,
3 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
4 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
5 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
6 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
7 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
8 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
9 values were hypothetical, it was not possible to identify matched pair sales and no City
10 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
11 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
12 requires him to explain his model structure.
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15 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
17 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
18 and appeals the Examiner’s denial of that motion.
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21 58. Finally, Taxpayer’s property is not appurtenant—or even in close
22 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
24 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
25 property is almost 3/4 of a mile walk—more than 2,700 feet as the crow flies—from Pier 58
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(o). Without this reporting, it is impossible for users of the appraisal report to determine how the appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott) Hrg. Tr. at 206:15-207:17.

1 and the core “park” improvements. Hrg. Exhibit 114 (Decl. of Z. Ahmed) at ¶ 72. And, as
2 described above, the special assessment is overstated because the Final Study makes no
3 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
4 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
5 improvements were not in place—and, in fact, much of the waterfront is a construction
6 zone following removal of the viaduct and now Pier 58 demolition. Under these
7 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
8 Mr. Macaulay at the very least should have discounted the special benefit estimates or
9 waited to perform the Study until the improvements were at least close to complete.
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19 **Erroneous Pre-Improvement Valuation**

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21 59. The proposed final assessment erroneously overstates the pre-improvement
22 value of Taxpayer’s property as of October 1, 2019 and, as a result, overstates the special
23 benefit to the Taxpayer’s property.
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27 60. The City’s Final Study was used to compute the proposed final assessment of
28 Taxpayer’s property. The City’s Study purportedly uses data from the King County
29 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
30 Study does not accurately reflect this data. For example, the City’s Study values Taxpayer’s
31 property at \$93,822,000 as of October 1, 2019. However, the King County assessor
32 determined the true and fair value of the property to be \$91,935,900, valued in 2019 for tax
33 year 2020. The Final Special Benefit Study does not explain this difference—or any
34 differences—between its pre-improvement valuation and its supposed source for market
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45 ¹¹ See, e.g., Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment’s online “eReal
47 Property” search tool).

1 data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
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3 Recommendation.

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5 61. Further, Mr. Ahmed testified that Mr. Macaulay's valuation of \$93,822,000 is
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7 excessive. He explained that the retail and parking market in downtown Seattle is extremely
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9 challenging. The property has been unable to rent all of its retail space, and several of its
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11 retail tenants were struggling to pay rent even before the COVID-19 outbreak. Hrg. Exhibit
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13 114 (Z. Ahmed Decl.) at ¶ 70.

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15 62. Mr. Gordon also explained that the appraisal for this property was not
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17 credible because it assumed that all of the parking stalls—leased to the hotel at the higher
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19 rate than for monthly parkers—would be 100% occupied by hotel guests. In fact, only 20%
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21 to 30% of guests who come to hotels downtown arrive with a car. 4/13/2020 Hrg. Tr. (J.
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23 Gordon) at 118:17-120:4.

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25 63. Thus, aside from multiple other reasons why computation of the special
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27 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
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29 improvement values that do not accurately reflect market data. For these reason, Taxpayer
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31 appeals the Examiner's recommended denial.

32 33 **Erroneous Computation of Special Benefit**

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35 64. "Special benefit" is "the increase in fair market value attributable to the local
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37 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
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39 may receive by reason of the improvement is not measured alone by the physical character
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41 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
42
43 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is
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45 the particular tract or property benefited by the entire improvement, and is it assessed
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1 proportionately with the other property included within the assessment district?” *Id.* 165–
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3 66.

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5 65. The proposed final assessment erroneously overstates the special benefit of
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7 LID improvements in a number of ways.

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9 66. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
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11 this property, Mr. Macaulay assumed daily parking rates would increase by 1.40% (low) and
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13 1.60% (high) due to the 2024 LID Improvements. But as Mr. Gordon testified, it is not
14
15 possible to accurately conclude that the reason for this level of percentage increase would be
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17 due to the LID Improvements, and there appears to be no support for assignment of these
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19 percentages. Based on formulas in the spreadsheets, Mr. Macaulay then uses these same
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21 percentages (1.40% and 1.60%) to increase monthly parking and retail rental income. He
22
23 then uses this hypothesized increased revenue to calculate a new net operating income for
24
25 the commercial properties and capitalizes that to come up with an “After” valuation.

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27 67. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
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29 operating income remains the same as in the hypothetical “Before” condition, but changes
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31 the cap rate. For this property, the cap rate goes from 7.25% to 7.13% (low scenario,
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33 creating a bigger value increase) and 7.15% (high scenario, creating a lower value increase).
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35 Mr. Gordon likewise explained that cap rate changes of 0.12% or 0.10% are not typically
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37 measurable, and there appears to be no support for these changes in the Final Study or any
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39 of its supporting materials.

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41 68. Mr. Macaulay then averages his four “After” values to arrive at a final special
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43 benefit conclusion. For this property, this is an increase in property value of 1.49% due to
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45 the LID Improvements.
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1 69. Mr. Macaulay offered little justification for his micro adjustments to revenue
2 and capitalization rates. When asked precisely what the basis is for his special benefit
3 percentage increases to revenue for each commercial property, he could not point to
4 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
5 is nothing in the report to allow a reader to understand how he came up with these
6 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
7 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
8 the basis for his belief that certain factors—liked increased connectivity—will increase
9 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
10 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
12 sources equally even though there was no separate analysis done for food and beverage or
13 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
14 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
15 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
16 properties.
17

18 70. Mr. Macaulay testified that he used comparable sales as a reasonableness
19 check for commercial properties. But as explained above, no City witness has explained
20 how anyone, or all, of the sales are comparable to any particular commercial property within
21 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
22 in order to make sales “comparable,” he would have had to make adjustments to account for
23 Before and After conditions, but there is no way to understand how adjustments were made
24 because he “didn’t do a separate sales comparison approach where we showed adjustments
25 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
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1 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
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3 *Id.* at 127:10-128:24.

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5 71. It also bears noting that any “internal review” of the special benefit estimates
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7 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
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9 error. Indeed, given all the same information, he seemed to suggest that it would be
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11 perfectly reasonable for another experienced appraiser to come up with special benefit
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13 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
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15 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
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17 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
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19 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
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21 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
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23 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
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25 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
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27 *Recommendation* at IV.B.4. Thus, the special assessment is not actual, measurable or
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29 special because it is arbitrarily assigned; and it is too small to realistically be supported by
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31 appraisal techniques.

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33 72. No evidence of special benefit. Meanwhile, there is “no actual evidence from
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35 any seller or purchaser that the price was higher because of the LID improvements.”
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37 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not
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39 identified any seller or buyer, or any particular property where the existence of the LID
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41 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
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43 explained that the property has not increased rental rates or revenue due to the forthcoming
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45 LID Improvements, because, among other reasons (and apart from COVID), the
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47 improvements ABS believes will generate value do not exist, and will not for a number of

1 years to come. There are no comparable sales because the LID Improvements are not in
2 place, nor will they be until the end of 2024 if completed on schedule.
3

4 73. The fair market value of Taxpayer's property has not changed due to
5 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
6 benefited from installation of new water main and fire hydrant where it was already
7 adequately supplied with water and afforded adequate fire protection). And in any event,
8 any value attributable to removal of the viaduct was to be excluded from the assessment
9 calculation.
10

11 74. There is no special benefit because LID improvements in fact diminish the
12 value of Taxpayer's property by drawing visitors away towards improvements that are more
13 than a 3/4 mile walk away from the property. *See Kusky*, 85 Wn. App. 493 (testimony of
14 owners' expert that LID actually diminished value of property was sufficient to rebut
15 presumption that assessment was proper).
16

17 75. Moreover, the assessment formula is an attempt to distribute costs that do not
18 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
19 "merely a mathematical model that distributes costs").
20

21 76. The Special Benefit Study fails to address whether the \$346,000,000
22 estimated LID project cost takes into account the investment that would have occurred in the
23 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
24 invested. This is a critical component of estimating which properties receive a direct benefit
25 from the improvements, versus more incidental benefits further from the park.
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27 77. Assessments are disproportionate. As another example of how arbitrary and
28 disproportionate Mr. Macaulay's methods are, he assigned different special benefit and
29 capitalization rate increases to this parking and retail parcels associated with the Grand
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1 Hyatt even though these sources of revenue receive identical increases when they are part of
2 the same legal parcel as the hotel. But he ends up concluding the same special benefit
3 increase overall (~1.5% for the Grand Hyatt parcels). When asked whether this was a matter
4 of coincidence, his answer was that is “just our estimate of how the market would react.”
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8 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a parking lot near the Grand Hyatt
9 (Parcel 0659000355) received just a 0.65% special benefit even though it is one block closer
10 to the waterfront.
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14 78. The proposed final assessment substantially exceeds the special benefit to the
15 property and is grossly disproportionate to similarly situated properties within the LID. The
16 City has not addressed any of these specific issues and offers only general responses which
17 have already been rebutted by Objectors in their case-in-chief and cross-examination. *See*
18 Bird Decl., ¶ 29-30 (dated 4/30/2020); Second Decl. of Bird, at ¶¶ 104-109 (dated
19 6/26/2020). For these reasons, Taxpayer appeals the following portions of the Examiner’s
20 Recommendation: Sections II.17, II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).
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28 **State Environmental Policy Act and Other Environmental Permitting**

29 79. While this appeal is not challenging the City’s environmental review and
30 permitting processes, those processes are relevant in determining the legality of the
31 assessments, and to assessing the delivery risk, the present value of the City’s plans, and
32 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
33 pursue projects that have not yet undergone environmental review (thus limiting the choice
34 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
35 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
36 is just beginning. Further, the City has segmented environmental review, and still has a
37 gauntlet of federal, state and tribal review processes to complete before it will be clear what
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1 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
2 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
3 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
4 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
5 committing to reconstruction of Pier 58 and major street improvements without
6 environmental review, or the City's Final Special Study has improperly included and is
7 proposing to assess the Taxpayer the costs and special benefits of improvements that may
8 not get built. Either way, it is faulty process.
9

10 **Due Process Rights**

11 80. The City's failed to notify Taxpayer sufficiently in advance of the hearing to
12 allow Taxpayer to obtain evidence and prepare to properly challenge the assessments.
13 Because LID assessments involve a deprivation of property, affected owners have the right
14 to a hearing as to whether the improvement resulted (or will result) in special benefits to
15 their properties and whether their assessments are proportionate, which necessarily includes
16 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
17 555, 569–70, 229 P.3d 761 (2010).
18

19 81. The LID statute specifies that cities must mail notices giving the time and
20 place of the hearing to the affected owners "[a]t least fifteen days before" the hearing and
21 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
22 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
23 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
24 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
25 secure their own appraisal), evaluate proportionality of the proposed assessments, and
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1 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
2 for anybody to get an appraisal”).

3
4 82. The City’s Notice of Assessment was sent on December 30, 2019. And the
5
6 Final Special Benefit Study has only been available for public review since January 7, 2020.
7
8 Due to this short time frame, Taxpayer requested a prehearing conference and scheduling
9
10 order that would preserve and protect Taxpayer’s right to analyze and respond to the Final
11
12 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
13
14 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
15
16 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
17
18 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
19
20 the Examiner’s Recommendation: I.B.
21

22 23 **VII. Relief Requested**

24 Taxpayer respectfully requests that the City Council:

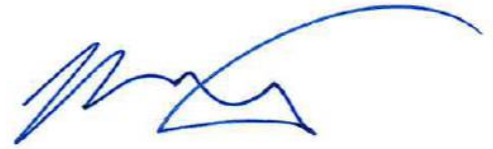
- 25
26 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
27
28 and
29
30 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
31
32 assessment dated December 30, 2019; or
33
34 b. Revise Taxpayer’s Waterfront Local Improvement District No. 6751
35
36 proposed final assessment to \$0 (zero), or such amount as Taxpayer
37
38 establishes at the hearing in this matter; or
39
40 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
41
42 and reduce Taxpayer’s assessment using recognized appraisal techniques
43
44 consistent with USPAP and:
45
46
47

- 1 i. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
3
4
5 ii. Taking into account the effects of the COVID-19 pandemic on the
6 value of Taxpayer's property and other relevant developments since
7 October 2019;
8
9
10 iii. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
14
15
16 iv. Accounting for and including only those actual benefits anticipated to
17 accrue to Taxpayer's property based on its location relative to Pier 58,
18 Overlook Walk, and the Promenade, and specific elements of the LID
19 Improvements;
20
21
22 v. Discounting anticipated special benefits to present value, based on
23 reliable estimates regarding when special benefits will start accruing
24 following completion of the LID Improvements; and
25
26
27 vi. Accounting for such other issues specific to Taxpayer's property
28 relevant to calculation of such assessment; and
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37 3. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
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PERKINS COIE LLP

By:



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Attorneys for 7th & Pine LLC

FILED

4:05 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0438
Date: Tuesday, February 16, 2021 3:42:29 PM
Attachments: [Grand Hyatt Parking and Retail Amended.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
Grand Hyatt Parking and Retail Amended.pdf

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
18

19
20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0438

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON 7TH & PINE
LLC’S OBJECTION TO WATERFRONT
LID NO. 6751 PROPOSED FINAL
ASSESSMENT FOR PARCEL NO.
6792120020

33 7TH & PINE LLC (“Taxpayer”) files this amended appeal pursuant to RCW
34
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of
36
37 Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated December
38
39 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the
40
41 Hearing Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
42
43 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
44
45 February 1, 2021.
46
47

1 **I. 7th & Pine LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 7TH & PINE LLC
6 217 Pine St. Suite 200
7 Seattle, WA 98101
8 Zahoor Ahmed
9 206-624-8909
10 ahmed@rchco.com
11

12 **II. 7th & Pine LLC's Representatives**

13 7TH & PINE LLC'S representatives in this matter are:

14
15
16
17 R. Gerard Lutz, WSBA No. 17692
18 JLutz@perkinscoie.com
19 Perkins Coie LLP
20 10885 N.E. Fourth Street, Ste 700
21 Bellevue, Washington 98004
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RMahon@perkinscoie.com
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

24
25
26 **III. Statement of 7th & Pine LLC's Interest and Incorporation of Prior Arguments**

27 7TH & PINE LLC is the taxpayer for the property that is subject to the proposed
28
29 final assessment described in Section IV.

30
31 7th & Pine LLC is amending its appeal as authorized in City of Seattle Resolution
32 31979 to include additional arguments relevant to the revised Final Recommendations of the
33
34 Hearing Examiner issued on February 1, 2021. On February 4, 2020, 7th & Pine LLC
35
36 timely filed an objection to the assessment, which was based on the Final Study. 7th & Pine
37
38 LLC further timely filed an appeal of the Hearing Examiner's 2020 recommendations to the
39
40 City Council. 7th & Pine LLC maintains and incorporates all objections and arguments
41
42 raised in its appeal filed with the City Clerk on September 22, 2020. This amendment is a
43
44 supplement is to be read together with 7th & Pine LLC's appeal filed on September 22,
45
46
47

1 2020. 7th & Pine LLC incorporates by reference all filings, evidence, and pleadings filed by
2
3 any party before the Hearing Examiner as authorized by the Hearing Examiner, including
4
5 without limitation all records pertaining to the November 2020 through February 2021
6
7 remand hearing ordered by Council.
8

9 **IV. Amended Arguments on Appeal**

10 7TH & PINE LLC supplements its appeal of the Hearing Examiner's
11
12 recommendation to deny 7th & Pine LLC's objection to the City of Seattle's Waterfront
13
14 Local Improvement District No. 6751 proposed final assessment dated December 30, 2019
15
16 against the following property:
17

18 King County Parcel No. 6792120020
19 Site Address: 700 Pike St., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$549,334
21

22 To avoid repetition, 7th & Pine LLC incorporates the evidence and arguments raised
23
24 before the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
25
26 amended appeal.
27

28
29 **A. The Anticipated Special Benefits to 7th & Pine LLC's Property should**
30 **be Discounted to Present Value and Assessments Adjusted as**
31 **Appropriate**
32

33 On remand, the City's appraiser acknowledged that special benefits to parcels can be
34
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36
37 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
38
39 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
40
41 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
42
43 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
44
45 accepted that recommendation. The City's appraiser further acknowledged that benefit
46
47 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined

1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
13
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefit are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
9

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17 **B. In Light of Covid's Continuing Impact on 7th & Pine LLC and other**
18 **Downtown Property Owners and other Material Changes Since October**
19 **2019, the LID Should be Cancelled, or at Least Assessments**
20 **Recalculated, to take Into Account Property Value Reductions**
21

22 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
23 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
24 other relevant developments since October 2019." When Washington's first COVID
25 restrictions were imposed in March and April 2020, there was an assumption that they
26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
27 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
28 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
29 gotten much worse. The City has already imposed higher minimum wages and taxes on
30 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
31 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
32 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
33 years from completion, as a best case. In current circumstances, a downtown tax to fund
34 new, non-essential park improvements against financially strapped taxpayers, and likely
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1 passed through to financially strapped tenants and customers would be unfair to taxpayers
2 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
3 rethinks its budget priorities for the next few years, and its potentially funding sources,
4
5 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
6
7 property owners) have a chance to recover, and that any assessment take into account the
8
9 changed circumstances since this appeal process started on February 4, 2020 to avoid
10
11 unnecessarily and perhaps permanently killing downtown properties and businesses in the
12
13 name of bettering them.
14
15

16
17 **V. Relief Requested**

18
19 Particularly in light of the Committee's decision not to take further comment, 7th &
20
21 Pine LLC respectfully request that each Committee member carefully review the record
22
23 transmitted to Council before voting on our appeal.
24

25 7TH & PINE LLC respectfully reiterates its request from the September 22, 2020
26
27 appeal that the City Council:

- 28 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
29 assessment dated December 30, 2019; or
30
31
- 32 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
33 proposed final assessment to \$0 (zero), or such amount as Taxpayer
34 establishes at the hearing in this matter; or
35
36
- 37 3. Grant the Examiner's recommended remand but with instructions to
38 recalculate and reduce Taxpayer's assessment using recognized appraisal
39 techniques consistent with USPAP and
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44
45 a. Excluding any property value increase attributable to viaduct removal
46 and other planned WSDOT Improvements;
47

- 1 b. Taking into account the effects of the COVID-19 pandemic on the
2 value of Taxpayer's property and other relevant developments since
3 October 2019;
4
5
6 c. Accounting for and excluding (1) any special benefits from existing
7 or planned improvements that already provide similar benefits to
8 Taxpayer's property, and (2) any special detriments from construction
9 and other anticipated LID-related disamenities;
10
11 d. Accounting for and including only those actual benefits anticipated to
12 accrue to Taxpayer's property based on its location relative to Pier 58,
13 Overlook Walk, and the Promenade, and specific elements of the LID
14 Improvements;
15
16 e. Discounting anticipated special benefits to present value, based on
17 reliable estimates regarding when special benefits will start accruing
18 following completion of the LID Improvements; and
19
20 f. Accounting for such other issues specific to Taxpayer's property
21 relevant to calculation of such assessment; and
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33 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
3
4

PERKINS COIE LLP

5 By:

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8 Perkins Coie LLP
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22 Attorneys for 7TH & PINE LLC
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24
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4:09 pm, Tue, September 22, 2020

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From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0439
Date: Tuesday, September 22, 2020 3:24:56 PM
Attachments: [CWF-0439.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0439.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0439
A – Master List of Evidence
B – A-014 Marriott
C – Discounting for CWF-0439
CWF-0439 Appeal Notice for Ashford

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> ○ (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> ○ John Gordon property-specific direct ○ (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> ○ John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL

Seattle Marriott Waterfront

Map Nos.	A-014
Tax Parcel Nos.	766620-2345
Property key:	671
Address	2100 Alaskan Way
Zoning:	DH2/85
Proximity to park	Adjacent to Lenora Street pedestrian bridge, 450± feet from waterfront
Proximity to Myrtle Edwards:	2,400± feet from north boundary to park
Ownership	Marriott Business Services
Description:	358-room hotel built in 2003

INCOME ANALYSIS Before	Year Built	2003
	Rooms	358
	Parking	97

Revenues				
Occupancy rate: 80.0%				
Occupied rooms: 104,536				
Revenues				
Room revenue	104,536	occupied rooms @	\$315.00	per occupied room
Food & beverage revenue	104,536	occupied rooms @	\$35.00	per occupied room
Parking & other income	35,405	occupied rooms @	\$52.00	per occupied room
Total revenues				
Less: Departmental expenses				
Rooms	104,536	occupied rooms @	27.0%	of room revenue
Food & beverage	104,536	occupied rooms @	77.0%	of food & beverage revenue
Parking & other	35,405	occupied rooms @	50.0%	of parking & other income
Total departmental expenses				
Total departmental net income				

	<u>GBA</u>	<u>NRA</u>		
Retail rental income	0	0	SF NRA @	\$0.00
Office rental income	0	0	SF NRA @	\$0.00
Other rental income	0	0	SF NRA @	\$0.00
Total Bldg Area & Gross Income	254,273	254,273	SF NRA @	\$101.47

Less: Undistributed expenses			
Admin, marketing, utilities, maintenance, insurance @	\$20,000	per available room	
Franchise fees @	7.5%	of room revenue	
Management fee @	3.0%	of total revenue	
Real estate taxes			
Replacement reserve @	4.0%	of total revenue	
Total undistributed expenses			
Total operating expenses	68.3%	of total revenue	
Net operating income			

Indicated Value

Land Value			
	64,016	SF @	\$750.00
Residual Improvements	254,273	SF NRA @	\$471.79
	254,273	SF GBA @	\$471.79

Special Benefit Summary

	Land		Improved	% Change
	Per SF	Total		
Without LID	\$750.00	\$48,012,000	\$119,963,000	N/A
With LID				
Scenario A1	\$772.50	\$49,452,000	\$123,505,000	2.95%
Scenario A2	\$772.50	\$49,452,000	\$125,962,000	5.00%
Scenario B1	\$772.50	\$49,452,000	\$123,288,000	2.77%
Scenario B2	\$772.50	\$49,452,000	\$124,522,000	3.80%
Percent change in land value	3.00%		average \$124,319,000	3.63%
Summary				
Without LID	\$750.00	\$48,012,000	\$119,963,000	N/A
With LID	\$772.50	\$49,452,000	\$123,900,000	3.28%

Seattle Marriott Waterfront

Scenario A - Rate and Vacancy Changes

it park

		INCOME ANALYSIS After	Year Built	2003
		Revenues		
		Revenues		
Room	\$32,928,840	Room revenue		
Food & beverage	\$3,658,760	Food & beverage revenue		
Parking & other income	\$1,841,060	Parking & other income		
	\$38,428,660	Total revenues		
		Less: Departmental expenses		
Room revenue	(\$8,890,787)	Rooms	27.0%	of room revenue
Food & beverage revenue	(\$2,817,245)	Food & beverage	77.0%	of food & beverage
Parking & other income	(\$920,530)	Parking & other	50.0%	of parking & other
	(\$12,628,562)	Total departmental expenses		
	\$25,800,098	Total departmental net income		
			GBA	NRA
per SF =	\$0	Retail rental income	0	0
per SF =	\$0	Office rental income	0	0
per SF =	\$0	Other rental income	0	0
/SF =	\$25,800,098	Total Bldg Area & Gross Income	254,273	254,273
		Less: Undistributed expenses		
		Admin, marketing, utilities, maintenance, insurance @		
	(\$7,160,000)	Franchise fees @	7.5%	of room revenue
	(\$2,469,663)	Management fee @	3.0%	of total revenue
	(\$1,152,860)	Real estate taxes		
	(\$1,302,234)	Replacement reserve @	4.0%	of total revenue
	(\$1,537,146)	Total undistributed expenses		
	(\$13,621,903)	Total operating expenses		
	(\$26,250,465)	Net operating income		
	\$12,178,195	Indicated Values		
Capitalized @	7.25%			

Indicated value	\$167,975,101
(R) \$167,975,000	
Per SF NRA	\$660.61
Per room	\$469,204
<hr/>	
per SF =	\$48,012,000
per SF =	\$119,963,000
<hr/>	

Land Value	
	64,016
Residual Improvements	
Special Benefit Summary	

Total Estimated Value	Special Benefit	% Change	Per Room
\$167,975,000	N/A	N/A	
\$172,957,000	\$4,982,000	2.97%	\$13,916
\$175,414,000	\$7,439,000	4.43%	\$20,779
\$172,740,000	\$4,765,000	2.84%	\$13,310
\$173,974,000	\$5,999,000	3.57%	\$16,757
\$167,975,000	N/A		
\$173,352,000	\$5,377,000	3.20%	\$15,020

Seattle Marriott Waterfront
Scenario B - OAR Changes

			Low	High
Occupancy rate:			80.0%	80.5%
Occupied rooms:			104,536	105,189
	Per Room	Per Room	1.75%	2.00%
	\$320.51	\$321.30	\$33,505,095	\$33,797,338
	\$35.61	\$35.70	\$3,722,788	\$3,755,260
	\$52.91	\$53.04	\$1,873,279	\$1,877,881
			\$39,101,162	\$39,430,479
Average revenue			(\$9,046,376)	(\$9,125,281)
Average income			(\$2,866,547)	(\$2,891,550)
			(\$936,639)	(\$938,941)
			(\$12,849,562)	(\$12,955,772)
			\$26,251,600	\$26,474,707
	Per SF	Per SF		
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$0.00	\$0.00	\$0	\$0
SF NRA @	\$103.24	\$104.12	\$26,251,600	\$26,474,707
\$20,000 per available room			(\$7,160,000)	(\$7,160,000)
			(\$2,512,882)	(\$2,534,800)
			(\$1,173,035)	(\$1,182,914)
			(\$1,302,234)	(\$1,302,234)
			(\$1,564,046)	(\$1,577,219)
			(\$13,712,197)	(\$13,757,168)
			(\$26,561,759)	(\$26,712,940)
			\$12,539,402	\$12,717,539
Capitalized @			7.25%	7.25%

INCOME ANALYSIS After	
Potential Gross Income	
Revenues	
Room revenue	
Food & beverage revenue	
Parking & other income	
Total revenues	
Less: Departmental expenses	
Rooms	
Food & beverage	
Parking & other	
Total departmental expenses	
Total departmental net income	
Retail rental income	
Office rental income	
Other rental income	
Total Bldg Area & Gross Income	
Less: Undistributed expenses	
Admin, marketing, utilities, mair	
Franchise fees @	
Management fee @	
Real estate taxes	
Replacement reserve @	
Total undistributed expenses	
Total operating expenses	
Net operating income	
Indicated Values	

			\$172,957,273	\$175,414,335	3.00%	
		(R)	\$172,957,000	\$175,414,000		
		Per SF NRA	\$680.20	\$689.86		
		Per room	\$483,120	\$489,983		
		% change	2.97%	4.43%		
SF @	\$772.50	per SF =	\$49,452,000	\$49,452,000		
		Per SF NRA	\$485.72	\$495.38		
			\$4,982,000	\$7,439,000		

Year Built		2003				
104,536	occupied rooms @	\$315.00	per occupied room			\$32,928,840
104,536	occupied rooms @	\$35.00	per occupied room			\$3,658,760
35,405	occupied rooms @	\$52.00	per occupied room			\$1,841,060
						\$38,428,660
27.0% of room revenue						(\$8,890,787)
77.0% of food & beverage revenue						(\$2,817,245)
50.0% of parking & other income						(\$920,530)
						(\$12,628,562)
						\$25,800,098
<u>GBA</u>		<u>NRA</u>				
0	0	SF NRA @	\$0.00	per SF =	\$0	
0	0	SF NRA @	\$0.00	per SF =	\$0	
0	0	SF NRA @	\$0.00	per SF =	\$0	
254,273	254,273	SF NRA @	\$101.47	/SF	\$25,800,098	
Maintenance, insurance @ \$20,000 per available room						(\$7,160,000)
7.5%	of room revenue					(\$2,469,663)
3.0%	of total revenue					(\$1,152,860)
						(\$1,302,234)
\$0.04	of total revenue					(\$1,537,146)
						(\$13,621,903)
						(\$26,250,465)
						\$12,178,195
				Low	High	
Capitalized @				7.05%	7.00%	

Indicated Value				\$172,740,352	\$173,974,211
(R)				\$172,740,000	\$173,974,000
Per SF NRA				\$679.35	\$684.20
Per room				\$482,514	\$485,961
% change				2.84%	3.57%
64,016	SF @	\$772.50	per SF =	\$49,452,000	\$49,452,000
				\$123,288,000	\$124,522,000
per SF NRA				\$484.86	\$489.72
				\$4,765,000	\$5,999,000

3.00%

Attachment C

Model Input

Appeal #	Property	Address	Assessor's #
CWF-0439	Seattle Marriott Waterfront	2100 Alaskan Way	7666202345

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$5,377,000	34.29%
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$722,826

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0439	Seattle Marriott Waterfront	2100 Alaskan Way	7666202345

	BEFORE	Appraiser	Value	
A	Final City Before Value	City	\$167,975,000	
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$166,358,690	excludes personal property
C	COVID 19 Discount and value		-12.5%	
D				
(B*(1+C) unless no value Corrected FMV for Assessment for B, then A*(1+C))			\$145,563,854	

	SPECIAL BENEFIT		5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

	CORRECTION OF ASSESSMENT	Value	5-yr delay	10-yr delay
H	City LID special benefit for subject	\$5,377,000		
H/A	As Percentage of Final City Before Value	3.201%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"	\$4,659,603		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr		34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value		\$1,597,926	\$439,056
J	Percentage of Special benefit to be assessed by City	39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)		\$626,387	\$172,110

	DISTANCE FROM PARK IMPROVEMENTS	Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No		
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)	N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
18

19
20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0439

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON ASHFORD
SEATTLE WATERFRONT LP’S
OBJECTION TO WATERFRONT LID NO.
6751 PROPOSED FINAL ASSESSMENT
FOR PARCEL NO. 7666202345

32
33 Ashford Seattle Waterfront LP files this appeal pursuant to RCW 35.44.070, Seattle
34 Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the Seattle Office
35 of the City Clerk dated December 30, 2019, and the Hearing Examiner’s Findings and
36 Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
37
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39
40

41
42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:

44 Ashford Seattle Waterfront LP
45
46
47

1 14185 Dallas Parkway, Suite 1100
2 Dallas, TX 75254
3

4 **II. Taxpayer's Representatives**

5
6 Ashford Seattle Waterfront LP's representatives in this matter are:

7
8 R. Gerard Lutz, WSBA No. 17692
9 JLutz@perkinscoie.com
10 Megan Lin, WSBA No. 53716
11 MLin@perkinscoie.com
12 Perkins Coie LLP
13 10885 N.E. Fourth Street, Suite 700
14 Bellevue, Washington 98004
15 Telephone: 425.635.1400
16 Facsimile: 425.635.2400
17
18

19
20 Robert L. Mahon, WSBA No. 26523
21 RMahon@perkinscoie.com
22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
26

27 **III. Statement of Taxpayer's Interest**

28
29 Ashford Seattle Waterfront LP's ("Ashford") owns the property that is subject to the
30 proposed final assessment described in Section IV. Marriott Business Services manages the
31 hotel on behalf of Ashford, and was included on the tax bill and assessment notice, but
32
33 Marriott does not have an ownership interest. The property is the Seattle Marriott
34
35 Waterfront, a hotel located along Alaska Way across from Pier 66. The basis of the
36
37 proposed assessment is a Final Special Benefit/Proportionate Assessment Study for
38
39 Waterfront Seattle Local Improvement District ("Final Study"), dated October 1, 2019 and
40
41 prepared by Robert Macaulay with ABS Valuation (the City's appraiser). The Final Study
42
43 proposes assessments that are purportedly limited to paying for the LID-funded
44
45
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47

1 components—namely, the Promenade, Overlook Walk, Pioneer Square Street
2
3 Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape Improvements,
4
5 and Pier 58 (together, the “LID Improvements”). The Final Study purports to exclude
6
7 charges for other improvement projects in the Central Waterfront, and specifically those
8
9 WSDOT had already agreed to pay for and construct: viaduct demolition, the new
10
11 Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99 Tunnel,
12
13 the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned fronting
14
15 piers between Pike and Madison (together, the “WSDOT Improvements”). But because
16
17 construction was not complete on the LID Improvements or the WSDOT Improvements at
18
19 the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019 “Before” and
20
21 “After” valuations are both based on hypothetical conditions rather than actual facts. On
22
23 February 4, 2020, Taxpayer timely filed an objection to the assessment, which was based on
24
25 the Final Study.

26 27 **IV. Matter Under Appeal**

28
29 Ashford appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
30
31 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
32
33 final assessment dated December 30, 2019 against the following property:

34
35 King County Parcel No. 7666202345
36 Site Address: 2100 ALASKAN WY, Seattle, Washington
37 Proposed Final LID Assessment for Parcel: \$2,106,827

38
39 *See* Examiner’s Recommendation at 61-62, 106. To avoid repetition, Taxpayer incorporates
40
41 the evidence and arguments raised before the Hearing Examiner into this appeal. In
42
43 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
44
45 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
46
47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 106, Sections II.6, II.7, II.12, II.14, II.16, II.17, II.18, II.19, II.20, II.21, II.22,
8 II.23, II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2,
9 IV.B.3, IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i),
10 IV.B.11(a)(ii), IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.2, IV.C.3, IV.C.4, IV.C.5,
11 IV.C.8, IV.C.10, IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29
30

31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$5,377,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City’s appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS’s appraisal and
5 the City’s preliminary roll. On the contrary, the City’s assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS’s appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City’s appraiser asserts that the City is not collecting assessments “based
16 on the value of WSDOT’s planned improvements.” See Final Study at 3. However, the
17 City’s own expert, Mark Lukens, acknowledged that was false. In the “Before” condition,
18 the City’s appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced “Before” value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City’s promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT’s planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City’s appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be “physical and material and not merely speculative
35 or conjectural”
36

37
38 **ABS Study:** Not only are the improvements not yet “physical or material,” but
39 environmental review and permitting for the City’s proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City’s then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** LID assessments reflect special benefits and must be proportionate
47

1 **ABS Study:** The City's appraiser proposes to assess against the value of hotel personal
2 property (furniture, fixtures and equipment), but not personal property of other types of
3 property. It is not proportionate to assess against hotel personal property and not other
4 personal property. Further, personal property is moveable, the value does not depend on
5 location, and is likely to be fully depreciated and perhaps removed before the LID
6 Improvements are in place. (Note also that personal property accounts are separate, and
7 the City gave no notice of any LID assessment against personal property. The Examiner
8 should have reversed personal property assessments on that basis as well.)
9

10
11 **Legal Requirement:** Must comply with appraisal standards
12

13 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual"
14 and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
15 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
16 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
17 Final Study fails to meet basic standards for admissibility and must be remanded.
18
19

20 **Legal Requirement:** Actual and measurable special benefit
21

22 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
23 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
24 on a host of "micro-judgments" that are not supported by any documentation, nor capable
25 of replication or quality assurance/quality control. The assessments are undocumented,
26 unreliable, and not supported by empirical studies, data, or reports.
27
28

29 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
30 supported by empirical evidence
31

32 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
33 value of parks and other public amenities and on whom ABS purported to rely, testified
34 that ABS had completely misapplied his work and dramatically overstated both the
35 distance to which economic benefits might extend from the LID Improvements and the
36 extent of any anticipated benefit within the potentially benefited area.
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40 **Legal Requirement:** Actual special benefit—Must take into account potential
41 disamenities
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43 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
44 construction, as well as other potential disamenities associated with public places.
45
46
47

1 **Legal Requirement:** Cannot prematurely commit to build

2
3 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
4 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
5 are being imposed. But finalizing the roll is a commitment by the City to build the
6 improvements, which is a violation of legal process and commits the City to build things it
7 may not secure permission to build.
8
9

10 In addition to these general objections, there are property-specific issues raised by
11 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
12 statement below.
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14

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17 **V. Standard of Review**

18 “When considering the assessment roll, the city council sits ‘as a board of
19 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
20 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
21 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
22 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
23
24

25 The proposed assessments are presumed correct, “unless overcome by clear, cogent
26 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
27 than the heightened presumption of correctness on judicial appeal because “applying these
28 elevated standards at the municipal hearing would afford unwarranted deference to a report
29 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
30 presumption is not evidence and its efficacy is lost when the other party adduces credible
31 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
32 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
33 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
34 presented credible evidence showing that the City’s proposed assessment is arbitrary,
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1 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
2 to the City to prove the assessments are actual, measurable, special, non-speculative and
3 proportionate. The City failed that burden.
4

5 **VI. Grounds for Appeal**

6
7 Ashford appeals the Hearing Examiner's Findings and Recommendations on the
8 following grounds.
9

10 **Taxpayer Not Required to Provide A Special Benefit Study**

11
12 1. Contrary to the Examiner's findings and recommendations, there is no
13 requirement that experts or property owners provide an alternative special benefit
14 calculation under these circumstances—to do so would also require the same improper
15 speculation the City's expert engaged in, given the timing and information provided. *See*,
16 *e.g.*, Second Decl. of Peter Shorett ISO Closing Stmt., ¶¶ 3-4 (dated 7/7/2020); Decl. of
17 Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020). A Washington court has
18 explained: "[W]e have explicitly rejected an argument that, because certain protestors 'failed
19 to offer expert testimony at the city council hearing[,] the presumptions [in favor of the
20 assessment] were still operative as to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting
21 *In re Indian Trail Trunk Sewer*, 35 Wn. App. at 843); *see also Kuskay v. City of Goldendale*,
22 85 Wn. App. 493, 933 P.2d 430 (1997) (although appraiser did not submit an appraisal, he
23 provided expert opinion showing that improvements actually diminished value of the
24 property). In fact, no independent evidence is required at all if, for example, objectors show
25 that the assessment was grounded on a fundamentally wrong basis due to an error in the
26 City's appraiser's methods—as is the case here. *Hasit*, 179 Wn. App. at 947 (citing
27 *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)). As a simple example,
28 a property owner could simply point out that the square footage assumed in the City's
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1 appraisal was incorrect. For these reasons, Taxpayer appeals the following portions of the
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3 Examiner's Recommendation: Sections II.12, II.14, II.17, IV.A, IV.B.11(a), IV.C.2, IV.C.8,
4
5 and IV.C.11.

6
7 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

8
9 2. RCW 35.43.040 provides cities and towns authority for ordering local
10
11 improvements and for levying and collecting special assessments "on property specially
12
13 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed
14
15 upon all the property in accordance with the special benefits conferred thereon." RCW
16
17 35.44.010.

18
19 3. No analysis of general benefits. Special assessments have been "held valid
20
21 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
22
23 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
24
25 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
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27 they are for the construction of local improvements that are appurtenant to specific land and
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29 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*

30
31 4. Ashford's property is not specially benefited by the LID Improvements. The
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33 primary purpose and effect of the LID Improvements are to benefit "members of the whole
34
35 community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public library is
36
37 for the benefit of the members of the whole community individually and collectively who
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39 may be served by it"). Mr. Macaulay's own chapter of the LID Manual states clearly that
40
41 appraisers should "[c]onsider general benefits as well as special benefits" (Hrg. Exhibit 117
42
43 (LID Manual) at 58²) and he admits that "general benefits probably accrue to the LID area"

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45
46 ² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
47 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil

1 as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer's expert confirmed that if an
2 appraiser "identifies both general and special benefits, these benefits should be clearly
3 distinguished and explained, and only special benefits should be included in the After
4 assessment." Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also* 3/3/2020 (A.
5 Gibbons) Hrg. Tr. at 96:6-97:4; 3/11/2020 (P. Shorett) Hrg. Tr. at 182:14-183:4. It is
6 undisputed that Mr. Macaulay did not analyze or measure general benefits, including those
7 arising from construction necessary to meet basic design standards. *See* Hrg. Exhibit 117
8 (LID Manual) at 58 ("[c]onsideration may also be given to those construction costs related
9 to meeting design standards which may be general benefits as distinct from construction
10 costs emanating from requirements of the LID project"). To the extent Taxpayer's property
11 may benefit from the LID improvements, the benefit is general and incidental, and failure to
12 consider general benefits was a fatal flaw in the City's methodology. For these reasons,
13 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
14 IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.
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29 5. LID Improvements not necessary. Unlike typical LID projects, the
30 Waterfront LID improvements are largely unnecessary to the functionality of any particular
31 property, including Taxpayer's property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
32 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
33 held invalid where owners would have benefitted equally from increase of only 9 feet);
34 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
35 intersection for new water main for hydrant held invalid because land was already afforded
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45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City's witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 functional hydrant at nearby street). Here, Taxpayer provided evidence that the LID
2
3 Improvements are not necessary to the business of their income-producing property which
4
5 already has sufficient access to the waterfront, downtown restaurants, and other amenities
6
7 necessary for their clients and users. The fact that there is no case law differentiating
8
9 between binary improvements and parks does not change the law prohibiting assessments on
10
11 properties already adequately served by existing amenities. *See* Examiner's
12
13 Recommendation at IV.C.3 (reasoning that "no case law is provided to support the
14
15 differentiation between a hardscape benefit and the more ephemeral benefits of park"). Nor
16
17 does the Examiner's reasoning excuse the City's failure to account for existing amenities as
18
19 part of the special benefit calculation. As Dr. Crompton testified, existing view amenities
20
21 may in fact diminish the incremental effect of new park improvements on the value of
22
23 properties, much like turning on a weak light in an already brightly illuminated room. *See*
24
25 Hrg. Exhibit 94 (Crompton's Report) at 12-13.

26
27 6. To the extent benefits can be considered "special" as opposed to general, they
28
29 are nominal or nonexistent for many properties even in the Central Waterfront, which
30
31 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
32
33 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
34
35 change due to expansion of sewer service *near* owners' parcel which were already
36
37 connected). Ultimately, the primary reasons users choose a particular hotel or apartment is
38
39 not proximity to the waterfront. Instead, like most of the downtown hotels, the Seattle
40
41 Marriott Waterfront caters primarily to business travelers attending conventions and
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43 meetings. *See, e.g.,* Hrg. Exhibit 108 (Rash Decl.), ¶ 12 (Marriott). For this reason, Mr.
44
45 Rash explained that the Seattle Marriott does not expect the LID Improvements to increase
46
47 impact on demand for rooms or room rates. *Id.* Even if the City could assess for a view

1 change (and it has promised not to assess for viaduct removal), the fair market value of
2
3 Ashford's property has not changed because the LID Improvements have not improved the
4
5 property's waterfront view or access to the waterfront, nor will they when the City
6
7 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
8
9 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

10
11 7. No analysis of special detriments. The Final Study fails to properly account
12
13 for special detriments. *See Kuskys*, 85 Wn. App. at 501 (city failed to consider the costs to
14
15 owners for removal and cleanup of underground storage tanks discovered during the
16
17 improvement project). Mr. Rash testified that the property is more valuable without the LID
18
19 Improvements because of the expected interference due to construction compared to the
20
21 assessment cost. Meanwhile, views already protected by air space would not be enhanced
22
23 by the addition of the LID Improvements. Mr. Rash testified that the assessment is an
24
25 immediate expense for the Seattle Marriott Waterfront that comes with no immediate
26
27 increase in revenue, thereby decreasing property values. *See Hrg. Exhibit 108 (Decl. of C.*
28
29 *Rash)*, ¶ 13. And Taxpayer does not expect near-term the increases assumed in ABS
30
31 Valuations' spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed
32
33 impacts on the City's planned elimination of 450 parking stalls on a parcel-by-parcel basis,
34
35 there is no explanation of how lost parking might be a detriment, and no property-specific
36
37 parking analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12;
38
39 *see also* 6/26/2020 Hrg. Tr. at 153:18-154:19 (did not actually analyze impact of decreased
40
41 parking on condos).

42
43 8. Likewise, there was no analysis of the risks associated with disamenities such
44
45 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
46
47 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at

1 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
2 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
3 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
4 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
5 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
6 the maintenance agreement. *Id.* at 13:4-14:2.
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12 9. There was also no consideration of negative impacts from another four-plus
13 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
14 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
15 law allowing him to dismiss these actual, non-speculative impacts. Because future special
16 benefits calculations are inherently speculative, Washington's eminent domain statute
17 specifically allows condemnees to postpone special benefits assessments until improvements
18 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
19 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
20 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
21 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
22 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
23 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
24 II.25, IV.B.8, and IV.B.9.
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38 10. Special benefit estimate is speculative. When calculating a special benefit,
39 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 411. “When an appraiser uses a factor ‘beyond the knowledge of reasonable certainty’, it
2 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
3 P.2d 1078 (1958)).
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6 11. Assuming without conceding that one day, the City’s planned LID
7 Improvements might increase the value of neighboring properties to some extent, that
8 potential benefit is many years away and speculative. While appraisers tolerate some degree
9 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
10 far too speculative to satisfy industry practices and standards. *See e.g.*, 3/12/2020 (P.
11 Shorett) Hrg. Tr. at 92:24-93:10 (it is impossible to perform a special benefit analysis with
12 the level of precision implied in the Final Study due to the size of the LID and use of
13 hypotheticals).
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16 12. Although LIDs are sometimes finalized prior to completion of improvements,
17 this is typically just six month or a year prior, and the assessments are otherwise supported
18 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
19 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
20 will not be realized for four or five years. In the meantime, there is permitting risk,
21 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
22 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
23 and to what extent, different factors will impact value. *Id.* at 51:13-53:5; *see also* 3/11/2020
24 (P. Shorett) Hrg. Tr. at 196:17-21; 205:22-206:2. Ultimately, Mr. Macaulay concedes that
25 there is inherent uncertainty in valuing the future delivery of projects because “we can’t read
26 the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he testified: “I just don’t know what the
27 market value would be as of the date the project would be finally constructed” because
28 “[t]here could be a lot of elements in the market that did occur between now and then that
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1 impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.* at 211:8-20 (no way to know if
2 his estimates will be higher or lower than comparable sales in 2024 because “markets tend to
3 fluctuate over time” and “I can’t predict the future”).
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6 13. The record is clear that while no one can know what “special benefit” might
7 accrue to these properties in four years (if any), we do know that there are no actual benefits
8 now. The LID improvements provide no immediate special benefit to property owners
9 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
10 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
11 sewer system for future users). For example, notwithstanding the questionable hypothesis
12 that hotels will benefit from an expected increase in tourism (higher room rates or
13 occupancy) when the improvements are complete, it is undisputed that tourists are not
14 coming in larger numbers and paying higher room rates now because of something
15 happening five years down the road. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at 207:11-23;
16 O’Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased today for 18
17 months would rent at a higher rate due to improvements coming in 2024).
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30 14. Further, there are no “plans and specifications” on file with the Clerk’s Office
31 for the LID Improvements, and it is unlawful to move to final assessments without such
32 “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
33 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
34 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
35 dollars on projects still early in the design process. *See* Washington Attorney General
36 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
37 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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1 of programs and included “only so much of the overall costs” that took place within and
2 benefitted the assessed properties).
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5 15. The COVID-19 crisis highlights how fundamentally speculative and unfair it
6 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
7 anticipated to be delivered five years later. Even before COVID, it was speculative to
8 assume that market highs experienced in October 2019¹ would be sustained through 2024,
9 after an already extraordinarily long expansion period. See 3/3/2020 (A. Gibbons) Hrg. Tr.
10 at 117:6-118:9, 119:17-120:9. And Mr. Macaulay conceded: “[W]hen I was doing my
11 analysis in October 2019, who would have thought that this COVID issue would happen?”
12 6/23/2020 Hrg. Tr. at 80:3-8. At his deposition in late February, his “thought process was
13 that the market was going to continue to go up”—in fact, it did not for Taxpayer’s property.
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15 *Id.* Mr. Gordon’s appraisals after March 1, 2020 showed that downtown hotel values had
16 already dropped an estimated 10-15% from their October 2019 levels, and occupancy rates
17 were at zero or in single digits. See Gordon Decl. (dated 4/21/2020) at ¶ 9. Hotels without
18 guests will derive no benefit, special or otherwise, from the planned LID Improvements.
19 And even assuming hotels recover prior to 2024, there is no basis for assuming that values
20 hypothesized in October 2019 will remain relevant; they are already irrelevant. See Gibbons
21 Decl. ISO Closing Stmt. at ¶ 12 (dated 7/7/2020). Mr. Rash testified via declaration how
22 COVID has decimated demand at the Seattle Waterfront Marriott, where occupancy stood
23 close to 1% and demand is not expected to pick up until people are comfortable to travel
24 again. See Hrg. Exhibit 108 (Rash Decl.), ¶ 17. Although COVID does not change actual
25 values as of October 2019 (see Examiner’s Recommendation at 109), the pandemic has
26 impacted *current* values and rendered the hypothetical October 2019 Final Study valuations
27 outdated.
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1 16. As another example of how future events could affect the accuracy and
2 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
3 Examiner re-open the record to allow the City to explain whether the assessments against
4 property owners within the LID are, in fact, being used by the City to fund the emergency
5 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
6 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
7 would be improperly imposing costs on property owners within the LID for improvements
8 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
9 habitat and City infrastructure—this does not provide any special benefit to LID property
10 owners.
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12 17. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
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19 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
20 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
21 58 (Waterfront Park) Emergency Demolition Project, available at
22 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FjfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
23 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
24 available at
25 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOk5QBr3KFzTsfO4Lw=>.

26 ⁵ Asia Fields, ‘Substantial’ pier shift closes Seattle’s Waterfront Park (Seattle Times, Aug. 8,
27 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
2 potential delays and project changes inherent in those processes, that call into question the
3 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
4 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
5 Decl., dated 4/15/2020).
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10 18. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
11 he could not point to a single one where the assessment roll was finalized five years in
12 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
13 he has never recommended final special assessments based on designs less than 30 percent
14 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
15 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
16 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
17 at 66:17-25. He performed no independent due diligence to determine the reliability of the
18 City’s estimates for completion of the LID Improvements, or to ensure that proposed
19 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
20 agreed that if any of his assumptions are incorrect, his opinion of market value would need
21 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
22 68:11-18.
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36 19. The City has cited no authority—and Taxpayer is aware of none—that
37 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
38 assess taxes for “actual” special benefits that will not accrue for another five years (if all
39 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
40 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
41 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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1 reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
2 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
3 IV.C.14, and IV.C.18.
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6 20. Failure to discount special benefit estimates to account for risks and present
7 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
8 have accounted for risks associated with delivery of the improvements (including permitting
9 risk, construction risk, general economic risk) and any special damages associated with
10 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
11 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
12 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
13 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
14 the impact of future conditions [through] discounted cash flow analysis.").

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16 21. Mr. Macaulay acknowledged that appraisers can discount the value of a
17 future condition not in place at the date of valuation and can discount for the time value of
18 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
19 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
20 Discounting would also have been consistent with his approach for analyzing special
21 benefits to vacant land. He testified that the difference between similarly situated vacant
22 sites slated for development and already developed sites was that the labor, capital and risks
23 associated with development had not yet been borne for those vacant sites. Therefore, the
24 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
25 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
26 fully permitted, has not completed environmental review, and has not reached full design is
27 presently worth significantly less.
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1 22. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
2 present value, an appraiser would consider discount rates for land development to account
3 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
4 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer
5 to the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
6 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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12 23. Applying the Q19 Korpacz rates and assuming arguendo that Macauley's
13 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
14 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
15 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
16 ignoring momentarily all of the other methodological and other flaws discussed here and in
17 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
18 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
19 exceeds special benefits when reduced to present value. Further, to the extent the City is
20 arguing that because they are permitted to assess 100% of the special benefit, the special
21 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
22 is again wrong. After applying proper discounting, the City's proposed special benefit
23 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
24 100% of the total estimated special benefit.
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38 24. But even the assumption that the LID improvements would deliver benefits
39 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
40 on. Rather, those studies demonstrate that a discount period of five years is conservative.
41 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
42 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
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1 indicates that during the construction period, the Greenway district “significantly” lagged in
2 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
3 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at
4 30-31 (discussing New York City High Line and San Francisco Embarcadero
5 improvements). Given the lengthy delay, any prediction of future special benefits is
6 speculative, especially during the construction phase where values are likely to decline.
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8 Second Decl. of Shorett ISO Closing Stmt., ¶ 6 (dated 7/7/2020). And assuming the LID
9 Improvements take a similarly long period of time after they are complete to start producing
10 tangible property value benefits, each additional year of delay results in further discount to
11 the present value of any future alleged benefit. Gibbons Decl. ISO Closing Stmt., ¶ 19, Ex.
12 A.
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15 25. Applying the same discounting methods described above and in Mr. Gibbons
16 declaration, the 2019 net present value of ABS’s estimate for benefits that actually start
17 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
18 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
19 100% assessment should be no more than \$506,513.40. Anything more would permit the
20 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
21 place and providing benefit, and ignore the risks, construction disamenity, and time value of
22 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
23 would counsel that the assessment should be only 39.2% of that assessment cap, or
24 \$198,553.25.
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27 26. Attachment C includes two Excel spreadsheets applying these discounting
28 methods to Taxpayer’s assessment. It is undisputed that special benefits will not actually
29 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
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1 demonstrates that discounting the City’s hypothetical October 2019 special benefits to
2 present value would reduce Taxpayer’s assessment to \$722,826, exclusive of any other
3 flaws in the City’s proposed assessment. The second spreadsheet shows even more drastic
4 reductions after taking into account: (1) a rough discount for property value loss due to
5 COVID-19; and (2) discounting to present value for 5 years (*i.e.*, from 2024 when the City
6 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
7 the time it takes for the improvements to capture property value). After such reductions,
8 Taxpayer’s assessment would be just \$626,387 (for the 5-year discount) or \$172,110 (for
9 the 10-year discount). Neither of these spreadsheets address other issues raised by
10 Taxpayer’s appeal, but are intended to help demonstrate how unfair and inflated the City’s
11 proposed hypothetical assessment is. The Hearing Examiner’s Recommendation simply
12 dismisses Taxpayer’s discounting argument without legal or factual analysis; that failure is
13 error.
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26 **Appraisal and Assessment Calculation Methods Are Flawed**

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28 27. The “general rule is that each lot, piece, or parcel of land should be assessed
29 separately” for purposes of local improvement district special assessment. *Doolittle*, 114
30 Wn.2d at 97.
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34 28. It is proper to sustain a challenge to an assessment, even without the appraisal
35 testimony from the owner, where the objector’s expert establishes that the assessment was
36 “clearly grounded upon a fundamentally wrong basis” due to an error in the method
37 employed by the City’s appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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42 29. The City’s appraiser purports to utilize the income method of valuation but
43 relied on inaccurate revenue and market data, as discussed further below.
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1 30. The City’s appraiser purports to utilize the comparable sales method of
2 valuation, but no City witness attempted “to characterize any one, or all of them, as
3 comparable to [Taxpayer’s property].” *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
4 “several serious flaws” in ABS’s LID analysis in that case, including that the appraiser
5 “attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
6 characterize any one, or all of them, as comparable to any particular property within the LID”).
7 And no City witness could explain how specific adjustments were made to these sales to
8 account for value increases due to the hypothesized Before and After Improvements. For this
9 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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11 31. Special assessment improperly includes value lift from the Before
12 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
13 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
14 Improvements, which WSDOT had independently committed to fund. However, Mr.
15 Macaulay did not calculate the actual market value of LID properties in October 2019, and
16 did not separately analyze the hypothetical increase to property values attributable to
17 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
18 current value and then separately calculate a hypothetical “With WSDOT” Before value);
19 Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020 Letter
20 (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal Petition) at
21 3-4; Shorett Appraisal Review (attached to Appeal Petition) at 2-14. Without any
22 documented basis or support, Mr. Macaulay simply “ma[de] a judgment a call” on what
23 occupancy and rates would have been for the commercial properties assuming all of the
24 WSDOT Improvements are completed as of 2019. Macaulay Depo. at 129:19-130:11. This
25 outright omission precludes any independent evaluation of the true market “Before” values.
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1 See 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards;
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3 if an appraiser uses current sales data to infer values, then the appraiser must explain how he
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5 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
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7 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
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9 other road, pedestrian and landscaping improvements WSDOT had already committed to
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11 make.

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13 32. However, because Mr. Macaulay testified that he did include some WSDOT-
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15 related value-lift in the “Before” values, it follows that part of the special assessment
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17 improperly is based on value attributable to the WSDOT Improvements. As shown by
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19 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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21 percentage to Before values. So for example, if Mr. Macaulay believed the WSDOT
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23 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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25 special benefit assignment would result in \$300,000 of over-assessment. See Gibbons Decl.
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27 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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29 to properly exclude the value of Before Improvements from the assessments. For these
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31 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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33 Sections II.16, II.19, II.29, and IV.B.11(a)(ii)

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35 33. Special benefits were assigned rather than measured. Mr. Macaulay
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37 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
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39 property. See 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/12/2020 (P.
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41 Shorett) Hrg. Tr. at 49:4-50:1; *id.* (J. Gordon) at 168:2-20; 3/3/2020 (A. Gibbons) Hrg Tr. at
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43 88:25-89:3; 90:8-91:13. Based on formulas in spreadsheets that Mr. Macaulay used to
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45 analyze the commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based
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47 adjustments on hypothesized very small increases to property revenue and very small

1 reductions to cap rates to “calculate” an “After” value due to the coming 2024 LID
2 Improvements. Attachment B (ABS Spreadsheet). These series of micro adjustments were
3 based on “professional judgment” that are neither shown nor replicable.
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6 34. For these reasons, Taxpayer appeals the following portions of the Examiner’s
7 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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10 35. Special benefit falls within margin of error. The Final Special Benefit Study
11 applies an estimated value enhancement of less than 4%, which is generally within the
12 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
13 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
14 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
15 of one another, this difference is considered reasonable as it falls within the standard margin
16 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/11/2020
17 (P. Shorett) Hrg. Tr. at 216:25-217:11. Because Mr. Macaulay’s micro-special benefit
18 percentages fall far below that 5% margin, “there is no way of authenticating” such
19 incremental changes because “[m]arket forces completely obliterate any tiny little noise
20 factor like that.” *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed
21 during his deposition that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Yet,
22 Mr. Macaulay assigned or purported to measure a difference in revenue and cap rates for
23 Taxpayer’s property within that margin. Additionally, the fact that “Before” values are also
24 based on a hypothetical that adds some unstated incremental value to actual 2019 values
25 exacerbates this issue—the ability for an appraiser to discern the micro-value differences
26 between hypothetical conditions that are so similar (the WSDOT improvements compared to
27 the LID improvements) “verges on being ludicrous.” 3/3/2020 (A. Gibbons) Hrg. Tr. at
28 89:4-90:7.
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1 36. Even if it were possible to accurately tease out such a miniscule hypothetical
2 value change due to improvements coming five years later, experts testified that there is no
3 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
4 what he felt the changes (hypothetically) would be. *See* 3/12/2020 (J. Gordon) Hrg. Tr. at
5 168:2-20; 176:1-177:6; *id.* (P. Shorett) at 49:4-50:1; 3/3/2020 (A Gibbons) Hrg. Tr. at
6 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
8 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
9

10 37. No analysis of value increase attributable to individual components of the
11 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
12 percentage difference between hypothetical Before and After conditions. Throughout his
13 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
14 descriptions in the Addenda even though he testified that he relied on these to calculate
15 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
16 someone might be able to determine how he attributed value to After conditions described in
17 the Addenda, he answered that that was “not the scope of the assignment” because he was
18 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
19 that the six components were not actually a continuous project, that he was viewing them
20 together because the City asked him to, and that if he were to view them independently,
21 there was a low probability that properties in the north would specially benefit from
22 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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24 38. Not only did he fail to analyze benefits from each of these non-contiguous
25 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
26 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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1 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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3 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
4 objectives that guided regulators’ assessment of architectural plans for buildings along a
5 “signature street” were so vague that they amounted to ad hoc review based on the
6 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
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8 even though he used the renderings as “visual aid[s] in appraising the property in the before
9 and after” to “visually see what the differences would be,” he could not explain what
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11 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
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13 when shown a rendering of a two-lane road going down to one-lane in the After condition
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15 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
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17 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
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19 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
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21 could explain the depiction of the same trees in the After condition nearly twice as tall as in
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23 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
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25 of the Examiner’s Recommendation: II.27 and IV.B.4.
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30 39. Special assessment is not supported by comparable studies, data or reports.
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32 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
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34 that the LID Improvements will lead to meaningfully increased real estate values for
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36 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 comparable sales or information from the “over twenty-five studies and reports” to arrive at
2 very precise special benefit increases for the commercial properties, including Taxpayer’s
3 property. For example, although Mr. Macaulay stated that no single report or study was
4 directly on point due to the unique nature of the LID Improvements (*see, e.g.*, 6/25/2020
5 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific adjustments in his
6 parcel-by-parcel analysis other than to say that the studies generally provided “some
7 background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12; *see also*
8 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account for
9 similarities and differences between these improvements and the comparable parks he
10 looked at).

21 40. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
22 assignment of incremental increase of 0.5% to 4% to property values within the LID.
23 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
24 research misinterprets his work in critical ways, including because the LID Improvements
25 manifest the characteristics of a parkway (not a park), and his research indicates that most of
26 a *park’s* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
27 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
28 related value increases are in fact smaller; that estimated increases are “best guesses” rather
29 than predictions of property value increases in a particular city; and that percentages do not
30 account for diminishing returns after taking into account water views, which would be the
31 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
32 topography grants most properties in downtown a water view.

41 41. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
42 that this was just one source of information that was not entirely relevant because, among
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1 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
2 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
3 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
4 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
5 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
6 Crompton concluded that 500 feet via road from “park” improvements is just one or two
7 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
8 significantly beyond that which the park study indicated (even if it was legitimate to use the
9 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
10 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
11 impact applicable to “community parks”—which the LID Improvements are not. *Id.*
12 Taxpayer’s property is not within 500 road network feet from the “park” improvements. *See*
13 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Exs. E, F.

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15 42. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
16 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
17 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
18 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
19 materials, it was clearly an important—if not *the* most important—source of information for
20 estimating special benefits (especially with respect to the condos).⁷ No City witness

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⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr. at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a park (or streetscape) improvement—other studies estimated premiums for real estate only much closer or cited to Dr. Crompton.

adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s parcel-by-parcel analysis.

43. The destination parks discussed in the Final Special Benefit Study do not provide reliable, comparable, and valid support for the calculation of special assessments here. *See* Shorett Appraisal Review (attached to Appeal Petition) at 15-19 (Shorett’s critique of every case study cited concludes the changes to those “dwarf the difference between the before-after condition of the property with LID”); Gibbons 5/2/2018 Letter at 4; Hrg. Exhibit 49 (P. Shorett’s Supplemental Report); 3/11/2020 (P. Shorett) Hrg. Tr. at 208:8-24; 3/12/2020 (P. Shorett) Hrg. Tr. at 6:19-7:18; Second Decl. of Shorett ISO Closing Stmt., ¶ 5 (explaining again why the San Francisco, Boston, and Portland case studies are not in fact comparable). None of the parks cited in the Final Special Benefit Study were funded by a LID. And in virtually all of those cases, the park improvements dramatically restored unimproved or blighted areas, and properties evaluated were within two or three blocks of the park.

44. ABS’s claimed reliance on three economic studies to support property value increase is also flawed. The HR&A study does not inform what value increases are expected from the LID Improvements because it projects increases to tourism from *all* of the Waterfront Projects (not just those funded by the LID) and is based on tourism data from dissimilar parks in other cities,⁸ making the methodological application to the LID

⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose Kennedy Greenway, and Millennium Park where tourist “capture rates” varied from 5% (Rose Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated expected tourists visiting the LID park was calculated using data from only from New York City, a notorious tourist destination. More fundamentally, the assumption that hotel visitors are going to increase their stays in the Seattle core based on proximity to Pier 58, as an example, is contrary to how hotel visitors actually select hotels to stay in.

1 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
2 conclusion that there would be *no new net visitors* from downtown residents as a result of
3 the LID Improvements and could not explain how this impacted his condo analysis.
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6 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
7 Property Values" primarily focused on whether the benefits accrue to the larger community
8 rather than properties adjacent to the park. And the 2014 New York City Department of
9 Transportation study is not based on real estate transactions and market sales and fails to
10 substantiate any link between increased retail sales and property values. Moreover, this
11 study only looked at impact either directly abutting the streetscape improvement, or a couple
12 hundred feet for plaza-like improvements.
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21 45. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
22 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
23 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
24 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
25 compared with HR&A's estimate of \$191 million for just the waterfront improvements, and
26 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
27 asked whether he considered that HR&A's estimated LID impact is six times greater than
28 TPL's assessment of Seattle's entire park system, he surmised that it was because the
29 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
30 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
31 assumptions to account for this difference, which may be partly explained by the fact that
32 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
33 approximately 3.44% of King County tourists visit Seattle primarily because of the city
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1 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
2 waterfront improvements.
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4 46. Although proximity to the improvements is a key factor in all of these
5 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
6 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
7 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
8 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
9 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
10 Improvements is approximate 20 acres and it is not a community park.⁹
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12 47. There is no explanation in the Final Study or the supporting materials of how
13 the studies or comparable sales were used to derive values for Taxpayer's property. For
14 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
15 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
16

17 48. Failure to comply with USPAP. Taxpayer's assessment also rests on a
18 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
19 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
20 recognized) for developing the MAI standards for mass appraisals, testified that the Final
21 Study does not meet mass appraisal standards nor allow for independent assessment of the
22 accuracy of Mr. Macauley's conclusions.
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24 49. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
25 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
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27 ⁹ *See*
28 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
29 connecting Seattle's central waterfront to downtown.").

1 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
2 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
3 testimony suggests that he incorrectly believed that the only difference between direct
4 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
5 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
6 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
7 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
8 Gordon uses in doing his limited restricted report").

16 50. But the difference is not only in reporting—mass appraisal techniques must
17 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
18 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
19 parcel approach:
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24 The mass appraisal technique is an appraisal method used to evaluate
25 a group of properties that are subject to similar market forces as of a
26 certain date through the use of market data, statistical analysis and
27 testing. As a result, the mass appraisal technique does not require or
28 involve analysis of each individual property's specific data.
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31 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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34 51. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
35 universe of properties as a given date using standard methodology, employing common data,
36 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
37 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
38 model" is "a mathematical expression of how supply and demand factors interact in a
39 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
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1 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
2 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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5 52. Regardless of client direction, Mr. Macaulay is required to comply with
6 USPAP. So if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have been
7 economically feasible because it would have taken “an incredible amount of time and cost”
8 (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an appraisal
9 consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8 (“performing an
10 individual appraisal of each [condo] parcel would have been cost and time prohibitive”).
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14 53. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
15 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
16 value, fails to calibrate the model structure to determine the contribution of the individual
17 characteristics affecting value, and does not review the mass appraisal results against actual
18 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
19 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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23 54. Mr. Macaulay explained that factors like “aesthetic change in the area, the
24 proximity to the elements, the increase in market rent, market vacancy changes,
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34 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
35 relationship between characteristics that affect value, and to calibrate that model to specify how
36 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
37 21). The purpose is to rationally determine what characteristics will create value, and by how much.
38 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
39 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
40 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
41 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
42 include explanation of the model specification, data requirements, calibration methods, and
43 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
44 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
45 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
46 Hrg. Tr. at 206:15-207:17.
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1 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
2 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
3 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
4 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
5 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
6 internal review process. *Id.* at 104:24-105:20. And because both the Before and After
7 values were hypothetical, it was not possible to identify matched pair sales and no City
8 witness explained how ABS Valuation made adjustments to “comparable” sales in order to
9 check their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which
10 requires him to explain his model structure.
11

12 55. For these reasons, Taxpayer appeals the following portions of the Examiner’s
13 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
14 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
15 and appeals the Examiner’s denial of that motion.
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17 56. Finally, Taxpayer’s property is not appurtenant—or even in close
18 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
19 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
20 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
21 property is not even within 500 road network feet from the core park improvements. And,
22 as described above, the special assessment is overstated because the Final Study makes no
23 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
24 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
25 improvements were not in in place—and, in fact, much of the waterfront is a construction
26 zone following removal of the viaduct and now Pier 58 demolition. Under these
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1 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
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3 Mr. Macaulay at the very least should have discounted the special benefit estimates or
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5 waited to perform the Study until the improvements were at least close to complete.
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7 **Erroneous Pre-Improvement Valuation**

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9 57. The proposed final assessment erroneously overstates the pre-improvement
10 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
11 benefit to the Taxpayer's property.
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14 58. The City's Final Study was used to compute the proposed final assessment of
15 Ashford's property. The City's Study purportedly uses data from the King County
16 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
17 Study does not accurately reflect this data. For example, the City's Study values Ashford's
18 property at \$167,975,000 as of October 1, 2019. However, the King County assessor
19 determined the true and fair value of the property to be \$158,638,300, valued in 2019 for tax
20 year 2020. In other words, the Final Special Benefit Study's valuation is 105% of King
21 County's assessed value. The Final Special Benefit Study does not explain this difference—
22 or any differences—between its pre-improvement valuation and its supposed source for
23 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
24 Recommendation.
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28 59. Thus, aside from multiple other reasons why computation of the special
29 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
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45 ¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet
46 (providing a "County Link" to the King County Department of Assessment's online "eReal
47 Property" search tool).

1 improvement values that do not accurately reflect market data. For these reason, Taxpayer
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3 appeals the following portions of the Examiner's Recommendation: Section III at 106.
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5 **Erroneous Computation of Special Benefit**

6 60. "Special benefit" is "the increase in fair market value attributable to the local
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8 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
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10 may receive by reason of the improvement is not measured alone by the physical character
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12 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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14 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). "The question is: To what extent is
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16 the particular tract or property benefited by the entire improvement, and is it assessed
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18 proportionately with the other property included within the assessment district?" *Id.* 165–
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20 66.
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22 61. The proposed final assessment erroneously overstates the special benefit of
23
24 LID improvements in a number of ways.
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26 62. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
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28 the Seattle Marriott Waterfront, Mr. Macaulay assumed room/rental rates would increase by
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30 1.75% (low) and 2.00% (high) due to the 2024 LID Improvements. But as Mr. Gordon
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32 testified, it is not possible to accurately conclude that the reason for this level of percentage
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34 increase would be due to the LID Improvements, and there appears to be no support for
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36 assignment of these percentages. Based on formulas in the spreadsheets, Mr. Macaulay then
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38 uses these same percentages (1.75% and 2.00%) to increase food and beverage revenue, and
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40 parking. He then uses this hypothesized increased revenue to calculate a new net operating
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42 income for the commercial properties and capitalizes that to come up with an "After"
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44 valuation.
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1 63. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
2 operating income remains the same as in the hypothetical “Before” condition, but changes
3 the cap rate. For the Seattle Marriott Waterfront the cap rate goes from 7.25% to 7.05%
4 (low scenario, creating a bigger value increase) and 7.00% (high scenario, creating a lower
5 value increase). Mr. Gordon likewise explained that cap rate changes of 0.2 or 0.25% are
6 not typically measurable, and there appears to be no support for these changes in the Final
7 Study or any of its supporting materials.
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10 64. Mr. Macaulay then averages his four “After” values to arrive at a final special
11 benefit conclusion. For the Seattle Marriott Waterfront, this is an increase in property value
12 of 3.2% due to the LID Improvements.
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15 65. Mr. Macaulay offered little justification for his micro adjustments to revenue
16 and capitalization rates. When asked precisely what the basis is for his special benefit
17 percentage increases to revenue for each commercial property, he could not point to
18 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
19 is nothing in the report to allow a reader to understand how he came up with these
20 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
21 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
22 the basis for his belief that certain factors—liked increased connectivity—will increase
23 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
24 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
25 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
26 sources equally even though there was no separate analysis done for food and beverage or
27 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
28 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
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1 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer's
2 properties.
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5 66. When asked the basis for making such adjustments, Mr. Macaulay pointed to
6 "discussions with Mr. Lukens." *Id.* at 116:5-19; 117:1-8; 126:3-7 ("Mr. Lukens helped
7 significantly in that regard in helping, you know, look at probable adjustments"). However,
8 Mr. Lukens testified that he did not review the percentage increases. *See* 6/25/2020 Hrg. Tr.
9 at 170:24-172:20.¹² And he did not review any work or data to determine whether the
10 revenue percentage adjustments in the spreadsheets were reasonable, nor did he ever find
11 them to be unreasonable or suggest any changes. *Id.* at 172:3-20. Instead, he appeared to be
12 considering them for the first time on cross examination, testifying that the adjustments
13 "appear to be a kind of sensitivity analysis" and "appear to be a very minor change." *Id.* at
14 170:18-172:13. Likewise, he had no understanding of what factors went into determining
15 the change in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1. And he did not
16 know how ABS Valuation reconciled the four scenarios to come to final estimated special
17 benefit. *Id.* at 174:22-175:4.
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30 67. Mr. Macaulay testified that he used comparable sales as a reasonableness
31 check for commercial properties. But as explained above, no City witness has explained
32 how anyone, or all, of the sales are comparable to any particular commercial property within
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38 ¹² As another example of how arbitrary Mr. Macaulay's methods are, he assigned different
39 special benefit and capitalization rate increases to the parking and retail parcels associated with the
40 Grand Hyatt and the Four Season even though these sources of revenue receive identical increases
41 when they are part of the same legal parcel as the hotel. But he ends up concluding the same special
42 benefit increase overall (3% for all of the Four Seasons parcels and 1.5% for the Grand Hyatt
43 parcels). When asked whether this was a matter of coincidence, his answer was that is "just our
44 estimate of how the market would react." 6/23/2020 Hrg. Tr. at 151:24-152:9. But by comparison, a
45 parking lot near the Grand Hyatt (Parcel 0659000355) received just a 0.65% special benefit even
46 though it is one block closer to the waterfront.
47

1 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
2 in order to make sales “comparable,” he would have had to make adjustments to account for
3 Before and After conditions, but there is no way to understand how adjustments were made
4 because he “didn’t do a separate sales comparison approach where we showed adjustments
5 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
6 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
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13 *Id.* at 127:10-128:24.

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15 68. It also bears noting that any “internal review” of the special benefit estimates
16 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
17 error. Indeed, given all the same information, he seemed to suggest that it would be
18 perfectly reasonable for another experienced appraiser to come up with special benefit
19 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
20 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
21 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
22 margin of error conflicts with the testimony of Taxpayer’s experts and reaffirms that there
23 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
24 margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still
25 reasonable and unreasonable variations within the appraisal field. *See Examiner’s*
26 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
27 special because it is arbitrarily assigned; and it is too small to realistically be supported by
28 appraisal techniques.
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42 69. No evidence of special benefit. Meanwhile, there is “no actual evidence from
43 any seller or purchaser that the price was higher because of the LID improvements.”
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47 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not

1 identified any seller or buyer, or any particular property where the existence of the LID
2 improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has
3 explained that the property has not increased rental rates or revenue due to the forthcoming
4 LID Improvements, because, among other reasons (and apart from COVID), the
5 improvements ABS believes will generate value do not exist, and will not for a number of
6 years to come. There are no comparable sales because the LID Improvements are not in
7 place, nor will they be until the end of 2024 if completed on schedule.
8
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10 70. The fair market value of Ashford’s property has not changed due to increased
11 waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially benefited
12 from installation of new water main and fire hydrant where it was already adequately
13 supplied with water and afforded adequate fire protection). And in any event, any value
14 attributable to removal of the viaduct was to be excluded from the assessment calculation.
15

16 71. There is no special benefit because LID improvements in fact diminish the
17 value of Ashford’s property by placing the hotel at a competitive disadvantage to peer hotels
18 due to the higher and disproportionate assessment. *See Kusky*, 85 Wn. App. 493 (testimony
19 of owners’ expert that LID actually diminished value of property was sufficient to rebut
20 presumption that assessment was proper).
21
22

23 72. Moreover, the assessment formula is an attempt to distribute costs that do not
24 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
25 “merely a mathematical model that distributes costs”).
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28 73. The Special Benefit Study fails to address whether the \$346,000,000
29 estimated LID project cost takes into account the investment that would have occurred in the
30 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
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1 invested. This is a critical component of estimating which properties receive a direct benefit
2 from the improvements, versus more incidental benefits further from the park.
3

4 74. Assessments are disproportionate. Taxpayer also presented evidence
5 showing that the assessments are disproportionate. For example, the City disproportionately
6 assessed hotels a greater percentage of the cost of the Improvements even though there no
7 evidence that hotel properties will in fact benefit. And even within the hotels, the
8 assessments are disproportionate. Mr. Gordon testified that the differences between the
9 special benefit increases for the Hyatt at Olive 8, the Grand Hyatt, and Hyatt Regency—
10 which are all very close together—made little sense and raised doubts as to
11 proportionality. The Marriott is assessed a 3.2% special assessment, whereas comparable
12 hotels along the waterfront received an estimated 0.97% increase in value. Hrg. Exhibit 108
13 (Rash Decl.), ¶¶ 11-12.
14

15 75. Mr. Macaulay also included personal property in his valuation of hotels even
16 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
17 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
18 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
19 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
20 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
21 receiving a disproportionately high LID assessment in comparison to other property types,
22 since hotels were the only property type subject to personal property LID assessments.
23 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
24 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
25 notice procedures because hotel property owners only received notice that their real estate
26 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
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1 76. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
2 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
3 a television at the waterfront Marriott is assigned a greater special benefit than the same
4 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
5 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
6 unreasonable to assign a value lift to personal property that is replaceable at the same cost
7 and may be obsolete before the LID improvements are even completed. *See* Second Decl. of
8 Shorette ISO Closing Stmt., ¶ 7 (dated 7/7/2020). Further, personal property is highly
9 depreciable, and likely to be fully depreciated or potentially discarded by 2024. *Id.*; *see also*
10 Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must be redone to correct
11 for this error.
12

13 77. The proposed final assessment substantially exceeds the special benefit to the
14 property and is grossly disproportionate to similarly situated properties within the LID. For
15 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
16 Sections II.17, II.22, II.23, II.27, IV.B.4, IV.B.11(a)(iii), and IV.C.10.
17

18 **State Environmental Policy Act and Other Environmental Permitting**

19 78. While this appeal is not challenging the City's environmental review and
20 permitting processes, those processes are relevant in determining the legality of the
21 assessments, and to assessing the delivery risk, the present value of the City's plans, and
22 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
25 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
26 is just beginning. Further, the City has segmented environmental review, and still has a
27

1 gauntlet of federal, state and tribal review processes to complete before it will be clear what
2 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
3 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
4 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
5 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
6 committing to reconstruction of Pier 58 and major street improvements without
7 environmental review, or the City's Final Special Study has improperly included and is
8 proposing to assess the Taxpayer the costs and special benefits of improvements that may
9 not get built. Either way, it is faulty process.

10 **Due Process Rights**

11 79. The City's failed to notify Ashford sufficiently in advance of the hearing to
12 allow Ashford to obtain evidence and prepare to properly challenge the assessments.
13 Because LID assessments involve a deprivation of property, affected owners have the right
14 to a hearing as to whether the improvement resulted (or will result) in special benefits to
15 their properties and whether their assessments are proportionate, which necessarily includes
16 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
17 555, 569–70, 229 P.3d 761 (2010).

18 80. The LID statute specifies that cities must mail notices giving the time and
19 place of the hearing to the affected owners "[a]t least fifteen days before" the hearing and
20 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
21 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
22 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
23 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
24 secure their own appraisal), evaluate proportionality of the proposed assessments, and

1 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
2 for anybody to get an appraisal”).

3
4 81. The City’s Notice of Assessment was sent on December 30, 2019. And the
5 Final Special Benefit Study has only been available for public review since January 7, 2020.
6
7 Due to this short time frame, Ashford requested a prehearing conference and scheduling
8 order that would preserve and protect Ashford’s right to analyze and respond to the Final
9 Study, obtain expert appraisal testimony, conduct depositions, and to accommodate
10 preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s
11 assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
12 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
13 the Examiner’s Recommendation: I.B.
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22 **VII. Relief Requested**

23 Ashford respectfully requests that the City Council:

- 24 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection;
25 and
26
27 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
28 assessment dated December 30, 2019; or
29
30 b. Revise Taxpayer’s Waterfront Local Improvement District No. 6751
31 proposed final assessment to \$0 (zero), or such amount as Taxpayer
32 establishes at the hearing in this matter; or
33
34 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
35 and reduce Taxpayer’s assessment using recognized appraisal techniques
36 consistent with USPAP and:
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- 1 i. Excluding any property value increase attributable to viaduct removal
2 and other planned WSDOT Improvements;
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4 ii. Excluding any value attributable to personal property;
5
6 iii. Taking into account the effects of the COVID-19 pandemic on the
7 value of Taxpayer's property and other relevant developments since
8 October 2019;
9
10 iv. Accounting for and excluding (1) any special benefits from existing
11 or planned improvements that already provide similar benefits to
12 Taxpayer's property, and (2) any special detriments from construction
13 and other anticipated LID-related disamenities;
14
15 v. Accounting for and including only those actual benefits anticipated to
16 accrue to Taxpayer's property based on its location relative to Pier 58,
17 Overlook Walk, and the Promenade, and specific elements of the LID
18 Improvements;
19
20 vi. Discounting anticipated special benefits to present value, based on
21 reliable estimates regarding when special benefits will start accruing
22 following completion of the LID Improvements; and
23
24 vii. Accounting for such other issues specific to Taxpayer's property
25 relevant to calculation of such assessment; and
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39 2. Grant such further relief as the City Council deems just and proper.
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2 DATED: September 22, 2020
3
4

PERKINS COIE LLP

5
6 By:



R. Gerard Lutz, WSBA No. 17692

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Megan Lin, WSBA No. 53716

MLin@perkinscoie.com

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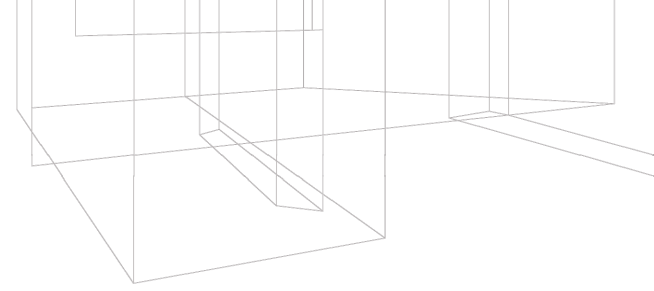
Seattle, Washington 98101

Telephone: 206.359.8000

Facsimile: 206.359.9000

Attorneys for ASHFORD SEATTLE
WATERFRONT LP

Exhibit A



February 11, 2021

Clayton Rash, VP-Property Tax
Ashford Seattle Waterfront LP
Ashford TRS Seattle Waterfront LLC
14185 Dallas Parkway, Suite 1100
Dallas, Texas 75254

Re: Seattle Marriott Waterfront / KM Job A20-0090

Dear Mr. Rash:

In February 2020, at your request, we prepared an appraisal of the Seattle Marriott Waterfront, a 361-room full service hotel located at 2100 Alaskan Way in Seattle, King County, Washington. One element of that appraisal was the allocation of value to personal property, defined as furnishings and freestanding equipment. We estimated the cost new of these items at \$30,000/room and accrued depreciation at 50%. As of January 1, 2020, it was our opinion that the contributory value of the personal property of the Seattle Marriott Waterfront was \$5,400,000.

In valuing the personal property of this hotel, we used the same methodology as was applied in our appraisals of 11 hotels in support of their LID assessment appeals. Note that we estimated depreciation at 10% for 2 hotels that recently opened and at 50% for the 9 other hotels.

In the analysis by the city appraiser, the special benefit ratio for the Seattle Marriott Waterfront is estimated at 3.2%. The LID levy ratio for all affected properties is 39.2%. If the personal property of this hotel is excluded from the assessment, the LID levy for that property will be reduced by \$67,738.

Respectfully submitted,



John D. Gordon, MAI, AI-GRS
Certified General Real Estate Appraiser
WA License 1100661, exp 3/27/2021

3:27 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0439
Date: Tuesday, February 16, 2021 3:18:10 PM
Attachments: [Ashford Marriott Amended LID Appeal before City Council CWF 0439.pdf](#)
[Exhibit A A20-0090 Marriott PP Letter 20210211.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:

Ashford Marriott Amended LID Appeal before City Council CWF 0439.pdf
Exhibit A A20-0090 Marriott PP Letter 20210211.pdf

Kimball Mullins | Perkins Coie LLP

SENIOR PARALEGAL
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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0439

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON ASHFORD
SEATTLE WATERFRONT LP’S
OBJECTION TO WATERFRONT LID NO.
6751 PROPOSED FINAL ASSESSMENT
FOR PARCEL NO. 7666202345

33 Ashford Seattle Waterfront LP files this amended appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of
35 Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated December
36 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the
37 Hearing Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
39 February 1, 2021.
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1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 Ashford Seattle Waterfront LP
6 14185 Dallas Parkway, Suite 1100
7 Dallas, TX 75254
8
9

10 **II. Taxpayer's Representatives**

11 Ashford Seattle Waterfront LP's representatives in this matter are:

12
13
14
15 R. Gerard Lutz, WSBA No. 17692
16 JLutz@perkinscoie.com
17 Perkins Coie LLP
18 10885 N.E. Fourth Street, Ste 700
19 Bellevue, Washington 98004
20 Telephone: 425.635.1400
21 Facsimile: 425.635.2400
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RMahon@perkinscoie.com
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Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

23 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

24
25 Ashford Seattle Waterfront LP ("Taxpayer") owns the property that is subject to the
26
27 proposed final assessment described in Section IV.
28

29
30 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
31
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34
35 objection to the assessment, which was based on the Final Study. Taxpayer further timely
36
37 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
38
39 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
40
41 with the City Clerk on September 22, 2020. Among those are Taxpayer's objection that its
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43 purported special benefit assessment is dramatically, and irrationally, higher proportionately
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45 than the assessments proposed against its neighbors. This amendment is a supplement is to
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47

be read together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner as authorized by the Hearing Examiner.

IV. Amended Arguments on Appeal

Ashford Seattle Waterfront LP supplements its appeal of the Hearing Examiner's recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed final assessment dated December 30, 2019 against the following property:

King County Parcel No. 7666202345
Site Address: 2100 ALASKAN WY, Seattle, Washington
Proposed Final LID Assessment for Parcel: \$2,106,827

Ashford Seattle Waterfront reiterates that its assessment percentage is disproportionate to other hotels in its competitive set, as demonstrated in Exhibit 7 to our Statement of Objections, filed on February 3, 2020, shown below for convenience:

LID Map #	Prop Tax	Property Name	Market Value	Market Value	Special	Special Benefit	Ratio
	ID #		w/out LID	with LID	Benefit	% Change	
A-005	766620 2317	The Edgewater	\$95,420,000	\$96,279,000	\$859,000	0.90%	39.18%
C-126	094200 0165	W Hotel	\$182,483,000	\$184,272,000	\$1,789,000	0.98%	39.18%
D-235-001	780292 0010	Hilton Seattle	\$112,852,000	\$113,813,000	\$961,000	0.85%	39.18%
D-245	094200 0430	Renaissance Seattle	\$215,497,000	\$216,570,000	\$1,073,000	0.50%	39.18%
E-110-002 & E-111-001	619500 0030 & 679212 0020	Eliot Grand Hyatt	\$222,002,000	\$225,335,000	\$3,333,000	1.50%	39.18%
			\$165,650,800	\$167,253,800	\$1,603,000	0.97%	39.18%
		<u>Subject Property</u>					
A-014	766620 2345	Seattle Marriott Waterfront	\$167,975,000	\$173,352,000	\$5,377,000	3.20%	39.18%
		<u>Indicated Values Based on Comparables</u>					
A-014	766620 2345	Seattle Marriott Waterfront	\$167,975,000	\$169,654,750	\$1,679,750	1.00%	39.18%

To avoid repetition, Taxpayer incorporates the evidence and arguments raised before the Hearing Examiner and before the City in its September 22, 2020 appeal, into this amended appeal.

1 **A. The Council Should Eliminate Personal Property Assessments for this**
2 **Property**

3 Taxpayer's September 22, 2020 appeal challenged the City's appraiser's and
4 Examiner's recommendation that the City impose special assessments against the value of
5 hotel personal property (furniture, fixtures and equipment), both because personal property
6 is not the type of property that receives a special benefit, and also because the appraiser was
7 not recommending personal property assessments against other types of property - retail,
8 office, residential. On remand, the appraiser recommended, and the Examiner has agreed,
9 that the remanded hotels should not be assessed on the value of their personal property. See
10 Declaration of Robert Macaulay at ¶12 (December 4, 2020) (reducing assessments to
11 account for the value of furniture, fixtures and equipment); Hearing Examiner's Final
12 Recommendation at p. 125 (filed with clerk on Feb. 1, 2021). Taxpayer agrees with that
13 recommended change. However, because Taxpayer's assessment still includes personal
14 property, it leaves Taxpayer's assessment even more disproportionate. It is unfair to assess
15 a few hotels against their personal property while not assessing personal property of other
16 hotels or property types. The value of personal property improperly assessed and the
17 amount by which Taxpayer's assessment should be reduced to eliminate that portion of the
18 assessment is set forth in Exhibit A. See Letter of John Gordon, February 11, 2021.

19 **B. The Anticipated Special Benefits to Taxpayer's Property should be**
20 **Discounted to Present Value and Assessments Adjusted as Appropriate**

21 On remand, the City's appraiser acknowledged that special benefits to parcels can be
22 reduced, even to zero, if those benefits accrue in the future. See Declaration of Robert
23 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
24 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
25 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to

1 the theatre parcel is too remoted to support a current assessment. Id. The Examiner
2 accepted that recommendation. The City’s appraiser further acknowledged that benefit
3 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
4 by discounting to present value. Id.; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
5 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
6 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
7 calculations to present value because the general benefits are not anticipated from the LID
8 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
9 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
10 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
11 benefit calculation, and related assessments, to account for the delay between the assessment
12 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
13 standard appraisal practice, and renders the other proposed Waterfront LID special
14 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
15 “fundamentally wrong methods.”

16 All special benefit taxes assessed by a municipality must be based on “actual,
17 physical and material [special benefits that are] not merely speculative or conjectural.”
18 Heavens v. King Cty. Rural Library Dist., 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
19 Additionally, the assessments may not materially exceed the actual special benefit conferred
20 by the LID Improvements. Id. Further, LID assessments must be proportionate. Id. Failure
21 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
22 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
23 discount benefits the City estimated would accrue to the properties from improvements to be
24 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the

1 appraiser's inconsistent approach, selectively applying discounting to one (that we know of)
2 property while treating all or most others (including Taxpayer's) differently, and
3 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
4 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
5 for some properties because the benefits are too distant, while assessing other properties as
6 though distant benefits have already been secured. As Taxpayer identified in its September
7 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
8 may not accrue for at least five years after they are completed, in 2029. See Gibbons Decl.
9 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
10 reject the improper calculation of the benefit or remand and require the appraiser to discount
11 the benefits to net present value.
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23 **C. In Light of Covid's Continuing Impact on Taxpayer and other**
24 **Downtown Property Owners and other Material Changes Since October**
25 **2019, the LID Should be Cancelled, or at Least Assessments**
26 **Recalculated, to take Into Account Property Value Reductions**
27

28 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
29 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
30 other relevant developments since October 2019." When Washington's first COVID
31 restrictions were imposed in March and April 2020, there was an assumption that they
32 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
33 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
34 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
35 gotten much worse. The City has already imposed higher minimum wages and taxes on
36 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
37 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
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1 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
2 years from completion, as a best case. In current circumstances, a downtown tax to fund
3 new, non-essential park improvements against financially strapped taxpayers, and likely
4 passed through to financially strapped tenants and customers would be unfair to taxpayers
5 and a misallocation of city resources. COVID threw everyone for a loop. Hotels in
6 particular are struggling. *See* Declaration of Randy Meyer In Response To City Appraiser's
7 Remand, CWF-0415, Exhs. A-C (Jan. 8, 2021) (demonstrating substantial impact of COVID
8 on hotels). But as the City rethinks its budget priorities for the next few years, and its
9 potentially funding sources, Taxpayer respectfully requests that the City dissolve the
10 assessment, at least until it (and property owners) have a chance to recover, and that any
11 assessment take into account the changed circumstances since this appeal process started on
12 February 4, 2020 to avoid unnecessarily and perhaps permanently killing downtown
13 properties and businesses in the name of bettering them.
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27 **V. Relief Requested**

28 Particularly in light of the Committee's decision not to take further comment,
29 Taxpayer respectfully request that each Committee member carefully review the record
30 transmitted to Council before voting on our appeal.
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34 Ashford respectfully reiterates its request from the September 22, 2020 appeal that
35 the City Council:
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- 38
39 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection;
40 and
41
42 a. Cancel the Waterfront Local Improvement District No. 6751 proposed final
43 assessment dated December 30, 2019; or
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- 1 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
2 proposed final assessment to \$0 (zero), or such amount as Taxpayer
3 establishes at the hearing in this matter; or
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7 c. Remand the matter to the Hearing Examiner or City appraiser to recalculate
8 and reduce Taxpayer's assessment using recognized appraisal techniques
9 consistent with USPAP and:
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11 i. Excluding any property value increase attributable to viaduct removal
12 and other planned WSDOT Improvements;
13
14 ii. Excluding any value attributable to personal property as demonstrated
15 in Exhibit A;
16
17 iii. Taking into account the effects of the COVID-19 pandemic on the
18 value of Taxpayer's property and other relevant developments since
19 October 2019;
20
21 iv. Accounting for and excluding (1) any special benefits from existing
22 or planned improvements that already provide similar benefits to
23 Taxpayer's property, and (2) any special detriments from construction
24 and other anticipated LID-related disamenities;
25
26 v. Accounting for and including only those actual benefits anticipated to
27 accrue to Taxpayer's property based on its location relative to Pier 58,
28 Overlook Walk, and the Promenade, and specific elements of the LID
29 Improvements;
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31 vi. Discounting anticipated special benefits to present value, based on
32 reliable estimates regarding when special benefits will start accruing
33 following completion of the LID Improvements; and
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- 1 vii. Accounting for such other issues specific to Taxpayer's property
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3 relevant to calculation of such assessment; and
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5 2. Grant such further relief as the City Council deems just and proper.
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11 DATED: February 16, 2021

PERKINS COIE LLP

14 By:

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32 Attorneys for Ashford Seattle Waterfront LP
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4:06 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0440
Date: Tuesday, September 22, 2020 3:12:53 PM
Attachments: [CWF-0440.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0440.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0440
A – Master List of Evidence
B – B-232 Harbor Steps SW
C – Discounting for CWF-0440
CWF-0440 Appeal Notice

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Harbor Steps SW**

Map Nos.:	B-232
Tax Parcel Nos.:	766620-2465
Property key:	4323
Address	1212 Western Avenue
Zoning:	DMC-170
Property rights:	No apparent restrictions, view protection easement in favor of property
Previous sale:	N/A
Proximity to project:	400± feet to waterfront park
Ownership:	EQR-Harbor Steps, LLC
Description:	15,360 SF site on the northeast corner of Western Avenue and Universit improved with a 168-unit apartment building constructed in 1994, with 208-stall basement parking structure.

INCOME ANALYSIS Before	Year Built	1994
	Parking	208

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	26		0	\$2,100	\$0.00
1-bedroom	101		0	\$2,650	\$0.00
2-bedroom / 1-bath	41		0	\$3,500	\$0.00
2-bedroom / 2-bath			0		\$0.00
Total apartments	168	0	0	\$2,772	\$0.00
	GBA	NRA			
Retail	14,813	14,813		SF NRA @	\$35.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	14,813	14,813			
Parking Area/Stalls	101,603	0	208	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	307,497	143,127		SF NRA @	\$48.29
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			

Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	25.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$12.24	26.3%
Net operating income				
Indicated Value				
Land Value				
		28,800	SF @	\$1,250.00
Residual Improvements				
		143,127	SF NRA @	\$585.41
		307,497	SF GRA @	\$272.48

Special Benefit Summary				
	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,250.00	\$36,000,000	\$83,788,000	N/A
With LID				
Scenario A1	\$1,287.50	\$37,080,000	\$85,749,000	2.34%
Scenario A2	\$1,287.50	\$37,080,000	\$86,662,000	3.43%
Scenario B1	\$1,287.50	\$37,080,000	\$86,630,000	3.39%
Scenario B2	\$1,287.50	\$37,080,000	\$85,702,000	2.28%
Percent change in land value	3.00%		\$86,186,000	2.86%
Summary				
Without LID	\$1,250.00	\$36,000,000	\$83,788,000	N/A
With LID	\$1,287.50	\$37,080,000	\$86,000,000	2.64%

Harbor Steps SW

Scenario A: Rental and Vacancy Rate Changes

owner (per AFN 20130517-

by Street, zoned DMC-170,
14,813 SF of retail space and

		INCOME ANALYSIS After		Year Built	1994
		Potential Gross Income			
			Units	SF NRA	
	\$655,200	Studio	26	0	
	\$3,211,800	1-bedroom	101	0	
	\$1,722,000	2-bedroom / 1-bath	41	0	
	\$0	2-bedroom / 2-bath	0	0	
	\$5,589,000	Total apartments	168	0	
			GBA	NRA	
per SF =	\$518,455	Retail	14,813	14,813	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$518,455	Subtotals	15,149	14,813	
/month	\$748,800	Parking Area/Stalls	101,603	0	208
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$55,890	Other			
/SF =	\$6,912,145	Total Bldg Area & Gross Income	307,497	143,127	SF
	(\$223,560)	Less: Vacancy/credit allowance	of apartment		
	(\$25,923)		of commercial		
	\$0		of parking		
	(\$249,483)	Total vacancy/credit allowance			
	\$6,662,662	Effective gross income			
		Less: Operating expenses			
	(\$333,133)	Management fee @	5.0%	of total EGI	

	\$0
	(\$1,341,360)
	(\$76,874)
\$10,425	(\$1,751,367)
	\$4,911,295
Capitalized @	4.10%
Indicated value	\$119,787,680
(R)	\$119,788,000
Per DU	\$713,024
per SF =	\$36,000,000
per SF =	\$83,788,000

Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	25.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		

Indicated Value

Land Value

28,800

Residual Improvements

Special Benefit Summary

Total Estimated Value	Special Benefit	% Change	
\$119,788,000	N/A	N/A	
			Per DU
\$122,829,000	\$3,041,000	2.54%	\$18,101
\$123,742,000	\$3,954,000	3.30%	\$23,536
\$123,710,000	\$3,922,000	3.27%	\$23,345
\$122,782,000	\$2,994,000	2.50%	\$17,821
\$119,788,000	N/A		
\$123,080,000	\$3,292,000	2.75%	\$19,595

Harbor Steps SW

Scenario B: Overall Capitalization R

	Per DU	Per DU	Low 2.50%	High 3.25%
	\$2,153	\$2,168	\$671,580	\$676,494
	\$2,716	\$2,736	\$3,292,095	\$3,316,184
	\$3,588	\$3,614	\$1,765,050	\$1,777,965
	\$0	\$0	\$0	\$0
	\$2,842	\$2,862	\$5,728,725	\$5,770,643
			2.50%	3.25%
• NRA @	\$35.88	\$36.14	\$531,416	\$535,305
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$531,416	\$535,305
	Per Month	Per Month	2.50%	3.25%
stalls @	\$307.50	\$309.75	\$767,520	\$773,136
	Per SF	Per SF	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$57,287	\$57,706
• NRA @	\$49.50	\$49.86	\$7,084,949	\$7,136,790
revenue	4.00%	4.00%	(\$229,149)	(\$230,826)
revenue	5.00%	5.00%	(\$26,571)	(\$26,765)
revenue	0.00%	0.00%	\$0	\$0
			(\$255,720)	(\$257,591)
			\$6,829,229	\$6,879,199
			(\$341,461)	(\$343,960)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom / 1-bath	
2-bedroom / 2-bath	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	

	\$0	\$0
	(\$1,374,894)	(\$1,384,954)
	(\$76,874)	(\$76,874)
	(\$1,793,230)	(\$1,805,788)
	\$5,035,999	\$5,073,410
Capitalized @	4.10%	4.10%
	\$122,829,247	\$123,741,717
(R) \$122,829,000	\$122,829,000	\$123,742,000
Per DU	\$731,125	\$736,560
% change	2.54%	3.30%
SF @ \$1,287.50 per SF =	\$37,080,000	\$37,080,000
	\$85,749,000	\$86,662,000
Per SF NRA	\$599.11	\$605.49
	\$3,041,000	\$3,954,000

Parking operating expenses @
 Apartment operating expenses
 Structural maintenance/reserve
 Total operating expenses
 Net operating income

Indicated Value

Land Value

Residual Improvements

Special Benefit Summary

ates Changes

Year Built		1994				
Units	SF NRA	Total NRA	Rent	Rent/SF		
26	0	0	\$2,100	\$0.00		\$655,200
101	0	0	\$2,650	\$0.00		\$3,211,800
41	0	0	\$3,500	\$0.00		\$1,722,000
0	0	0	\$0	\$0.00		\$0
168	0	0	\$2,772	\$0.00		\$5,589,000
14,813	14,813		SF NRA @	\$35.00	per SF =	\$518,455
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
15,149	14,813					\$518,455
101,603	0	208	stalls @	\$300.00	/month	\$748,800
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$55,890
307,497	143,127		SF NRA @	\$48.29	/SF	\$6,912,145
4.0% of apartment revenue						(\$223,560)
5.0% of commercial revenue						(\$25,923)
0.0% of parking revenue						\$0
						(\$249,483)
						\$6,662,662
5.0% of total EGI						(\$333,133)

0.0%	of parking EGI				\$0
25.0%	of apartment EGI				(\$1,341,360)
\$0.25	per SF of GBA				(\$76,874)
					(\$1,751,367)
					\$4,911,295
				Low	High
	Capitalized @			3.97%	4.00%
	Indicated Value			\$123,710,199	\$122,782,372
	(R)			\$123,710,000	\$122,782,000
	Per DU			\$736,369	\$730,845
	% change			3.27%	2.50%
28,800	SF @	\$1,287.50	per SF =	\$37,080,000	\$37,080,000
				\$86,630,000	\$85,702,000
			per SF NRA	\$605.27	\$598.78
				\$3,922,000	\$2,994,000

3.00%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0440	Habor Steps (SW Tower) -- 1212 Western Avenue	1212 Western Avenue	7666202465

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$3,292,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$442,541

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0440	Habor Steps (SW Tower) -- 1212 Western Avenue	1212 Western Avenue	7666202465

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$119,788,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$97,788,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$85,564,500

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$3,292,000		
H/A	As Percentage of Final City Before Value		2.748%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$2,351,474		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$806,395	\$221,570
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$316,107	\$86,855

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		N/A	N/A	N/A

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In re Proposed Final Assessment Roll for
Local Improvement District No. 6751
("Waterfront LID")

Case Nos. CWF-0425, 0426, 0427, 0440, AND
0441

DECLARATION OF ED LEIGH

I, Ed Leigh, declare as follows:

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same.
2. I am the Vice President of Investments for Equity Residential. I testified in this appeal as to my position, qualifications and employment history.
3. Eqr-Harbor Steps LLC is owned by Equity Residential. Eqr-Harbor Steps LLC owns a four-tower apartment complex encompassing parcel nos. 1976200070, 1976200075, 1976200076, and 7666202465. These parcels are located at 1306 Western Ave., 1301 1st Ave., 1201 1st Ave., and 1212 Western Ave., Seattle WA, and are the subject

DECLARATION OF ED LEIGH – 1

1 of case nos. CWF-0425, -0426, -0427, -0440. These properties are known as the "Harbor
2 Steps" apartment towers.
3

4 4. Eqr-Second & Pine LLC is also owned by Equity Residential, and owns real
5 property parcel no. 7683890010, which is located at 206 Pine St., Seattle WA, and is the
6 subject of case no. CWF-0441. This property is known as the Helios apartments.
7
8

9 5. Equity Residential appealed the City's proposed final assessment for
10 Waterfront LID No. 6751 for each of the properties described above.
11
12

13 **HARBOR STEPS (CWF-0425, -0426, -0427, -0440)**
14

15 6. The Harbor Steps are multifamily residential apartment buildings with
16 ground floor retail. Additionally, the Harbor Steps are on a pedestrian corridor connecting
17 the downtown retail core to the waterfront amenities.
18
19

20 **HELIOS (CWF-0441)**
21

22 7. Helios is a multifamily residential apartment building located a block east of
23 Pike Place Market, and approximately two blocks from the proposed overlook walk.
24
25

26 **COVID-19 Calculations**
27

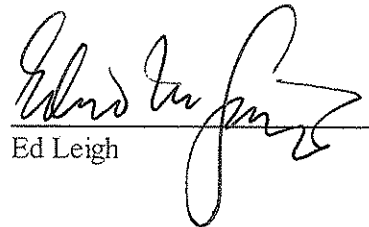
28 8. After we appealed our assessments, the Covid-19 pandemic broke out,
29 causing significant disruptions in Seattle and around the world. Based on our current rents,
30 compared with Brian O'Connor's appraisal calculations to support our appeals, our
31 properties have decreased in value in the range consistent with those described by John
32 Gordon. In Mr. Gordon's April 21, 2020 Declaration, he noted that property values for
33 hotels in Downtown Seattle would be at least 10% to 15% lower when compared with the
34 values as of October 2019 and January 2020. The same is true for our properties. The year-
35 over-year rent reductions that I have observed in our Downtown Seattle assets are consistent
36 with Mr. Gordon's valuation reduction, assuming that rents do not quickly rebound. We
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DECLARATION OF ED LEIGH - 2

1 have not marked-to-market with these assets yet, as this is an end-of-year process for us, but
2
3 the 12.5% average Covid-19 discount is our best generic estimate at this time, based on the
4
5 information available to us.
6

7 I declare under penalty of perjury under the laws of the State of Washington that the
8
9 foregoing is true and correct.
10

11 Signed at Seattle, Washington, on September 21, 2020.
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Ed Leigh

DECLARATION OF ED LEIGH – 3

149590798.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0440

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
7666202465

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
40
41
42

43 **I. Taxpayer / Appellant**
44

45 The Taxpayer filing this appeal is:
46
47

1 Eqr-Harbor Steps LLC
2 Eqr-Re Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
7

8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20 Robert L. Mahon, WSBA No. 26523
21 RMahon@perkinscoie.com
22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
26
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28 **III. Statement of Taxpayer's Interest**
29

30 Harbor Steps owns the property that is subject to the proposed final assessment
31 described in Section IV. The property at issue is a multifamily residential apartment building
32 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
33 downtown retail core to the waterfront amenities.
34
35

36 The basis of the proposed assessment is a Final Special Benefit/Proportionate
37 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
38 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
39 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
40 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
22
23 based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 7666202465
34 Site Address: 1212 Western Ave., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$1,289,878.02

36
37 See Examiner’s Recommendation at 61-62, 107. To avoid repetition, Taxpayer incorporates
38
39 the evidence and arguments raised before the Hearing Examiner into this appeal. In
40
41 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
42
43 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
44
45
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47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 107, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22, II.23,
8 II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3,
9 IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7, IV.C.8, IV.C.9,
11 IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$3,292,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

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11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
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14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
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27 **Legal Requirement:** Benefits must be special, not general
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30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
35 or conjectural"
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38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
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34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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5

6 **V. Standard of Review**

7 “When considering the assessment roll, the city council sits ‘as a board of
8 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
9 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
10 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
11 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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18 The proposed assessments are presumed correct, “unless overcome by clear, cogent
19 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
20 than the heightened presumption of correctness on judicial appeal because “applying these
21 elevated standards at the municipal hearing would afford unwarranted deference to a report
22 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
23 presumption is not evidence and its efficacy is lost when the other party adduces credible
24 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
25 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
26 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
27 presented credible evidence showing that the City’s proposed assessment is arbitrary,
28 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
29 to the City to prove the assessments are actual, measurable, special, non-speculative and
30 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV. C.7–9. This is contrary to law.
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6 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
7 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
8 IV.C.11.
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11
12 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

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14 4. RCW 35.43.040 provides cities and towns authority for ordering local
15 improvements and for levying and collecting special assessments “on property specially
16 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
17 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
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19
20 5. No analysis of general benefits. Special assessments have been “held valid
21 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
22 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
23 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
24 they are for the construction of local improvements that are appurtenant to specific land and
25 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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27
28 6. Harbor Steps' property is not specially benefited by the LID Improvements.
29 The primary purpose and effect of the LID Improvements are to benefit “members of the
30 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
31 library is for the benefit of the members of the whole community individually and
32 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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43 ² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
3 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
4 is proximity to their places of employment and other amenities downtown. See 3/5/2020 (E.
5 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
6 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
7 benefit from increased connectivity from being four to five blocks from the Overlook Walk
8 even though the properties currently have direct access to the waterfront via the Harbor
9 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; see also B. Scott Decl., ¶ 7. Mr. Leigh testified that
10 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
11 measurable portion of waterfront-bound pedestrian traffic moved north to the market. See
12 also B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
13 traffic being pulled away towards new amenities). Even if the City could assess for a view
14 change (and it has promised not to assess for viaduct removal), the fair market value of
15 Harbor Steps' property has not changed because the LID Improvements have not improved
16 the property's waterfront view or access to the waterfront, nor will they when the City
17 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
38 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
39 owners for removal and cleanup of underground storage tanks discovered during the
40 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
41 testified that property values may in fact be negatively impacted by the LID Improvements
42 due to loss of parking, increased traffic and noise, and increased potential for crime,
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1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. See 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
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5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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17 10. Likewise, there was no analysis of the risks associated with disamenities such
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19 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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21 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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23 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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25 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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27 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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29 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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31 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
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33 the maintenance agreement. *Id.* at 13:4-14:2.
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35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 benefits calculations are inherently speculative, Washington's eminent domain statute
2 specifically allows condemnees to postpone special benefits assessments until improvements
3 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
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6 Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity
7 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
8 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
9 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
10 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
11 II.25, IV.B.8, and IV.B.9.
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14 12. Special benefit estimate is speculative. When calculating a special benefit,
15 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
16 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
17 becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
18 P.2d 1078 (1958)).
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21 13. Assuming without conceding that one day, the City's planned LID
22 Improvements might increase the value of neighboring properties to some extent, that
23 potential benefit is many years away and speculative. While appraisers tolerate some degree
24 of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is
25 far too speculative to satisfy industry practices and standards.
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28 14. Although LIDs are sometimes finalized prior to completion of improvements,
29 this is typically just six month or a year prior, and the assessments are otherwise supported
30 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
31 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
32 will not be realized for four or five years. In the meantime, there is permitting risk,
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1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
5 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
6 testified: "I just don't know what the market value would be as of the date the project would
7 be finally constructed" because "[t]here could be a lot of elements in the market that did
8 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
9 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
10 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
22 accrue to these properties in four years (if any), we do know that there are no actual benefits
23 now. The LID improvements provide no immediate special benefit to property owners
24 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
25 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
26 sewer system for future users). For example, notwithstanding the questionable hypothesis
27 that apartments will benefit from an expected increase in tenant interest when the
28 improvements are complete, it is undisputed that tenants are not coming in larger numbers
29 and paying higher rental rates now because of something happening five years down the
30 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
31 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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42 16. Further, there are no "plans and specifications" on file with the Clerk's Office
43 for the LID Improvements, and it is unlawful to move to final assessments without such
44 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*
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1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
4
5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.*, 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
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27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
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39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
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43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
3 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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6 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
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21 26. But even the assumption that the LID improvements would deliver benefits
22 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
23 on. Rather, those studies demonstrate that a discount period of five years is conservative.
24 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
25 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
26 indicates that during the construction period, the Greenway district "significantly" lagged in
27 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
28 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
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10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$310,106.40. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$121,561.71.
20

21 28. Attachment C includes two Excel spreadsheets applying these discounting
22 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
23 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
24 demonstrates that discounting the City's hypothetical October 2019 special benefits to
25 present value would reduce Taxpayer's assessment to \$442,541 exclusive of any other flaws
26 in the City's proposed assessment. The second spreadsheet shows even more drastic
27 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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7 the time it takes for the improvements to capture property value.) After such reductions,
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9 Taxpayer's assessment would be just \$316,107 (for the 5-year discount) or \$86,855 (for the
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11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
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15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
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23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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25 Wn.2d at 97.

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27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
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29 testimony from the owner, where the objector's expert establishes that the assessment was
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31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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35 31. The City's appraiser purports to utilize the income method of valuation but
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37 relied on inaccurate revenue and market data, as discussed further below.

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39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
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43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
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47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
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7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
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9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
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16 Macauley did not calculate the actual market value of LID properties in October 2019 and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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26 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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28 Petition) at 3-4. Without any documented basis or support, Mr. Macauley simply “ma[de] a
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30 judgment a call” on what occupancy and rates would have been for the commercial
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32 properties assuming all of the WSDOT Improvements are completed as of 2019. Macauley
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34 Depo. at 129:19-130:11. For example, Mr. Macauley surmised that Brian O’Connor’s
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36 conclusion that the “Before” value for Harbor Steps was overstated by \$88M was perhaps
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38 due to the fact that Mr. O’Connor was looking at current income numbers and not
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40 accounting for the value of the “Before” conditions. However, when asked whether the
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42 value of the of the “Before” conditions is lower or higher than \$88M, Mr. Macauley had no
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44 clue because he did not do this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright
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46 omission precludes any independent evaluation of the true market “Before” values. *See*
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1 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards; if an
2 appraiser uses current sales data to infer values, then the appraiser must explain how he
3 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
4 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
5 other road, pedestrian and landscaping improvements WSDOT had already committed to
6 make.
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12 34. However, because Mr. Macaulay testified that he did include some WSDOT-
13 related value-lift in the “Before” values, it follows that part of the special assessment
14 improperly is based on value attributable to the WSDOT Improvements. As shown by
15 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
16 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
17 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
18 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
19 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
20 to properly exclude the value of Before Improvements from the assessments. For these
21 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
22 Sections II.19, II.29, and IV.B.11(a)(ii)
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24
25 35. Special benefits were assigned rather than measured. Mr. Macaulay
26 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
27 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
28 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
29 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
30 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
31 on hypothesized very small increases to property revenue and very small reductions to cap
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1 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.

2 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
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4 “professional judgment” that are neither shown nor replicable.
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6 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
7
8 Recommendation: Sections II.19 and IV.B.11(a)(iii).
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10 37. Special benefit falls within margin of error. The Final Special Benefit Study
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12 applies an estimated value enhancement of less than 4%, which is generally within the
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14 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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16 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
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18 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
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20 of one another, this difference is considered reasonable as it falls within the standard margin
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22 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
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24 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
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26 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
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28 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
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30 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
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32 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
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34 “Before” values are also based on a hypothetical that adds some unstated incremental value
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36 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
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38 micro-value differences between hypothetical conditions that are so similar (the WSDOT
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40 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
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42 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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44 38. Even if it were possible to accurately tease out such a miniscule hypothetical
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46 value change due to improvements coming five years later, experts testified that there is no
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1 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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3 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
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9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 39. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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14 percentage difference between hypothetical Before and After conditions. Throughout his
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16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
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26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 40. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 41. Special assessment is not supported by comparable studies, data or reports.

25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for residential and commercial combined properties,
30 including Taxpayer’s property. For example, although Mr. Macaulay stated that no single
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
2 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
3 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
4 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
5 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
6 for similarities and differences between these improvements and the comparable parks he
7 looked at).
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10 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
11 assignment of incremental increase of 0.5% to 4% to property values within the LID.
12 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
13 research misinterprets his work in critical ways, including because the LID Improvements
14 manifest the characteristics of a parkway (not a park), and his research indicates that most of
15 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
16 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
17 related value increases are in fact smaller; that estimated increases are “best guesses” rather
18 than predictions of property value increases in a particular city; and that percentages do not
19 account for diminishing returns after taking into account water views, which would be the
20 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
21 topography grants most properties in downtown a water view.
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24 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
25 that this was just one source of information that was not entirely relevant because, among
26 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
27 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
28 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
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1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
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4 Crompton concluded that 500 feet via road from “park” improvements is just one or two
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6 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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8 significantly beyond that which the park study indicated (even if it was legitimate to use the
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10 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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12 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
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14 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

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16 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
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18 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
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20 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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22 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
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24 materials, it was clearly an important—if not *the* most important—source of information for
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26 estimating special benefits (especially with respect to the condos).⁷ No City witness
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28 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
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30 parcel-by-parcel analysis.
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33 45. The destination parks discussed in the Final Special Benefit Study do not
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35 provide reliable, comparable, and valid support for the calculation of special assessments
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37 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
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39 Study were funded by a LID. And in virtually all of those cases, the park improvements
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
2
3 two or three blocks of the park.

4
5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
7
8 expected from the LID Improvements because it projects increases to tourism from *all* of the
9
10 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
11
12 dissimilar parks in other cities,⁸ making the methodological application to the LID
13
14 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
15
16 conclusion that there would be *no new net visitors* from downtown residents as a result of
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18 the LID Improvements and could not explain how this impacted his condo analysis.
19
20 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
21
22 Property Values" primarily focused on whether the benefits accrue to the larger community
23
24 rather than properties adjacent to the park. And the 2014 New York City Department of
25
26 Transportation study is not based on real estate transactions and market sales and fails to
27
28 substantiate any link between increased retail sales and property values. Moreover, this
29
30 study only looked at impact either directly abutting the streetscape improvement, or a couple
31
32 hundred feet for plaza-like improvements.
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35 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
36
37 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
38
39 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
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9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
10
11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
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13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

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17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
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31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
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33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
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35 Gordon uses in doing his limited restricted report").

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37 52. But the difference is not only in reporting—mass appraisal techniques must
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39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
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43 parcel approach:

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45 The mass appraisal technique is an appraisal method used to evaluate
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47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.
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4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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23 54. Regardless of client direction, Mr. Macaulay is required to comply with
24 USPAP. So, if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have
25 been economically feasible because it would have taken "an incredible amount of time and
26 cost" (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
27 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
28 ("performing an individual appraisal of each [condo] parcel would have been cost and time
29 prohibitive").
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37 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
38 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
39 value, fails to calibrate the model structure to determine the contribution of the individual
40 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
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9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
17
18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
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29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
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37 relationship between characteristics that affect value, and to calibrate that model to specify how
38
39 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
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41 21). The purpose is to rationally determine what characteristics will create value, and by how much.
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43 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
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45 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
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47 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
include explanation of the model specification, data requirements, calibration methods, and
mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
(o). Without this reporting, it is impossible for users of the appraisal report to determine how the
appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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3 and appeals the Examiner's denial of that motion.
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5 58. Finally, Taxpayer's property is not appurtenant—or even in close
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7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
8
9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
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11 close proximity to the property on which expert testimony was given”). As described above,
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13 the special assessment is overstated because the Final Study makes no attempt to determine
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15 general benefits, existing amenities for Taxpayer's specific property, or special detriments.
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17 In addition, it is speculative due to the fact that, as of October 2019, improvements were not
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19 in in place—and, in fact, much of the waterfront is a construction zone following removal of
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21 the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on
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23 entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should
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25 have discounted the special benefit estimates or waited to perform the Study until the
26
27 improvements were at least close to complete.
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29 **Erroneous Pre-Improvement Valuation**

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31 59. The proposed final assessment erroneously overstates the pre-improvement
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33 value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special
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35 benefit to the Taxpayer's property.
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37 60. The City's Final Study was used to compute the proposed final assessment of
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39 Harbor Steps' property. The City's Study purportedly uses data from the King County
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41 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
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45 ¹¹ *See, e.g.*, Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment's online “eReal
47 Property” search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$119,788,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$104,903,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 114.2% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$97,788,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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39 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
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5 66.
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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
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13 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
14 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.50% (low)
15 and 3.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
16 percentages (2.50% and 3.25%) to increase retail and parking. He then uses this
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.
19
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21
22 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition but changes
24 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.97% (low scenario,
25 creating a bigger value increase) and 4.00% (high scenario, creating a lower value increase).
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29 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
30 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.75% due
31 to the LID Improvements.
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35 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
36 and capitalization rates. When asked precisely what the basis is for his special benefit
37 percentage increases to revenue for each commercial property, he could not point to
38 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
39 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
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5 the basis for his belief that certain factors—liked increased connectivity—will increase
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7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
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9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
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13 sources equally even though there was no separate analysis done for food and beverage or
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15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
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17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
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19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
20
21 properties.

22
23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
26
27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
32
33 Before and After conditions, but there is no way to understand how adjustments were made
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35 because he “didn’t do a separate sales comparison approach where we showed adjustments
36
37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
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39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

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43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
46
47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
4 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
5 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
6 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
7 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
8 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
9 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
10 special because it is arbitrarily assigned; and it is too small to realistically be supported by
11 appraisal techniques.
12

13 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
14 any seller or purchaser that the price was higher because of the LID improvements."
15 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
16 identified any seller or buyer, or any particular property where the existence of the LID
17 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
18 explained that the property has not increased rental rates or revenue due to the forthcoming
19 LID Improvements, because, among other reasons (and apart from COVID), the
20 improvements ABS believes will generate value do not exist and will not for a number of
21 years to come. There are no comparable sales because the LID Improvements are not in
22 place, nor will they be until the end of 2024 if completed on schedule.
23

24 72. The fair market value of Harbor Steps' property has not changed due to
25 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
26 benefited from installation of new water main and fire hydrant where it was already
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1 adequately supplied with water and afforded adequate fire protection). And in any event,
2 any value attributable to removal of the viaduct was to be excluded from the assessment
3 calculation.
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6 73. There is no special benefit to the Harbor Steps because its apartment demand
7 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
8 value of Harbor Steps' property by drawing visitors away towards improvements that do not
9 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
10 App. 493 (testimony of owners' expert that LID actually diminished value of property was
11 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
12 will be harmed by the LID improvements because the Overlook Walk and Union Street
13 connection improvements will likely direct foot traffic away from the Harbor Steps and
14 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
15 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
16 Steps already has a high-quality connectivity to the waterfront and no data was presented to
17 justify a value lift based on additional connection points several blocks away. On cross-
18 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
19 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
20 would generally support additional connection points to the waterfront amenities. *See*
21 6/23/2020 Hrg. Tr. at 48-50.
22

23 74. Moreover, the assessment formula is an attempt to distribute costs that do not
24 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
25 "merely a mathematical model that distributes costs").
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27 75. The Special Benefit Study fails to address whether the \$346,000,000
28 estimated LID project cost takes into account the investment that would have occurred in the
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1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

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6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14
15 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
16 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
17 notice procedures because hotel property owners only received notice that their real estate
18 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
19
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21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
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3 be redone to correct for this error.

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5 78. The proposed final assessment substantially exceeds the special benefit to the
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7 property and is grossly disproportionate to similarly situated properties within the LID. For
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9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

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15 79. While this appeal is not challenging the City's environmental review and
16
17 permitting processes, those processes are relevant in determining the legality of the
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19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
20
21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
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23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
26
27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
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35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
36
37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
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41 committing to reconstruction of Pier 58 and major street improvements without
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43 environmental review, or the City's Final Special Study has improperly included and is
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45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
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47 not get built. Either way, it is faulty process.

Due Process Rights

80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments. Because LID assessments involve a deprivation of property, affected owners have the right to a hearing as to whether the improvement resulted (or will result) in special benefits to their properties and whether their assessments are proportionate, which necessarily includes the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d 555, 569–70, 229 P.3d 761 (2010).

81. The LID statute specifies that cities must mail notices giving the time and place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at 956. The key inquiry is whether the owner had sufficient time to gather evidence (and secure their own appraisal), evaluate proportionality of the proposed assessments, and whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient for anybody to get an appraisal”).

82. The City’s Notice of Assessment was sent on December 30, 2019. And the Final Special Benefit Study has only been available for public review since January 7, 2020. Due to this short time frame, Harbor Steps requested a prehearing conference and scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond to the Final Study, obtain expert appraisal testimony, conduct depositions, and to accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner

1 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
2
3 the Examiner's Recommendation: I.B.
4

5 **VII. Relief Requested**
6

7 Harbor Steps respectfully requests that the City Council:
8

- 9 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection
10 and:
11
12 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 20, 2019; or
14
15 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
16 proposed final assessment to \$0 (zero), or such amount as Taxpayer
17 establishes at the hearing in this matter; or
18
19 c. Remand the matter to the Hearing Examiner or City appraiser to
20 recalculate and reduce Taxpayer's assessment using recognized
21 appraisal techniques consistent with USPAP and:
22
23 i. Excluding any property value increase attributable to viaduct
24 removal and other planned WSDOT Improvements;
25
26 ii. Taking into account the effects of COVID-19 pandemic on the
27 value of Taxpayers property and other relevant developments
28 since October 2019;
29
30 iii. Accounting for and excluding (1) any special benefits from
31 existing or planning improvements that already provide
32 similar benefits to Taxpayers property, and (2) any special
33 detriments from construction and other anticipated LID-
34 related disamenities;
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- 1 iv. Accounting for and including only those actual benefits
2 anticipated to accrue to Taxpayer's property based on its
3 location relative to Pier 58, Overlook Walk, and the
4 Promenade, and specific elements of the LID Improvements;
5
6 v. Discounting anticipated special benefits to present value,
7 based on reliable estimates regarding when special benefits
8 will start accruing following completion of the LID
9 Improvements; and
10
11 vi. Accounting for such other issues specific to Taxpayer's
12 property relevant to calculation of such assessment; and
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21 2. Grant such further relief as the City Council deems just and proper.
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1
2 DATED: September 22, 2020
3
4

PERKINS COIE LLP

5 By:

6 
7
8

9 R. Gerard Lutz, WSBA No. 17692

10 RLutz@perkinscoie.com

11 Megan Lin, WSBA No. 53716

12 MLin@perkinscoie.com

13 Perkins Coie LLP

14 10885 N.E. Fourth Street, Suite 700

15 Bellevue, Washington 98004

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21 1201 Third Avenue, Suite 4900

22 Seattle, Washington 98101

23 Telephone: 206.359.8000

24 Facsimile: 206.359.9000
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27 Attorneys for Eqr-Harbor Steps LLC
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FILED

4:32 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Campbell, Karen \(BEL\)](#)
Subject: RE: Waterfront LID Appeal for Case No. CWF-0440 CORRECTED
Date: Tuesday, September 22, 2020 3:56:49 PM
Attachments: [CWF-0440 CORRECTED.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0440 **CORRECTED**.
This file replaces the prior zip file sent for CWF-0440.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0440

A – Master List of Evidence

B – B-232 Harbor Steps SW

C – Discounting for CWF-0440

CWF-0440 Appeal Notice

Supplemental Decl. to Attachment C

Kimball Mullins | Perkins Coie LLP

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E. KPMullins@perkinscoie.com

PERKINScoie

From: Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>

Sent: Tuesday, September 22, 2020 3:11 PM

To: cityclerkfiling@seattle.gov

Cc: Lutz, Jerry (BEL) <JLutz@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Starkey, Byron (SEA) <ByronStarkey@perkinscoie.com>; Stillwell, Jacob (SEA) <JStillwell@perkinscoie.com>; Carmody, Jane (SEA) <JCarmody@perkinscoie.com>; Mahon, Robert (SEA) <RMahon@perkinscoie.com>; Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>; Campbell, Karen (BEL) <KCampbell@perkinscoie.com>

Subject: Waterfront LID Appeal for Case No. CWF-0440

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0440.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0440
A – Master List of Evidence
B – B-232 Harbor Steps SW
C – Discounting for CWF-0440
CWF-0440 Appeal Notice

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Harbor Steps SW**

Map Nos.:	B-232
Tax Parcel Nos.:	766620-2465
Property key:	4323
Address	1212 Western Avenue
Zoning:	DMC-170
Property rights:	No apparent restrictions, view protection easement in favor of property
Previous sale:	N/A
Proximity to project:	400± feet to waterfront park
Ownership:	EQR-Harbor Steps, LLC
Description:	15,360 SF site on the northeast corner of Western Avenue and Universit improved with a 168-unit apartment building constructed in 1994, with 208-stall basement parking structure.

INCOME ANALYSIS Before	Year Built	1994
	Parking	208

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	26		0	\$2,100	\$0.00
1-bedroom	101		0	\$2,650	\$0.00
2-bedroom / 1-bath	41		0	\$3,500	\$0.00
2-bedroom / 2-bath			0		\$0.00
Total apartments	168	0	0	\$2,772	\$0.00
	GBA	NRA			
Retail	14,813	14,813		SF NRA @	\$35.00
Restaurant	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Subtotals	14,813	14,813			
Parking Area/Stalls	101,603	0	208	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	307,497	143,127		SF NRA @	\$48.29
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			

Parking operating expenses @	0.0%	of parking EGI		
Apartment operating expenses	25.0%	of apartment EGI		
Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$12.24	26.3%
Net operating income				
Indicated Value				
Land Value				
		28,800	SF @	\$1,250.00
Residual Improvements				
		143,127	SF NRA @	\$585.41
		307,497	SF GRA @	\$272.48

Special Benefit Summary				
	Land			
	Per SF	Total	Improved	% Change
Without LID	\$1,250.00	\$36,000,000	\$83,788,000	N/A
With LID				
Scenario A1	\$1,287.50	\$37,080,000	\$85,749,000	2.34%
Scenario A2	\$1,287.50	\$37,080,000	\$86,662,000	3.43%
Scenario B1	\$1,287.50	\$37,080,000	\$86,630,000	3.39%
Scenario B2	\$1,287.50	\$37,080,000	\$85,702,000	2.28%
Percent change in land value	3.00%		\$86,186,000	2.86%
Summary				
Without LID	\$1,250.00	\$36,000,000	\$83,788,000	N/A
With LID	\$1,287.50	\$37,080,000	\$86,000,000	2.64%

Harbor Steps SW

Scenario A: Rental and Vacancy Rate Changes

owner (per AFN 20130517-

by Street, zoned DMC-170,
14,813 SF of retail space and

		INCOME ANALYSIS After		Year Built	1994
		Potential Gross Income			
			Units	SF NRA	
	\$655,200	Studio	26	0	
	\$3,211,800	1-bedroom	101	0	
	\$1,722,000	2-bedroom / 1-bath	41	0	
	\$0	2-bedroom / 2-bath	0	0	
	\$5,589,000	Total apartments	168	0	
			GBA	NRA	
per SF =	\$518,455	Retail	14,813	14,813	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$518,455	Subtotals	15,149	14,813	
/month	\$748,800	Parking Area/Stalls	101,603	0	208
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$55,890	Other			
/SF =	\$6,912,145	Total Bldg Area & Gross Income	307,497	143,127	SF
	(\$223,560)	Less: Vacancy/credit allowance			of apartment
	(\$25,923)				of commercial
	\$0				of parking
	(\$249,483)	Total vacancy/credit allowance			
	\$6,662,662	Effective gross income			
		Less: Operating expenses			
	(\$333,133)	Management fee @	5.0%		of total EGI

	\$0
	(\$1,341,360)
	(\$76,874)
\$10,425	(\$1,751,367)
	\$4,911,295
Capitalized @	4.10%
Indicated value	\$119,787,680
(R)	\$119,788,000
Per DU	\$713,024
per SF =	\$36,000,000
per SF =	\$83,788,000

Parking operating expenses @	0.0%	of parking EGI
Apartment operating expenses	25.0%	of apartment EGI
Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		

Indicated Value

Land Value

28,800

Residual Improvements

Special Benefit Summary

Total Estimated Value	Special Benefit	% Change	
\$119,788,000	N/A	N/A	
			Per DU
\$122,829,000	\$3,041,000	2.54%	\$18,101
\$123,742,000	\$3,954,000	3.30%	\$23,536
\$123,710,000	\$3,922,000	3.27%	\$23,345
\$122,782,000	\$2,994,000	2.50%	\$17,821
\$119,788,000	N/A		
\$123,080,000	\$3,292,000	2.75%	\$19,595

Harbor Steps SW

Scenario B: Overall Capitalization R

	Per DU	Per DU	Low 2.50%	High 3.25%
	\$2,153	\$2,168	\$671,580	\$676,494
	\$2,716	\$2,736	\$3,292,095	\$3,316,184
	\$3,588	\$3,614	\$1,765,050	\$1,777,965
	\$0	\$0	\$0	\$0
	\$2,842	\$2,862	\$5,728,725	\$5,770,643
			2.50%	3.25%
• NRA @	\$35.88	\$36.14	\$531,416	\$535,305
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
			\$531,416	\$535,305
	Per Month	Per Month	2.50%	3.25%
stalls @	\$307.50	\$309.75	\$767,520	\$773,136
	Per SF	Per SF	0.00%	0.00%
• NRA @	\$0.00	\$0.00	\$0	\$0
• NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$57,287	\$57,706
• NRA @	\$49.50	\$49.86	\$7,084,949	\$7,136,790
revenue	4.00%	4.00%	(\$229,149)	(\$230,826)
revenue	5.00%	5.00%	(\$26,571)	(\$26,765)
revenue	0.00%	0.00%	\$0	\$0
			(\$255,720)	(\$257,591)
			\$6,829,229	\$6,879,199
			(\$341,461)	(\$343,960)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom / 1-bath	
2-bedroom / 2-bath	
Total apartments	
Retail	
Restaurant	
Other	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	

	\$0	\$0
	(\$1,374,894)	(\$1,384,954)
	(\$76,874)	(\$76,874)
	(\$1,793,230)	(\$1,805,788)
	\$5,035,999	\$5,073,410
Capitalized @	4.10%	4.10%
	\$122,829,247	\$123,741,717
(R) \$122,829,000	\$122,829,000	\$123,742,000
Per DU	\$731,125	\$736,560
% change	2.54%	3.30%
SF @ \$1,287.50 per SF =	\$37,080,000	\$37,080,000
	\$85,749,000	\$86,662,000
Per SF NRA	\$599.11	\$605.49
	\$3,041,000	\$3,954,000

Parking operating expenses @
 Apartment operating expenses
 Structural maintenance/reserve
 Total operating expenses
 Net operating income

Indicated Value

Land Value

Residual Improvements

Special Benefit Summary

ates Changes

Year Built		1994				
Units	SF NRA	Total NRA	Rent	Rent/SF		
26	0	0	\$2,100	\$0.00		\$655,200
101	0	0	\$2,650	\$0.00		\$3,211,800
41	0	0	\$3,500	\$0.00		\$1,722,000
0	0	0	\$0	\$0.00		\$0
168	0	0	\$2,772	\$0.00		\$5,589,000
14,813	14,813		SF NRA @	\$35.00	per SF =	\$518,455
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
15,149	14,813					\$518,455
101,603	0	208	stalls @	\$300.00	/month	\$748,800
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$55,890
307,497	143,127		SF NRA @	\$48.29	/SF	\$6,912,145
4.0% of apartment revenue						(\$223,560)
5.0% of commercial revenue						(\$25,923)
0.0% of parking revenue						\$0
						(\$249,483)
						\$6,662,662
5.0% of total EGI						(\$333,133)

0.0%	of parking EGI				\$0
25.0%	of apartment EGI				(\$1,341,360)
\$0.25	per SF of GBA				(\$76,874)
					(\$1,751,367)
					\$4,911,295
				Low	High
	Capitalized @			3.97%	4.00%
	Indicated Value			\$123,710,199	\$122,782,372
	(R)			\$123,710,000	\$122,782,000
	Per DU			\$736,369	\$730,845
	% change			3.27%	2.50%
28,800	SF @	\$1,287.50	per SF =	\$37,080,000	\$37,080,000
				\$86,630,000	\$85,702,000
			per SF NRA	\$605.27	\$598.78
				\$3,922,000	\$2,994,000

3.00%

Attachment C

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0440	Habor Steps (SW Tower) -- 1212 Western Avenue	1212 Western Avenue	7666202465

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$3,292,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
H * DISC 5YR*J	City's Assessment - 5-yr Discount to Present Value only			\$442,541

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0440	Habor Steps (SW Tower) -- 1212 Western Avenue	1212 Western Avenue	7666202465

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$119,788,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$97,788,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C) Corrected FMV for Assessment			\$85,564,500

SPECIAL BENEFIT			5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000	
F	Discount to present value (Dollars)	Taxpayer	\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)		34.29%	9.42%

CORRECTION OF ASSESSMENT			Value	5-yr delay	10-yr delay
H	City LID special benefit for subject		\$3,292,000		
H/A	As Percentage of Final City Before Value		2.748%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"		\$2,351,474		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value			\$806,395	\$221,570
J	Percentage of Special benefit to be assessed by City		39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)			\$316,107	\$86,855

DISTANCE FROM PARK IMPROVEMENTS			Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade	No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)		N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0440

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
7666202465

32
33 Eqr-Harbor Steps LLC (“Harbor Steps”) files this appeal pursuant to RCW
34 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice
35 of the Seattle Office of the City Clerk dated December 30, 2019, and the Hearing
36
37 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
38
39 Recommendation”).
40
41
42

43 **I. Taxpayer / Appellant**
44

45 The Taxpayer filing this appeal is:
46
47

1 Eqr-Harbor Steps LLC
2 Eqr-Re Tax Dept.
3 PO Box 87407 (27193)
4 Chicago, IL 60680-0407
5

6 **II. Taxpayer's Representatives**
7

8 Harbor Steps' representatives in this matter are:
9

10 R. Gerard Lutz, WSBA No. 17692
11 JLutz@perkinscoie.com
12 Megan Lin, WSBA No. 53716
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20 Robert L. Mahon, WSBA No. 26523
21 RMahon@perkinscoie.com
22 1201 Third Avenue, Suite 4900
23 Seattle, Washington 98101
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
26
27

28 **III. Statement of Taxpayer's Interest**
29

30 Harbor Steps owns the property that is subject to the proposed final assessment
31 described in Section IV. The property at issue is a multifamily residential apartment building
32 with ground floor retail. Additionally, there is a pedestrian corridor connecting the
33 downtown retail core to the waterfront amenities.
34
35

36 The basis of the proposed assessment is a Final Special Benefit/Proportionate
37 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
38 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
39 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
40 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
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1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
22
23 based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Harbor Steps appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 7666202465
34 Site Address: 1212 Western Ave., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$1,289,878.02

36
37 See Examiner’s Recommendation at 61-62, 107. To avoid repetition, Taxpayer incorporates
38
39 the evidence and arguments raised before the Hearing Examiner into this appeal. In
40
41 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
42
43 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
44
45
46
47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 107, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22, II.23,
8 II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3,
9 IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7, IV.C.8, IV.C.9,
11 IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29

30
31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$3,292,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25

26
27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34
35 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
36 or conjectural"
37

38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
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1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
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20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
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34 **Legal Requirement:** Cannot prematurely commit to build
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36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
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6 **V. Standard of Review**

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8 “When considering the assessment roll, the city council sits ‘as a board of
9 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
10 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
11 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
12 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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15 The proposed assessments are presumed correct, “unless overcome by clear, cogent
16 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
17 than the heightened presumption of correctness on judicial appeal because “applying these
18 elevated standards at the municipal hearing would afford unwarranted deference to a report
19 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
20 presumption is not evidence and its efficacy is lost when the other party adduces credible
21 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
22 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
23 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
24 presented credible evidence showing that the City’s proposed assessment is arbitrary,
25 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
26 to the City to prove the assessments are actual, measurable, special, non-speculative and
27 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Harbor Steps appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
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5 **Taxpayer Not Required to Provide A Special Benefit Study**

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7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5, 2020, Harbor Steps presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews. Instead, the Hearing Examiner simply dismissed
2 Harbor Steps' expert evidence as insufficient appraisal evidence. *See* Examiner's
3 Recommendation at IV. C.7–9. This is contrary to law.
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6 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
7 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
8 IV.C.11.
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12 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**

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14 4. RCW 35.43.040 provides cities and towns authority for ordering local
15 improvements and for levying and collecting special assessments “on property specially
16 benefited thereby[.]” The cost and expense of the local improvement “shall be assessed upon
17 all the property in accordance with the special benefits conferred thereon.” RCW 35.44.010.
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20 5. No analysis of general benefits. Special assessments have been “held valid
21 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
22 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
23 mains.” *Heavens*, 66 Wn. 2d at 563. “All such assessments have one common element:
24 they are for the construction of local improvements that are appurtenant to specific land and
25 bring a benefit substantially more intense than is yielded to the rest of the municipality.” *Id.*
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28 6. Harbor Steps' property is not specially benefited by the LID Improvements.
29 The primary purpose and effect of the LID Improvements are to benefit “members of the
30 whole community” and the public at large. *See, e.g., id.* at 565 (“it is plain that a public
31 library is for the benefit of the members of the whole community individually and
32 collectively who may be served by it”). Mr. Macaulay's own chapter of the LID Manual
33 states clearly that appraisers should “[c]onsider general benefits as well as special benefits”
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1 (Hrg. Exhibit 117 (LID Manual) at 58²) and he admits that “general benefits probably accrue
2 to the LID area” as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer’s expert confirmed
3 that if an appraiser “identifies both general and special benefits, these benefits should be
4 clearly distinguished and explained, and only special benefits should be included in the
5 After assessment.” Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also*
6 3/3/2020 (A. Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O’Connor) Hrg. Tr. at 158:13-
7 159:8, 192:8-193:2. It is undisputed that Mr. Macaulay did not analyze or measure general
8 benefits, including those arising from construction necessary to meet basic design standards.
9 *See* Hrg. Exhibit 117 (LID Manual) at 58 (“[c]onsideration may also be given to those
10 construction costs related to meeting design standards which may be general benefits as
11 distinct from construction costs emanating from requirements of the LID project”). To the
12 extent Taxpayer’s property may benefit from the LID improvements, the benefit is general
13 and incidental, and failure to consider general benefits was a fatal flaw in the City’s
14 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner’s
15 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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31 7. LID Improvements not necessary. Unlike typical LID projects, the
32 Waterfront LID improvements are largely unnecessary to the functionality of any particular
33 property, including Taxpayer’s property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
34 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
35 held invalid where owners would have benefitted equally from increase of only 9 feet);
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² “Hrg. Exhibits” refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City’s witnesses (June 23, 25 and 26, 2020). For ease of reference, Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
2 intersection for new water main for hydrant held invalid because land was already afforded
3 functional hydrant at nearby street). Here, Taxpayer testified that the LID Improvements are
4 not necessary to the business of their income-producing properties, all of which already have
5 sufficient access to the waterfront, downtown restaurants, and other amenities necessary for
6 their tenants and clients. And for residential properties, like Harbor Steps, the assumption
7 that an increase in tourism will cause lifts in property value is both anecdotally and
8 empirically unsupported. Additionally, the construction of new access points is in fact a
9 negative point for the Harbor Steps, which are located at an existing connection between the
10 downtown core and the waterfront. The LID improvements will draw foot traffic away from
11 the Harbor Steps, increasing competition in other areas of the city. The fact that there is no
12 case law differentiating between binary improvements and parks does not change the law
13 prohibiting assessments on properties already adequately served by existing amenities. *See*
14 Examiner's Recommendation at IV.C.3 (reasoning that "no case law is provided to support
15 the differentiation between a hardscape benefit and the more ephemeral benefits of park").
16 Nor does the Examiner's reasoning excuse the City's failure to account for existing
17 amenities as part of the special benefit calculation. As Dr. Crompton testified, existing view
18 amenities may in fact diminish the incremental effect of new park improvements on the
19 value of properties, much like turning on a weak light in an already brightly illuminated
20 room. *See* Hrg. Exhibit 94 (Crompton's Report) at 12-13.

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41 8. To the extent benefits can be considered "special" as opposed to general, they
42 are nominal or nonexistent for many properties even in the Central Waterfront, which
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
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1 change due to expansion of sewer service *near* owners' parcel which were already
2 connected). Here, the primary reasons a user chooses a particular apartment is not proximity
3 to the waterfront. Instead, the reason residents choose to live in the Harbor Steps apartments
4 is proximity to their places of employment and other amenities downtown. See 3/5/2020 (E.
5 Leigh0 Hrg. Tr at 113:13-114:20; 124:3-126:9. For example, without any supporting written
6 analysis, Mr. Macaulay offhandedly concludes that the Harbor Steps apartments would
7 benefit from increased connectivity from being four to five blocks from the Overlook Walk
8 even though the properties currently have direct access to the waterfront via the Harbor
9 Steps. 6/23/2020 Hrg. Tr. At 48:1-50:25; see also B. Scott Decl., ¶ 7. Mr. Leigh testified that
10 he did not anticipate a benefit, and that the Harbor Steps retail component would suffer if a
11 measurable portion of waterfront-bound pedestrian traffic moved north to the market. See
12 also B. Scott Decl., ¶ 6 (describing failure to analyze how existing retail is harmed by foot
13 traffic being pulled away towards new amenities). Even if the City could assess for a view
14 change (and it has promised not to assess for viaduct removal), the fair market value of
15 Harbor Steps' property has not changed because the LID Improvements have not improved
16 the property's waterfront view or access to the waterfront, nor will they when the City
17 anticipates completion in 2024. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.

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37 9. No analysis of special detriments. The Final Study fails to properly account
38 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
39 owners for removal and cleanup of underground storage tanks discovered during the
40 improvement project). The Property owner representative for Harbor Steps, Ed Leigh,
41 testified that property values may in fact be negatively impacted by the LID Improvements
42 due to loss of parking, increased traffic and noise, and increased potential for crime,
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1 homelessness and sanitation issues. Mr. Leigh testified that the assessment is an immediate
2 expense for Harbor Steps that comes with no immediate increase in revenue, thereby
3 decreasing property values. See 3/5/2020 (E. Leigh) Hrg. Tr. at 126:10-129:9; 227:8-229:10.
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5 And Harbor Steps does not expect near term the increases assumed in ABS Valuations'
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7 spreadsheets or the Final Study. Although Mr. Macaulay claims he analyzed impacts on the
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9 City's planned elimination of 450 parking stalls on a parcel-by-parcel basis, there is no
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11 explanation of how lost parking might be a detriment, and no property-specific parking
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13 analysis in any of his materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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16 10. Likewise, there was no analysis of the risks associated with disamenities such
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18 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
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20 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
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22 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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24 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
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26 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
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28 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
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30 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
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32 the maintenance agreement. *Id.* at 13:4-14:2.
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35 11. There was also no consideration of negative impacts from another four-plus
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37 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
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39 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
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41 law allowing him to dismiss these actual, non-speculative impacts. Because future special
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

benefits calculations are inherently speculative, Washington's eminent domain statute specifically allows condemnees to postpone special benefits assessments until improvements are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).

Moreover, the studies that Mr. Macualay relied on demonstrate that construction disamenity is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy Greenway, the Greenway district "significantly" lagged in value). For these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation: Sections II.25, IV.B.8, and IV.B.9.

12. Special benefit estimate is speculative. When calculating a special benefit, "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it becomes pure speculation." *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324 P.2d 1078 (1958)).

13. Assuming without conceding that one day, the City's planned LID Improvements might increase the value of neighboring properties to some extent, that potential benefit is many years away and speculative. While appraisers tolerate some degree of estimation and judgment, Taxpayer's expert testified that Mr. Macaulay's Final Study is far too speculative to satisfy industry practices and standards.

14. Although LIDs are sometimes finalized prior to completion of improvements, this is typically just six month or a year prior, and the assessments are otherwise supported by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here will not be realized for four or five years. In the meantime, there is permitting risk,

1 construction risk, and general economic risk (e.g., COVID), which renders ABS's 2019
2 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
3 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
4 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
5 projects because "we can't read the future." 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
6 testified: "I just don't know what the market value would be as of the date the project would
7 be finally constructed" because "[t]here could be a lot of elements in the market that did
8 occur between now and then that impact value." 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
9 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
10 in 2024 because "markets tend to fluctuate over time" and "I can't predict the future").
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21 15. The record is clear that while no one can know what "special benefit" might
22 accrue to these properties in four years (if any), we do know that there are no actual benefits
23 now. The LID improvements provide no immediate special benefit to property owners
24 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
25 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
26 sewer system for future users). For example, notwithstanding the questionable hypothesis
27 that apartments will benefit from an expected increase in tenant interest when the
28 improvements are complete, it is undisputed that tenants are not coming in larger numbers
29 and paying higher rental rates now because of something happening five years down the
30 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
31 today for 18 months would rent at a higher rate due to improvements coming in 2024).
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42 16. Further, there are no "plans and specifications" on file with the Clerk's Office
43 for the LID Improvements, and it is unlawful to move to final assessments without such
44 "plans and specifications." Ordinance 125760, Section 3; *Local and Road Improvement*
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1 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
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3 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
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5 dollars on projects still early in the design process. *See* Washington Attorney General
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7 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
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9 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
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11 of programs and included “only so much of the overall costs” that took place within and
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13 benefitted the assessed properties).

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15 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
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17 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
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19 anticipated to be delivered five years later. Even before COVID, it was speculative to
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21 assume that market highs experienced in October 2019¹ would be sustained through 2024,
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23 after an already extraordinarily long expansion period. *See, e.g.,* 3/5/2020 (E. Leigh) Hrg.
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25 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
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27 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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29 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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31 deposition in late February, his “thought process was that the market was going to continue
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33 to go up,” but now, they are already irrelevant. *Id.*; *see* Gibbons Decl. ISO Closing Stmt. at ¶
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35 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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37 (*see* Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
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39 rendered the hypothetical October 2019 Final Study valuations outdated.

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41 18. As another example of how future events could affect the accuracy and
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43 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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45 Examiner re-open the record to allow the City to explain whether the assessments against
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47 property owners within the LID are, in fact, being used by the City to fund the emergency

1 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
2 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
3 would be improperly imposing costs on property owners within the LID for improvements
4 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
5 habitat and City infrastructure—this does not provide any special benefit to LID property
6 owners.
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12 19. There is also no certainty the improvements will be delivered on time. Mr.
13 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
14 delay in construction schedule would not constitute a “material change” under the City
15 Council’s ordinance authorizing the improvements. In other words, the City cannot
16 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
17 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
18 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
19 potential delays and project changes inherent in those processes, that call into question the
20 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
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33 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
34 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
35 58 (Waterfront Park) Emergency Demolition Project, available at
36 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
37 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
38 available at
39 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.
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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
2 Decl., dated 4/15/2020).
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5 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
6 he could not point to a single one where the assessment roll was finalized five years in
7 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
8 he has never recommended final special assessments based on designs less than 30 percent
9 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
10 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
11 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
12 at 66:17-25. He performed no independent due diligence to determine the reliability of the
13 City’s estimates for completion of the LID Improvements, or to ensure that proposed
14 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
15 agreed that if any of his assumptions are incorrect, his opinion of market value would need
16 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
17 68:11-18.
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30 21. The City has cited no authority—and Taxpayer is aware of none—that
31 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
32 assess taxes for “actual” special benefits that will not accrue for another five years (if all
33 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
34 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
35 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
36 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
37 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
38 IV.C.14, and IV.C.18.
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1 22. Failure to discount special benefit estimates to account for risks and present
2 value. Due to the inherent uncertainty, Taxpayer's expert opine that the Final Study should
3 have accounted for risks associated with delivery of the improvements (including permitting
4 risk, construction risk, general economic risk) and any special damages associated with
5 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
6 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
7 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
8 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) ("Appraisers routinely consider
9 the impact of future conditions [through] discounted cash flow analysis.").

10 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
11 future condition not in place at the date of valuation and can discount for the time value of
12 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
13 until 2024, "[y]ou would be discounting it back to a present value." *Id.* at 77:2-19.
14 Discounting would also have been consistent with his approach for analyzing special
15 benefits to vacant land. He testified that the difference between similarly situated vacant
16 sites slated for development and already developed sites was that the labor, capital and risks
17 associated with development had not yet been borne for those vacant sites. Therefore, the
18 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
19 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
20 fully permitted, has not completed environmental review, and has not reached full design is
21 presently worth significantly less.

22 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
23 present value, an appraiser would consider discount rates for land development to account
24 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at

1 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
2 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
3
4 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
5

6 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
7 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
8 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
9 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
10 ignoring momentarily all of the other methodological and other flaws discussed here and in
11 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
12 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
13 exceeds special benefits when reduced to present value. Further, to the extent the City is
14 arguing that because they are permitted to assess 100% of the special benefit, the special
15 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
16 is again wrong. After applying proper discounting, the City's proposed special benefit
17 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
18 100% of the total estimated special benefit.
19
20

21 26. But even the assumption that the LID improvements would deliver benefits
22 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
23 on. Rather, those studies demonstrate that a discount period of five years is conservative.
24 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
25 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
26 indicates that during the construction period, the Greenway district "significantly" lagged in
27 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
28 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
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1 30-31 (discussing New York City High Line and San Francisco Embarcadero
2 improvements). Given the lengthy delay, any prediction of future special benefits is
3 speculative, especially during the construction phase where values are likely to decline. And
4 assuming the LID Improvements take a similarly long period of time after they are complete
5 to start producing tangible property value benefits, each additional year of delay results in
6 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
7 Closing Stmt., ¶ 19, Ex. A.
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9
10 27. Applying the same discounting methods described above and in Mr. Gibbons
11 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
12 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
13 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
14 100% assessment should be no more than \$310,106.40. Anything more would permit the
15 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
16 place and providing benefit, and ignore the risks, construction disamenity, and time value of
17 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
18 would counsel that the assessment should be only 39.2% of that assessment cap, or
19 \$121,561.71.
20

21 28. Attachment C includes two Excel spreadsheets applying these discounting
22 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
23 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
24 demonstrates that discounting the City's hypothetical October 2019 special benefits to
25 present value would reduce Taxpayer's assessment to \$442,541 exclusive of any other flaws
26 in the City's proposed assessment. The second spreadsheet shows even more drastic
27 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
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1 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
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3 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
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5 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
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7 the time it takes for the improvements to capture property value.) After such reductions,
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9 Taxpayer's assessment would be just \$316,107 (for the 5-year discount) or \$86,855 (for the
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11 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
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13 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
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15 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
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17 Taxpayer's discounting argument without legal or factual analysis; that failure is error.

18 **Appraisal and Assessment Calculation Methods Are Flawed**

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21 29. The "general rule is that each lot, piece, or parcel of land should be assessed
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23 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
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25 Wn.2d at 97.

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27 30. It is proper to sustain a challenge to an assessment, even without the appraisal
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29 testimony from the owner, where the objector's expert establishes that the assessment was
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31 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
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33 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.

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35 31. The City's appraiser purports to utilize the income method of valuation but
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37 relied on inaccurate revenue and market data, as discussed further below.

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39 32. The City's appraiser purports to utilize the comparable sales method of
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41 valuation, but no City witness attempted "to characterize any one, or all of them, as
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43 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
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45 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
46
47 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to

1 characterize any one, or all of them, as comparable to any particular property within the LID”).
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3 And no City witness could explain how specific adjustments were made to these sales to
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5 account for value increases due to the hypothesized Before and After Improvements. For this
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7 reason, Taxpayer appeals Section II.23 of the Examiner’s Recommendation.
8

9 33. Special assessment improperly includes value lift from the Before
10 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
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12 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
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14 Improvements, which WSDOT had independently committed to fund. However, Mr.
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16 Macauley did not calculate the actual market value of LID properties in October 2019 and
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18 did not separately analyze the hypothetical increase to property values attributable to
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20 WSDOT’s planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
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22 current value and then separately calculate a hypothetical “With WSDOT” Before value);
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24 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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26 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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28 Petition) at 3-4. Without any documented basis or support, Mr. Macauley simply “ma[de] a
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30 judgment a call” on what occupancy and rates would have been for the commercial
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32 properties assuming all of the WSDOT Improvements are completed as of 2019. Macauley
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34 Depo. at 129:19-130:11. For example, Mr. Macauley surmised that Brian O’Connor’s
35
36 conclusion that the “Before” value for Harbor Steps was overstated by \$88M was perhaps
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38 due to the fact that Mr. O’Connor was looking at current income numbers and not
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40 accounting for the value of the “Before” conditions. However, when asked whether the
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42 value of the of the “Before” conditions is lower or higher than \$88M, Mr. Macauley had no
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44 clue because he did not do this analysis. 6/23/2020 Hrg. Tr. at 46:9-17:25. This outright
45
46 omission precludes any independent evaluation of the true market “Before” values. *See*
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1 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet professional appraisal standards; if an
2 appraiser uses current sales data to infer values, then the appraiser must explain how he
3 analyzed that data and other information to come up with the hypothetical value. 3/3/2020
4 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not just removal of the viaduct, but also
5 other road, pedestrian and landscaping improvements WSDOT had already committed to
6 make.
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12 34. However, because Mr. Macaulay testified that he did include some WSDOT-
13 related value-lift in the “Before” values, it follows that part of the special assessment
14 improperly is based on value attributable to the WSDOT Improvements. As shown by
15 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
16 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
17 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
18 special benefit assignment would result in \$300,000 of over-assessment. *See* Gibbons Decl.
19 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
20 to properly exclude the value of Before Improvements from the assessments. For these
21 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
22 Sections II.19, II.29, and IV.B.11(a)(ii)
23

24 35. Special benefits were assigned rather than measured. Mr. Macaulay
25 arbitrarily “assigns” special benefits to Before values instead of measuring them for each
26 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
27 O’Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
28 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
29 commercial properties, Taxpayer’s experts concluded that Mr. Macaulay based adjustments
30 on hypothesized very small increases to property revenue and very small reductions to cap
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1 rates to “calculate” an “After” value due to the coming 2024 LID Improvements.

2 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
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4 “professional judgment” that are neither shown nor replicable.
5

6 36. For these reasons, Taxpayer appeals the following portions of the Examiner’s
7
8 Recommendation: Sections II.19 and IV.B.11(a)(iii).
9

10 37. Special benefit falls within margin of error. The Final Special Benefit Study
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12 applies an estimated value enhancement of less than 4%, which is generally within the
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14 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
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16 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
17
18 Taxpayer’s experts explained that if two appraisers independently arrive at values within 5%
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20 of one another, this difference is considered reasonable as it falls within the standard margin
21
22 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
23
24 O’Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay’s micro-special benefit percentages
25
26 fall far below that 5% margin, “there is no way of authenticating” such incremental changes
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28 because “[m]arket forces completely obliterate any tiny little noise factor like that.” *See*
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30 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
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32 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
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34 “Before” values are also based on a hypothetical that adds some unstated incremental value
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36 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
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38 micro-value differences between hypothetical conditions that are so similar (the WSDOT
39
40 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
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42 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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44 38. Even if it were possible to accurately tease out such a miniscule hypothetical
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46 value change due to improvements coming five years later, experts testified that there is no
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1 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
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3 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
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5 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
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7 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
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9 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.

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11 39. No analysis of value increase attributable to individual components of the
12 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
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14 percentage difference between hypothetical Before and After conditions. Throughout his
15
16 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
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18 descriptions in the Addenda even though he testified that he relied on these to calculate
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20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
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22 someone might be able to determine how he attributed value to After conditions described in
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24 the Addenda, he answered that that was “not the scope of the assignment” because he was
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26 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
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28 that the six components were not actually a continuous project, that he was viewing them
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30 together because the City asked him to, and that if he were to view them independently,
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32 there was a low probability that properties in the north would specially benefit from
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34 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.

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37 40. Not only did he fail to analyze benefits from each of these non-contiguous
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39 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.,*
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41 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
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43 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
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45 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
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47 objectives that guided regulators’ assessment of architectural plans for buildings along a

1 “signature street” were so vague that they amounted to ad hoc review based on the
2 regulators’ subjective impressions and feelings).⁶ It became clear through his testimony that
3 even though he used the renderings as “visual aid[s] in appraising the property in the before
4 and after” to “visually see what the differences would be,” he could not explain what
5 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
6 when shown a rendering of a two-lane road going down to one-lane in the After condition
7 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
8 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
9 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
10 could explain the depiction of the same trees in the After condition nearly twice as tall as in
11 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
12 of the Examiner’s Recommendation: II.27 and IV.B.4.
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24 41. Special assessment is not supported by comparable studies, data or reports.

25 Mr. Macaulay’s references to empirical research do not justify his fundamental assumption
26 that the LID Improvements will lead to meaningfully increased real estate values for
27 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
28 comparable sales or information from the “over twenty-five studies and reports” to arrive at
29 very precise special benefit increases for residential and commercial combined properties,
30 including Taxpayer’s property. For example, although Mr. Macaulay stated that no single
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must “be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit.” *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
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3 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
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5 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
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7 provided “some background to base decisions on.” *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
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9 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
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11 for similarities and differences between these improvements and the comparable parks he
12
13 looked at).

14
15 42. Mr. Macaulay purports to rely on Dr. Crompton’s research to justify the
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17 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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19 However, among other critiques, Dr. Crompton testified that Mr. Macaulay’s reliance on his
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21 research misinterprets his work in critical ways, including because the LID Improvements
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23 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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25 a *park*’s impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
26
27 in Seattle). *See* Hrg. Exhibit 94 (Crompton’s report). Further, updated research shows park-
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29 related value increases are in fact smaller; that estimated increases are “best guesses” rather
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31 than predictions of property value increases in a particular city; and that percentages do not
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33 account for diminishing returns after taking into account water views, which would be the
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35 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
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37 topography grants most properties in downtown a water view.

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39 43. Rather than addressing Dr. Crompton’s critiques, Mr. Macaulay simply states
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41 that this was just one source of information that was not entirely relevant because, among
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43 other things, Dr. Crompton’s research dealt with parks and not streetscapes. However, Dr.
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45 Crompton’s critiques were based on Mr. Macaulay’s own testimony that the core “park”
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47 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-

1 180:2 (explaining that for purposes of “drawing boundaries around a park” he was
2 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
3
4 Crompton concluded that 500 feet via road from “park” improvements is just one or two
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6 Seattle blocks and that Mr. Macaulay “inappropriately extend[ed] the LID impact
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8 significantly beyond that which the park study indicated (even if it was legitimate to use the
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10 park review’s findings).” Hrg. Exhibit 94 (Crompton’s Report) at 7. Indeed, the LID area
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12 extends even past 2,000 feet from the core “park” improvements, which is the outer limit of
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14 impact applicable to “community parks”—which the LID Improvements are not. *Id.*

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16 44. Further, Mr. Macaulay’s testimony that he analyzed streetscapes, parkways,
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18 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
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20 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
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22 based on the attention given to Dr. Crompton’s work in the Final Study and supporting
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24 materials, it was clearly an important—if not *the* most important—source of information for
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26 estimating special benefits (especially with respect to the condos).⁷ No City witness
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28 adequately explained exactly how Dr. Crompton’s research informed ABS Valuation’s
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30 parcel-by-parcel analysis.
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33 45. The destination parks discussed in the Final Special Benefit Study do not
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35 provide reliable, comparable, and valid support for the calculation of special assessments
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37 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
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39 Study were funded by a LID. And in virtually all of those cases, the park improvements
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42 ⁷ Of the 62 files in Mr. Macaulay’s “2019 Report Info” folder, which he explained contains all of
43 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
44 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
45 Dr. Crompton’s study is the only one that found property value increases up to 2,000 feet from a
46 park (or streetscape) improvement—other studies estimated premiums for real estate only much
47 closer or cited to Dr. Crompton.

1 dramatically restored unimproved or blighted areas, and properties evaluated were within
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3 two or three blocks of the park.

4
5 46. ABS's claimed reliance on three economic studies to support property value
6 increase is also flawed. The HR&A study does not inform what value increases are
7 expected from the LID Improvements because it projects increases to tourism from *all* of the
8 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
9 dissimilar parks in other cities,⁸ making the methodological application to the LID
10 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
11 conclusion that there would be *no new net visitors* from downtown residents as a result of
12 the LID Improvements and could not explain how this impacted his condo analysis.
13
14 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on "The Impact of Parks on
15 Property Values" primarily focused on whether the benefits accrue to the larger community
16 rather than properties adjacent to the park. And the 2014 New York City Department of
17 Transportation study is not based on real estate transactions and market sales and fails to
18 substantiate any link between increased retail sales and property values. Moreover, this
19 study only looked at impact either directly abutting the streetscape improvement, or a couple
20 hundred feet for plaza-like improvements.
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24 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
25 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
26 Exhibit 124. One explanation of that this omission could be TPL's estimate of the economic
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43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
2 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
3 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
4 asked whether he considered that HR&A’s estimated LID impact is six times greater than
5 TLP’s assessment of Seattle’s entire park system, his surmised that it was because the
6 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
7 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
8 assumptions to account for this difference, which may be partly explained by the fact that
9 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
10 approximately 3.44% of King County tourists visit Seattle primarily because of the city
11 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
12 waterfront improvements.

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25 48. Although proximity to the improvements is a key factor in all of these
26 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
27 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
28 not understand that for both the Trust for Public Lands study and Dr. Crompton’s study,
29 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
30 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
31 Improvements is approximate 20 acres and it is not a community park.⁹

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39 49. There is no explanation in the Final Study or the supporting materials of how
40 the studies or comparable sales were used to derive values for Taxpayer’s property. For
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45 ⁹ *See*
46 https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf (“Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle’s central waterfront to downtown.”).

1 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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3 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.

4
5 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
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7 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
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9 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
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11 recognized) for developing the MAI standards for mass appraisals, testified that the Final
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13 Study does not meet mass appraisal standards nor allow for independent assessment of the
14
15 accuracy of Mr. Macauley's conclusions.

16
17 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
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19 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
20
21 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
22
23 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
24
25 testimony suggests that he incorrectly believed that the only difference between direct
26
27 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
28
29 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
30
31 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
32
33 at 205:8-14 (explaining that his mass appraisal simply uses "limited techniques, such as
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35 Gordon uses in doing his limited restricted report").

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37 52. But the difference is not only in reporting—mass appraisal techniques must
38
39 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
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41 Paul Bird (City's witness) testified, the mass appraisal approach is distinct from a parcel-by-
42
43 parcel approach:

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45 The mass appraisal technique is an appraisal method used to evaluate
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47 a group of properties that are subject to similar market forces as of a
certain date through the use of market data, statistical analysis and

1 testing. As a result, the mass appraisal technique does not require or
2 involve analysis of each individual property's specific data.
3

4 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
5
6

7 53. Indeed, USPAP's definition for "mass appraisal" is "the process of valuing a
8 universe of properties as a given date using standard methodology, employing common data,
9 and allowing for statistical testing." Appraisal Foundation, Uniform Standards of
10 Professional Appraisal Practice at 5 (2020-2021). And the definition for "mass appraisal
11 model" is "a mathematical expression of how supply and demand factors interact in a
12 market." *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
13 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
14 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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23 54. Regardless of client direction, Mr. Macaulay is required to comply with
24 USPAP. So, if, as he determined, a "[p]arcel-by-parcel direct appraisal" would not have
25 been economically feasible because it would have taken "an incredible amount of time and
26 cost" (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
27 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
28 ("performing an individual appraisal of each [condo] parcel would have been cost and time
29 prohibitive").
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37 55. But Mr. Macaulay's methods fail to comply with USPAP Standards 5 and 6
38 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
39 value, fails to calibrate the model structure to determine the contribution of the individual
40 characteristics affecting value, and does not review the mass appraisal results against actual
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1 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
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3 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).

4
5 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
6
7 proximity to the elements, the increase in market rent, market vacancy changes,
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9 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
10 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
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12 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
13
14 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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16 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
17
18 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
19
20 were hypothetical, it was not possible to identify matched pair sales and no City witness
21
22 explained how ABS Valuation made adjustments to “comparable” sales in order to check
23
24 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
25
26 him to explain his model structure.
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29 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
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31 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36 relationship between characteristics that affect value, and to calibrate that model to specify how
37 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
38 21). The purpose is to rationally determine what characteristics will create value, and by how much.
39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
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3 and appeals the Examiner’s denial of that motion.
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5 58. Finally, Taxpayer’s property is not appurtenant—or even in close
6
7 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
8
9 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
10
11 close proximity to the property on which expert testimony was given”). As described above,
12
13 the special assessment is overstated because the Final Study makes no attempt to determine
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15 general benefits, existing amenities for Taxpayer’s specific property, or special detriments.
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17 In addition, it is speculative due to the fact that, as of October 2019, improvements were not
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19 in in place—and, in fact, much of the waterfront is a construction zone following removal of
20
21 the viaduct and now Pier 58 demolition. Under these circumstances, rather than relying on
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23 entirely imaginary income and shaky hypotheticals, Mr. Macaulay at the very least should
24
25 have discounted the special benefit estimates or waited to perform the Study until the
26
27 improvements were at least close to complete.
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29 **Erroneous Pre-Improvement Valuation**

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31 59. The proposed final assessment erroneously overstates the pre-improvement
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33 value of Taxpayer’s property as of October 1, 2019 and, as a result, overstates the special
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35 benefit to the Taxpayer’s property.
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37 60. The City’s Final Study was used to compute the proposed final assessment of
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39 Harbor Steps’ property. The City’s Study purportedly uses data from the King County
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41 Department of Assessments,¹¹ but the pre-improvement valuation information in the Final
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45 ¹¹ *See, e.g.*, Final Special Benefit Study, “All Other LID Commercial Properties” Spreadsheet
46 (providing a “County Link” to the King County Department of Assessment’s online “eReal
47 Property” search tool).

1 Study does not accurately reflect this data. For example, the City's Study values Harbor
2 Steps' property at \$119,788,000 as of October 1, 2019. However, the King County assessor
3 determined the true and fair value of the property to be \$104,903,000, valued in 2019 for tax
4 year 2020. In other words, the Final Special Benefit Study's valuation is 114.2% of King
5 County's assessed value. The Final Special Benefit Study does not explain this difference—
6 or any differences—between its pre-improvement valuation and its supposed source for
7 market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's
8 Recommendation.
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17 61. Further, the City's analysis was based on unreliable market data. The ABS
18 appraisal overstated the combined total before market value for all four Harbor Steps'
19 parcels by about \$88 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal
20 Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of
21 the property here as of October 1, 2019 was \$97,788,000. *Id.* (Assuming equal value
22 between all parcels).
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29 62. Thus, aside from multiple other reasons why computation of the special
30 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
31 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
32 appeals the following portions of the Examiner's Recommendation: Sections II.13, II.14,
33 and II.15.
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39 **Erroneous Computation of Special Benefit**

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41 63. "Special benefit" is "the increase in fair market value attributable to the local
42 improvements." *Doolittle*, 114 Wn.2d at 103. "A benefit that a particular piece of property
43 may receive by reason of the improvement is not measured alone by the physical character
44 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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1 of Seattle, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
2 the particular tract or property benefited by the entire improvement, and is it assessed
3 proportionately with the other property included within the assessment district?” *Id.* 165–
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5 66.
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9 64. The proposed final assessment erroneously overstates the special benefit of
10 LID improvements in a number of ways.
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13 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
14 the Harbor Steps, Mr. Macaulay assumed room/rental rates would increase by 2.50% (low)
15 and 3.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
16 percentages (2.50% and 3.25%) to increase retail and parking. He then uses this
17 hypothesized increased revenue to calculate a new net operating income for the commercial
18 properties and capitalizes that to come up with an “After” valuation.
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22 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
23 operating income remains the same as in the hypothetical “Before” condition but changes
24 the cap rate. For the Harbor Steps, the cap rate goes from 4.10% to 3.97% (low scenario,
25 creating a bigger value increase) and 4.00% (high scenario, creating a lower value increase).
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29 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
30 benefit conclusion. For the Harbor Steps, this is an increase in property value of 2.75% due
31 to the LID Improvements.
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35 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
36 and capitalization rates. When asked precisely what the basis is for his special benefit
37 percentage increases to revenue for each commercial property, he could not point to
38 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
39 is nothing in the report to allow a reader to understand how he came up with these
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1 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
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3 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
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5 the basis for his belief that certain factors—liked increased connectivity—will increase
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7 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
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9 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
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11 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
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13 sources equally even though there was no separate analysis done for food and beverage or
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15 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer’s expert’s
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17 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
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19 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer’s
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21 properties.

22
23 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
24
25 check for commercial properties. But as explained above, no City witness has explained
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27 how anyone, or all, of the sales are comparable to any particular commercial property within
28
29 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
30
31 in order to make sales “comparable,” he would have had to make adjustments to account for
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33 Before and After conditions, but there is no way to understand how adjustments were made
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35 because he “didn’t do a separate sales comparison approach where we showed adjustments
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37 and whatnot.” 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
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39 his adjustments were reliable, he said it would have simply been a “test of reasonableness.”
40
41 *Id.* at 127:10-128:24.

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43 70. It also bears noting that any “internal review” of the special benefit estimates
44
45 would have been largely arbitrary given Mr. Macaulay’s testimony that there is no margin of
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47 error. Indeed, given all the same information, he seemed to suggest that it would be

1 perfectly reasonable for another experienced appraiser to come up with special benefit
2 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
3 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
4 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
5 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
6 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
7 margin of error (5%) is a "rule of thumb" and not a "hard legal standard," there are still
8 reasonable and unreasonable variations within the appraisal field. *See Examiner's*
9 Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or
10 special because it is arbitrarily assigned; and it is too small to realistically be supported by
11 appraisal techniques.

22 71. No evidence of special benefit. Meanwhile, there is "no actual evidence from
23 any seller or purchaser that the price was higher because of the LID improvements."
24 *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City's appraiser "has not
25 identified any seller or buyer, or any particular property where the existence of the LID
26 improvements had an effect on the market price." *Id.* at 410-11. Meanwhile, Taxpayer has
27 explained that the property has not increased rental rates or revenue due to the forthcoming
28 LID Improvements, because, among other reasons (and apart from COVID), the
29 improvements ABS believes will generate value do not exist and will not for a number of
30 years to come. There are no comparable sales because the LID Improvements are not in
31 place, nor will they be until the end of 2024 if completed on schedule.

42 72. The fair market value of Harbor Steps' property has not changed due to
43 increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially
44 benefited from installation of new water main and fire hydrant where it was already
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1 adequately supplied with water and afforded adequate fire protection). And in any event,
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3 any value attributable to removal of the viaduct was to be excluded from the assessment
4
5 calculation.

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7 73. There is no special benefit to the Harbor Steps because its apartment demand
8
9 is driven by proximity to downtown job centers. In fact, the LID improvements diminish the
10
11 value of Harbor Steps' property by drawing visitors away towards improvements that do not
12
13 abut the property and increasing competition in other areas of the city. *See Kuskys*, 85 Wn.
14
15 App. 493 (testimony of owners' expert that LID actually diminished value of property was
16
17 sufficient to rebut presumption that assessment was proper). The ground floor retail tenants
18
19 will be harmed by the LID improvements because the Overlook Walk and Union Street
20
21 connection improvements will likely direct foot traffic away from the Harbor Steps and
22
23 towards Pike Place Market. Less demand for Harbor Steps' retail businesses will result in
24
25 lower rents and less revenue. Mr. Macaulay did not account for any of these impacts. Harbor
26
27 Steps already has a high-quality connectivity to the waterfront and no data was presented to
28
29 justify a value lift based on additional connection points several blocks away. On cross-
30
31 examination, Mr. Macaulay could not point to any specific data in the ABS Special Benefit
32
33 Study justifying the precise special benefit to Harbor Steps, claiming only that the market
34
35 would generally support additional connection points to the waterfront amenities. *See*
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37 6/23/2020 Hrg. Tr. at 48-50.

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39 74. Moreover, the assessment formula is an attempt to distribute costs that do not
40
41 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
42
43 "merely a mathematical model that distributes costs").

44
45 75. The Special Benefit Study fails to address whether the \$346,000,000
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47 estimated LID project cost takes into account the investment that would have occurred in the

1 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
2 invested. This is a critical component of estimating which properties receive a direct benefit
3 from the improvements, versus more incidental benefits further from the park.
4

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6 76. Mr. Macaulay also included personal property in his valuation of hotels even
7 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
8 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
9 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
10 “[a]ppraisal applies to the land and building improvements only” (C-17 at 197). *See also*
11 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
12 receiving a disproportionately high LID assessment in comparison to other property types,
13 since hotels were the only property type subject to personal property LID assessments.
14
15 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO
16 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
17 notice procedures because hotel property owners only received notice that their real estate
18 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
19
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21 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
22 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
23 a television at the waterfront Marriott is assigned a greater special benefit than the same
24 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
25 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
26 unreasonable to assign a value lift to personal property that is replaceable at the same cost
27 and may be obsolete before the LID improvements are even completed. Further, personal
28 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
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1 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
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3 be redone to correct for this error.

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5 78. The proposed final assessment substantially exceeds the special benefit to the
6
7 property and is grossly disproportionate to similarly situated properties within the LID. For
8
9 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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11 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).

12 **State Environmental Policy Act and Other Environmental Permitting**

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15 79. While this appeal is not challenging the City's environmental review and
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17 permitting processes, those processes are relevant in determining the legality of the
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19 assessments, and to assessing the delivery risk, the present value of the City's plans, and
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21 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
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23 pursue projects that have not yet undergone environmental review (thus limiting the choice
24
25 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
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27 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
28
29 is just beginning. Further, the City has segmented environmental review, and still has a
30
31 gauntlet of federal, state and tribal review processes to complete before it will be clear what
32
33 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
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35 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
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37 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
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39 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
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41 committing to reconstruction of Pier 58 and major street improvements without
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43 environmental review, or the City's Final Special Study has improperly included and is
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45 proposing to assess the Taxpayer the costs and special benefits of improvements that may
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47 not get built. Either way, it is faulty process.

Due Process Rights

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3 80. The City's failed to notify Harbor Steps sufficiently in advance of the hearing
4 to allow Harbor Steps to obtain evidence and prepare to properly challenge the assessments.
5 Because LID assessments involve a deprivation of property, affected owners have the right
6 to a hearing as to whether the improvement resulted (or will result) in special benefits to
7 their properties and whether their assessments are proportionate, which necessarily includes
8 the right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
9 555, 569–70, 229 P.3d 761 (2010).
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16 81. The LID statute specifies that cities must mail notices giving the time and
17 place of the hearing to the affected owners “[a]t least fifteen days before” the hearing and
18 publish the notice once a week for 2 consecutive weeks in the city’s official newspaper, with
19 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
20 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
21 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
22 secure their own appraisal), evaluate proportionality of the proposed assessments, and
23 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
24 for anybody to get an appraisal”).
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34 82. The City’s Notice of Assessment was sent on December 30, 2019. And the
35 Final Special Benefit Study has only been available for public review since January 7, 2020.
36 Due to this short time frame, Harbor Steps requested a prehearing conference and
37 scheduling order that would preserve and protect Harbor Steps’ right to analyze and respond
38 to the Final Study, obtain expert appraisal testimony, conduct depositions, and to
39 accommodate preliminary motions (*e.g.*, with respect to the interplay between SEPA and the
40 City’s assessment of taxes for Pier 58 and Pike/Pine improvements). The Hearing Examiner
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1 erroneously denied that request. For this reason, Taxpayer appeals the following portions of
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3 the Examiner's Recommendation: I.B.
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5 **VII. Relief Requested**
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7 Harbor Steps respectfully requests that the City Council:
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- 9 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection
10 and:
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12 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
13 final assessment dated December 20, 2019; or
14
15 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
16 proposed final assessment to \$0 (zero), or such amount as Taxpayer
17 establishes at the hearing in this matter; or
18
19 c. Remand the matter to the Hearing Examiner or City appraiser to
20 recalculate and reduce Taxpayer's assessment using recognized
21 appraisal techniques consistent with USPAP and:
22
23 i. Excluding any property value increase attributable to viaduct
24 removal and other planned WSDOT Improvements;
25
26 ii. Taking into account the effects of COVID-19 pandemic on the
27 value of Taxpayers property and other relevant developments
28 since October 2019;
29
30 iii. Accounting for and excluding (1) any special benefits from
31 existing or planning improvements that already provide
32 similar benefits to Taxpayers property, and (2) any special
33 detriments from construction and other anticipated LID-
34 related disamenities;
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- 1 iv. Accounting for and including only those actual benefits
2 anticipated to accrue to Taxpayer's property based on its
3 location relative to Pier 58, Overlook Walk, and the
4 Promenade, and specific elements of the LID Improvements;
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6 v. Discounting anticipated special benefits to present value,
7 based on reliable estimates regarding when special benefits
8 will start accruing following completion of the LID
9 Improvements; and
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11 vi. Accounting for such other issues specific to Taxpayer's
12 property relevant to calculation of such assessment; and
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21 2. Grant such further relief as the City Council deems just and proper.
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PERKINS COIE LLP

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FILED

3:43 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

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To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0440
Date: Tuesday, February 16, 2021 3:23:55 PM
Attachments: [SW Harbor Steps Amended LID Appeal before City.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
SW Harbor Steps Amended LID Appeal before City.pdf

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0440

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-HARBOR
STEPS LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
7666202465

32
33 EQR-HARBOR STEPS LLC (“Taxpayer”) files this amended appeal pursuant to
34 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
35 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
36 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
37 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
38 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
39 Recommendation issued February 1, 2021.
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1 **I. Eqr-Harbor Steps LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 EQR-HARBOR STEPS LLC
6 Eqr-RE Tax Dept.
7 PO Box 87407 (27193)
8 Chicago, IL 60680-0407
9

10 **II. Eqr-Harbor Steps LLC's Representatives**

11 EQR-HARBOR STEPS LLC'S representatives in this matter are:

12
13
14
15 R. Gerard Lutz, WSBA No. 17692
16 JLutz@perkinscoie.com
17 Perkins Coie LLP
18 10885 N.E. Fourth Street, Ste 700
19 Bellevue, Washington 98004
20 Telephone: 425.635.1400
21 Facsimile: 425.635.2400
22

Robert L. Mahon, WSBA No.
26523
RMahon@perkinscoie.com
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

23 **III. Statement of Eqr-Harbor Steps LLC's Interest and Incorporation of Prior**
24 **Arguments**

25
26 EQR-HARBOR STEPS LLC owns the property that is subject to the proposed final
27
28 assessment described in Section IV.
29

30 Eqr-Harbor Steps LLC is amending its appeal as authorized in City of Seattle
31
32 Resolution 31979 to include additional arguments relevant to the revised Final
33
34 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
35
36 2020, Eqr-Harbor Steps LLC timely filed an objection to the assessment, which was based
37
38 on the Final Study. Eqr-Harbor Steps LLC further timely filed an appeal of the Hearing
39
40 Examiner's 2020 recommendations to the City Council. Eqr-Harbor Steps LLC maintains
41
42 and incorporates all objections and arguments raised in its appeal filed with the City Clerk
43
44 on September 22, 2020. This amendment is a supplement is to be read together with Eqr-
45
46 Harbor Steps LLC's appeal filed on September 22, 2020. Eqr-Harbor Steps LLC
47

1 incorporates by reference all filings, evidence, and pleadings filed by any party before the
2 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
3 records pertaining to the November 2020 through February 2021 remand hearing ordered by
4 Council.
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9 **IV. Amended Arguments on Appeal**

10 EQR-HARBOR STEPS LLC supplements its appeal of the Hearing Examiner's
11 recommendation to deny Eqr-Harbor Steps LLC's objection to the City of Seattle's
12 Waterfront Local Improvement District No. 6751 proposed final assessment dated
13 December 30, 2019 against the following property:
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18 King County Parcel No. 7666202465
19 Site Address: 1212 Western Ave., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$1,289,878.02
21
22

23 To avoid repetition, Eqr-Harbor Steps LLC incorporates the evidence and arguments
24 raised before the Hearing Examiner and before the City in its September 22, 2020 appeal,
25 into this amended appeal.
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27
28

29 **A. The Anticipated Special Benefits to Eqr-Harbor Steps LLC's Property**
30 **should be Discounted to Present Value and Assessments Adjusted as**
31 **Appropriate**
32

33 On remand, the City's appraiser acknowledged that special benefits to parcels can be
34 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
35 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
36 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
37 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
38 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
39 accepted that recommendation. The City's appraiser further acknowledged that benefit
40 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
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1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
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24 All special benefit taxes assessed by a municipality must be based on “actual,
25 physical and material [special benefits that are] not merely speculative or conjectural.”
26 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
28 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
29 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
30 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
31 discount benefits the City estimated would accrue to the properties from improvements to be
32 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
33 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
34 property while treating all or most others (including Taxpayer’s) differently, and
35 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefit are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
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17 **B. The City's Appraiser's Disregard of Data on Remand is Another**
18 **Example of How His Analysis is Unreliable, Not Admissible under Frye**
19 **or ER 702, and His Proposed Special Assessments are not based on**
20 **Actual, Measurable and Special Value Increases from the anticipated**
21 **LID Improvements.**
22

23 The City's appraiser was provided actual performance data for the remanded hotels,
24 including their average daily room rates, from which he had been instructed to "recalculate"
25 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
26 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
27 would be "too low." His remand analysis demonstrates that his whole "income approach to
28 valuation", used for both hotels and other commercial properties, like Taxpayer's, is
29 contrived speculation on speculation. The City's appraiser disregarded these hotels' actual
30 net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J. Macaulay,
31 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on Remand
32 for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436).
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42 Taxpayer's appraiser submitted an appraisal which was similarly realistic and
43 specific to the property but was disregarded. Taxpayer's appraiser demonstrated the actual
44 value of the property is \$97,788,000, and the LID assessment should be reduced to reflect
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1 this before-value. *See* CWF-0440 Statement of Objections, Exh. 6, Appraisal of Brian
2
3 O'Connor (Jan. 31, 2020).

4
5 **C. In Light of Covid's Continuing Impact on Eqr-Harbor Steps LLC and**
6 **other Downtown Property Owners and other Material Changes Since**
7 **October 2019, the LID Should be Cancelled, or at Least Assessments**
8 **Recalculated, to take Into Account Property Value Reductions**
9

10 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
11 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
12 other relevant developments since October 2019." When Washington's first COVID
13 restrictions were imposed in March and April 2020, there was an assumption that they
14 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
15 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
16 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
17 gotten much worse. The City has already imposed higher minimum wages and taxes on
18 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
19 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
20 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
21 years from completion, as a best case. In current circumstances, a downtown tax to fund
22 new, non-essential park improvements against financially strapped taxpayers, and likely
23 passed through to financially strapped tenants and customers would be unfair to taxpayers
24 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
25 rethinks its budget priorities for the next few years, and its potentially funding sources,
26 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
27 property owners) have a chance to recover, and that any assessment take into account the
28 changed circumstances since this appeal process started on February 4, 2020 to avoid
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unnecessarily and perhaps permanently killing downtown properties and businesses in the name of bettering them.

V. Relief Requested

Particularly in light of the Committee's decision not to take further comment, Eqr-Harbor Steps LLC respectfully request that each Committee member carefully review the record transmitted to Council before voting on our appeal.

EQR-HARBOR STEPS LLC respectfully reiterates its request from the September 22, 2020 appeal that the City Council:

1. Cancel the Waterfront Local Improvement District No. 6751 proposed final assessment dated December 30, 2019; or
2. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the hearing in this matter; or
3. Grant the Examiner's recommended remand but with instructions to recalculate and reduce Taxpayer's assessment using recognized appraisal techniques consistent with USPAP and
 - a. Excluding any property value increase attributable to viaduct removal and other planned WSDOT Improvements;
 - b. Taking into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019;
 - c. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to

1 Taxpayer's property, and (2) any special detriments from construction
2 and other anticipated LID-related disamenities;
3

4
5 d. Accounting for and including only those actual benefits anticipated to
6 accrue to Taxpayer's property based on its location relative to Pier 58,
7 Overlook Walk, and the Promenade, and specific elements of the LID
8 Improvements;
9

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12 e. Discounting anticipated special benefits to present value, based on
13 reliable estimates regarding when special benefits will start accruing
14 following completion of the LID Improvements; and
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18 f. Accounting for such other issues specific to Taxpayer's property
19 relevant to calculation of such assessment; and
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23 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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PERKINS COIE LLP

5 By:

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22 Attorneys for EQR-HARBOR STEPS LLC
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4:08 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Mullins, Kimball \(SEA\)](#); [Campbell, Karen \(BEL\)](#)
Subject: Waterfront LID Appeal for Case No. CWF-0441
Date: Tuesday, September 22, 2020 3:14:30 PM
Attachments: [CWF-0441.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0441.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0441
A – Master List of Evidence
B – E-044-001 Helios
C – Discounting for CWF-0441
CWF-0441 Appeal Notice

Kimball Mullins | Perkins Coie LLP

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Helios Apartments**

Map Nos.:	E-044-001
Tax Parcel Nos.:	768389-0010
Property key:	9153
Address	1600 2nd Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions
Previous sale:	N/A
Proximity to project:	Adjacent to Pine
Ownership:	EQR-Second & Pine, LLC
Description:	26,807 SF site on the southeast corner of 2nd Avenue and Stewart Street, condominium, of which this property comprises a 74.39% interest, consis 2016, with no apparent rights to 329-stall parking structure.

INCOME ANALYSIS Before	Year Built	2015
	Parking	329

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	100	468	46,800	\$2,076	\$4.44
1-bedroom	148	779	115,292	\$3,040	\$3.90
2-bedroom	150	1,137	170,550	\$4,574	\$4.02
3-bedroom			0	\$0	\$0.00
Total apartments	398	836	332,642	\$3,376	\$4.04
	GBA	NRA			
Retail	4,163	4,163		SF NRA @	\$35.00
Office				SF NRA @	
Restaurant				SF NRA @	
Other				SF NRA @	
Subtotals	4,163	4,163			
Parking Area/Stalls	127,958		329	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	559,958	306,374		SF NRA @	\$57.49
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			
Parking operating expenses @		of parking EGI			
Apartment operating expenses	25.0%	of apartment EGI			

Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$15.86	28.6%
Net operating income				
Indicated Value				
Land Value		26,751		
		19,900	SF @	\$1,800.00
Residual Improvements		306,374	SF NRA @	\$858.64
		559,958	SF GRA @	\$469.79

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,800.00	\$35,820,000	\$263,064,000	N/A
With LID				
Scenario A1	\$1,836.00	\$36,537,000	\$267,638,000	1.74%
Scenario A2	\$1,836.00	\$36,537,000	\$269,150,000	2.31%
Scenario B1	\$1,836.00	\$36,537,000	\$269,914,000	2.60%
Scenario B2	\$1,836.00	\$36,537,000	\$266,842,000	1.44%
Percent change in land value	2.00%		\$268,386,000	2.02%
Overall Summary				
Without LID	\$1,800.00	\$35,820,000	\$263,064,000	N/A
With LID	\$1,836.00	\$36,537,000	\$268,075,000	1.90%

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Helios Apartments

Scenario A: Rental and Vacancy Rate Changes

Ownership	APN	Description
EQR-Second & Pine, LLC	768389-0010	Apartments
RB-WW Seattle, LLC	768389-0020	Hotel Units

, platted into a 2-parcel
 containing a 229-room hotel built in

		INCOME ANALYSIS After		Year Built	2015
		Potential Gross Income			
			Units	SF NRA	
	\$2,491,200	Studio	100	468	
	\$5,399,040	1-bedroom	148	779	
	\$8,233,200	2-bedroom	150	1,137	
	\$0	3-bedroom	0	0	
	\$16,123,440	Total apartments	398	836	
			GBA	NRA	
per SF =	\$145,705	Retail	4,163	4,163	SF
per SF =	\$0	Office	0	0	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$145,705	Subtotals	4,959	7,383	
/month	\$1,184,400	Parking Area/Stalls	127,958	0	329
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$161,234	Other			
/SF =	\$17,614,779	Total Bldg Area & Gross Income	559,958	306,374	SF
	(\$644,938)	Less: Vacancy/credit allowance of apartment			
	(\$7,285)	of commercial			
	\$0	of parking			
	(\$652,223)	Total vacancy/credit allowance			
	\$16,962,557	Effective gross income			
		Less: Operating expenses			
	(\$848,128)	Management fee @	5.0%	of total EGI	
	\$0	Parking operating expenses @	0.0%	of parking EGI	
	(\$3,869,626)	Apartment operating expenses	25.0%	of apartment EGI	

\$12,205	<div> <div>(\$139,990)</div> <div>(\$4,857,743)</div> </div> <div>\$12,104,814</div>
Capitalized @ Indicated value (R) \$298,884,000 Per DU	<div>4.05%</div> <div>\$298,884,287</div> <div>\$298,884,000</div> <div>\$750,965</div>
per SF =	\$35,820,000
per SF =	\$263,064,000

Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		
		19,900
Residual Improvements		

Total Estimated Value	Special Benefit	% Change	
\$298,884,000	N/A	N/A	
			Per DU
\$304,175,000	\$5,291,000	1.77%	\$13,294
\$305,687,000	\$6,803,000	2.28%	\$17,093
\$306,451,000	\$7,567,000	2.53%	\$19,013
\$303,379,000	\$4,495,000	1.50%	\$11,294
\$298,884,000	N/A		
\$304,612,000	\$5,728,000	1.92%	\$14,392

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Helios Apartments
Scenario B: Overall Capitalization

<u>tion</u>	<u>Land Area</u>	<u>%</u>	<u>GBA</u>	<u>NRA</u>
ent Unit	19,900	74.39%	559,958	306,374
nit	6,851	25.61%	185,492	185,492
	26,751	100.00%	745,450	491,866

	<u>Per DU</u>	<u>Per DU</u>	Low	High
	\$2,112	\$2,123	1.75%	2.25%
	\$3,093	\$3,108	\$2,534,796	\$2,547,252
	\$4,654	\$4,677	\$5,493,523	\$5,520,518
	\$0	\$0	\$8,377,281	\$8,418,447
	\$3,435	\$3,452	\$0	\$0
			\$16,405,600	\$16,486,217
			1.75%	2.25%
∴ NRA @	\$35.61	\$35.79	\$148,255	\$148,983
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
			\$148,255	\$148,983
	<u>Per Month</u>	<u>Per Month</u>	1.75%	2.25%
stalls @	\$305.25	\$306.75	\$1,205,127	\$1,211,049
	<u>Per SF</u>	<u>Per SF</u>	0.00%	0.00%
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$164,056	\$164,862
∴ NRA @	\$58.50	\$58.79	\$17,923,038	\$18,011,112
revenue	4.00%	4.00%	(\$656,224)	(\$659,449)
revenue	5.00%	5.00%	(\$7,413)	(\$7,449)
revenue	0.00%	0.00%	\$0	\$0
			(\$663,637)	(\$666,898)
			\$17,259,401	\$17,344,214
			(\$862,970)	(\$867,211)
			\$0	\$0
			(\$3,937,344)	(\$3,956,692)

INCOME ANALYSIS After
Potential Gross Income
Studio
1-bedroom
2-bedroom
3-bedroom
Total apartments
Retail
Office
Restaurant
Other
Subtotals
Parking Area/Stalls
Basement
Other
Other
Total Bldg Area & Gross Income
Less: Vacancy/credit allowance @
Total vacancy/credit allowance
Effective gross income
Less: Operating expenses
Management fee @
Parking operating expenses @
Apartment operating expenses

		(\$139,990)	(\$139,990)
		(\$4,940,304)	(\$4,963,892)
		\$12,319,098	\$12,380,322
Capitalized @		4.05%	4.05%
		\$304,175,251	\$305,686,955
(R)		\$304,175,000	\$305,687,000
Per DU		\$764,259	\$768,058
% change		1.77%	2.28%
SF @ \$1,836.00 per SF =		\$36,537,000	\$36,537,000
		\$267,638,000	\$269,150,000
Per SF NRA		\$873.57	\$878.50

2.00%

Structural maintenance/reserve
Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements

Rates Changes

Year Built		2015				
Units	SF NRA	Total NRA	Rent	Rent/SF		
100	468	46,800	\$2,076	\$4.44		\$2,491,200
148	779	115,292	\$3,040	\$3.90		\$5,399,040
150	1,137	170,550	\$4,574	\$4.02		\$8,233,200
0	0	0	\$0	\$0.00		\$0
398	836	332,642	\$3,376	\$4.04		\$16,123,440
4,163	4,163		SF NRA @	\$35.00	per SF =	\$145,705
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
4,959	7,383					\$145,705
127,958	0	329	stalls @	\$300.00	/month	\$1,184,400
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$161,234
559,958	306,374		SF NRA @	\$57.49	/SF	\$17,614,779
4.0% of apartment revenue						(\$644,938)
5.0% of commercial revenue						(\$7,285)
0.0% of parking revenue						\$0
						(\$652,223)
						\$16,962,557
5.0% of total EGI						(\$848,128)
0.0% of parking EGI						\$0
25.0% of apartment EGI						(\$3,869,626)

\$0.25 per SF of GBA		<div>(\$139,990)</div> <div>(\$4,857,743)</div> <div>\$12,104,814</div>
Capitalized @ Indicated Value (R) Per DU % change	Low	High
	3.95%	3.99%
	\$306,450,978	\$303,378,788
	\$306,451,000	\$303,379,000
	\$1,000.25	\$990.22
	2.53%	1.50%
19,900 SF @ \$1,836.00 per SF =	\$36,537,000	\$36,537,000
	\$269,914,000	\$266,842,000
per SF NRA	\$881.00	\$870.97

2.00%

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0441	Helios	206 Pine Street	7683890010

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$5,728,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
L	City's Assessment - 5-yr Discount to Present Value only			\$770,011

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0441	Helios	206 Pine Street	7683890010

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$298,884,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$239,884,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C)) Corrected FMV for Assessment			\$209,898,500

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT				Value	5-yr delay	10-yr delay
H	City LID special benefit for subject			\$5,728,000		
H/A	As Percentage of Final City Before Value			1.916%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"			\$4,022,626.20		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr				34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value				\$1,379,486	\$379,036
J	Percentage of Special benefit to be assessed by City			39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)				\$540,759	\$148,582

DISTANCE FROM PARK IMPROVEMENTS				Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade		No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)			N/A	N/A	N/A

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In re Proposed Final Assessment Roll for
Local Improvement District No. 6751
("Waterfront LID")

Case Nos. CWF-0425, 0426, 0427, 0440, AND
0441

DECLARATION OF ED LEIGH

I, Ed Leigh, declare as follows:

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same.
2. I am the Vice President of Investments for Equity Residential. I testified in this appeal as to my position, qualifications and employment history.
3. Eqr-Harbor Steps LLC is owned by Equity Residential. Eqr-Harbor Steps LLC owns a four-tower apartment complex encompassing parcel nos. 1976200070, 1976200075, 1976200076, and 7666202465. These parcels are located at 1306 Western Ave., 1301 1st Ave., 1201 1st Ave., and 1212 Western Ave., Seattle WA, and are the subject

DECLARATION OF ED LEIGH – 1

1 of case nos. CWF-0425, -0426, -0427, -0440. These properties are known as the "Harbor
2 Steps" apartment towers.
3

4 4. Eqr-Second & Pine LLC is also owned by Equity Residential, and owns real
5 property parcel no. 7683890010, which is located at 206 Pine St., Seattle WA, and is the
6 subject of case no. CWF-0441. This property is known as the Helios apartments.
7
8

9 5. Equity Residential appealed the City's proposed final assessment for
10 Waterfront LID No. 6751 for each of the properties described above.
11
12

13 **HARBOR STEPS (CWF-0425, -0426, -0427, -0440)**
14

15 6. The Harbor Steps are multifamily residential apartment buildings with
16 ground floor retail. Additionally, the Harbor Steps are on a pedestrian corridor connecting
17 the downtown retail core to the waterfront amenities.
18
19

20 **HELIOS (CWF-0441)**
21

22 7. Helios is a multifamily residential apartment building located a block east of
23 Pike Place Market, and approximately two blocks from the proposed overlook walk.
24
25

26 **COVID-19 Calculations**
27

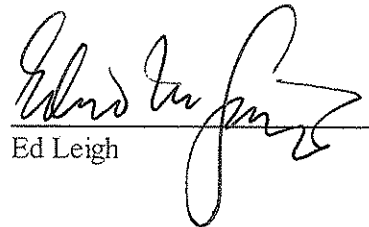
28 8. After we appealed our assessments, the Covid-19 pandemic broke out,
29 causing significant disruptions in Seattle and around the world. Based on our current rents,
30 compared with Brian O'Connor's appraisal calculations to support our appeals, our
31 properties have decreased in value in the range consistent with those described by John
32 Gordon. In Mr. Gordon's April 21, 2020 Declaration, he noted that property values for
33 hotels in Downtown Seattle would be at least 10% to 15% lower when compared with the
34 values as of October 2019 and January 2020. The same is true for our properties. The year-
35 over-year rent reductions that I have observed in our Downtown Seattle assets are consistent
36 with Mr. Gordon's valuation reduction, assuming that rents do not quickly rebound. We
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DECLARATION OF ED LEIGH - 2

1 have not marked-to-market with these assets yet, as this is an end-of-year process for us, but
2
3 the 12.5% average Covid-19 discount is our best generic estimate at this time, based on the
4
5 information available to us.
6

7 I declare under penalty of perjury under the laws of the State of Washington that the
8
9 foregoing is true and correct.
10

11 Signed at Seattle, Washington, on September 21, 2020.
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Ed Leigh

DECLARATION OF ED LEIGH – 3

149590798.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
18

19
20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0441

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-SECOND
& PINE LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
7683890010

32
33 Eqr-Second & Pine LLC (“Helios”) files this appeal pursuant to RCW 35.44.070,
34 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
35
36 Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
37
38 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
39
40

41
42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:

44
45 Eqr-Second & Pine LLC
46
47

1 2 N Riverside Plz
2 Suite 400
3 Chicago, IL 60606
4

5 **II. Taxpayer's Representatives**

6 Helios' representatives in this matter are:

7
8
9 R. Gerard Lutz, WSBA No. 17692
10 JLutz@perkinscoie.com
11 Megan Lin, WSBA No. 53716
12 MLin@perkinscoie.com
13 Perkins Coie LLP
14 10885 N.E. Fourth Street, Suite 700
15 Bellevue, Washington 98004
16 Telephone: 425.635.1400
17 Facsimile: 425.635.2400
18
19

20
21 Robert L. Mahon, WSBA No. 26523
22 RMahon@perkinscoie.com
23 1201 Third Avenue, Suite 4900
24 Seattle, Washington 98101
25 Telephone: 206.359.8000
26 Facsimile: 206.359.9000
27

28 **III. Statement of Taxpayer's Interest**

29 Helios owns the property that is subject to the proposed final assessment described in
30
31 Section IV. The property at issue is a multifamily residential apartment building located a
32
33 block east of Pike Place Market, approximately two blocks from the proposed overlook
34
35 walk.
36
37

38 The basis of the proposed assessment is a Final Special Benefit/Proportionate
39
40 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
41
42 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
43
44 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
45
46 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
47

1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
22
23 based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Helios appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
29
30 final assessment dated December 30, 2019 against the following property:

31
32
33 King County Parcel No. 7683890010
34 Site Address: 206 Pine St., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$2,244,356.42

36
37 See Examiner’s Recommendation at 61-62, 107. To avoid repetition, Taxpayer incorporates
38
39 the evidence and arguments raised before the Hearing Examiner into this appeal. In
40
41 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
42
43 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
44
45
46
47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 107, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22, II.23,
8 II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3,
9 IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7, IV.C.8, IV.C.9,
11 IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29

30
31 **Legal Requirement:** Cannot materially exceed the special benefit

32
33 **ABS Study:** ABS calculates a special benefit of \$5,728,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
42
43
44

45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
46
47

1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25
26

27 **Legal Requirement:** Benefits must be special, not general
28

29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

34 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
35 or conjectural"
36

37
38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
5
6

7
8 **Legal Requirement:** Actual and measurable special benefit
9

10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
15
16

17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
26

27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
29

30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
33

34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
2 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
3 statement below.
4
5

6 **V. Standard of Review**

7 “When considering the assessment roll, the city council sits ‘as a board of
8 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
9 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
10 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
11 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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18 The proposed assessments are presumed correct, “unless overcome by clear, cogent
19 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
20 than the heightened presumption of correctness on judicial appeal because “applying these
21 elevated standards at the municipal hearing would afford unwarranted deference to a report
22 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
23 presumption is not evidence and its efficacy is lost when the other party adduces credible
24 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
25 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
26 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
27 presented credible evidence showing that the City’s proposed assessment is arbitrary,
28 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
29 to the City to prove the assessments are actual, measurable, special, non-speculative and
30 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Helios appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskys v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5 and 11, 2020, Helios presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews, including testimony by Mr. Scott showing that
2 Mr. Macaulay incorrectly reduced the number of studios at the Helios by 56 and increased
3 the number of larger, higher rent units in his income calculation, which erroneously
4 increased the property value and LID assessment. *See* 3/11/2020 Hrg. Tr. at 22:21-4:17.
5
6 Instead, the Hearing Examiner simply dismissed Helios' expert evidence as insufficient
7 appraisal evidence. *See* Examiner's Recommendation at IV. C.7-9. This is contrary to law.
8
9

10
11 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
12 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
13 IV.C.11.
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18
19 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
20

21 4. RCW 35.43.040 provides cities and towns authority for ordering local
22 improvements and for levying and collecting special assessments "on property specially
23 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed upon
24 all the property in accordance with the special benefits conferred thereon." RCW 35.44.010.
25
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27

28 5. No analysis of general benefits. Special assessments have been "held valid
29 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
30 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
31 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
32 they are for the construction of local improvements that are appurtenant to specific land and
33 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
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40 6. Helios' property is not specially benefited by the LID Improvements. The
41 primary purpose and effect of the LID Improvements are to benefit "members of the whole
42 community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public library is
43 for the benefit of the members of the whole community individually and collectively who
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1 may be served by it"). Mr. Macaulay's own chapter of the LID Manual states clearly that
2 appraisers should "[c]onsider general benefits as well as special benefits" (Hrg. Exhibit 117
3 (LID Manual) at 58²) and he admits that "general benefits probably accrue to the LID area"
4 as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer's expert confirmed that if an
5 appraiser "identifies both general and special benefits, these benefits should be clearly
6 distinguished and explained, and only special benefits should be included in the After
7 assessment." Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also* 3/3/2020 (A.
8 Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O'Connor) Hrg. Tr. at 158:13-159:8, 192:8-
9 193:2. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
10 including those arising from construction necessary to meet basic design standards. *See*
11 Hrg. Exhibit 117 (LID Manual) at 58 ("[c]onsideration may also be given to those
12 construction costs related to meeting design standards which may be general benefits as
13 distinct from construction costs emanating from requirements of the LID project"). To the
14 extent Taxpayer's property may benefit from the LID improvements, the benefit is general
15 and incidental, and failure to consider general benefits was a fatal flaw in the City's
16 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner's
17 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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35 7. LID Improvements not necessary. Unlike typical LID projects, the
36 Waterfront LID improvements are largely unnecessary to the functionality of any particular
37 property, including Taxpayer's property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d
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43 ² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors
44 represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil
45 (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two
46 days of cross-examination of the City's witnesses (June 23, 25 and 26, 2020). For ease of reference,
47 Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
2 held invalid where owners would have benefitted equally from increase of only 9 feet);
3
4 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
5
6 intersection for new water main for hydrant held invalid because land was already afforded
7
8 functional hydrant at nearby street). Here, Taxpayer provide evidence that the LID
9
10 Improvements are not necessary to the business of their income-producing properties, all of
11
12 which already have sufficient access to the waterfront, downtown restaurants, and other
13
14 amenities necessary for their clients and users. And for residential properties, the assumption
15
16 that an increase in tourism will cause lifts in property value is both anecdotally and
17
18 empirically unsupported. The fact that there is no case law differentiating between binary
19
20 improvements and parks does not change the law prohibiting assessments on properties
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22 already adequately served by existing amenities. *See* Examiner's Recommendation at
23
24 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
25
26 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
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28 reasoning excuse the City's failure to account for existing amenities as part of the special
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30 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
31
32 the incremental effect of new park improvements on the value of properties, much like
33
34 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
35
36 (Crompton's Report) at 12-13.

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39 8. To the extent benefits can be considered "special" as opposed to general, they
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41 are nominal or nonexistent for many properties even in the Central Waterfront, which
42
43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44
45 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
46
47 change due to expansion of sewer service *near* owners' parcel which were already

1 connected). Here, Helios will not specially benefit from the LID Improvements because its
2 apartment demand is driven by proximity to downtown job centers, restaurants, night life,
3 and shopping. *See* 3/5/2020 (E. Leigh) Hrg. Tr. at 220:25-221:6. Even if the City could
4 assess for a view change (and it has promised not to assess for viaduct removal), the fair
5 market value of Helios' property has not changed because the LID Improvements have not
6 improved the property's waterfront view or access to the waterfront, nor will they when the
7 City anticipates completion in 2024. For these reasons, Taxpayer appeals the following
8 portions of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.
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17 9. No analysis of special detriments. The Final Study fails to properly account
18 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
19 owners for removal and cleanup of underground storage tanks discovered during the
20 improvement project). The Property owner representative for Helios, Ed Leigh, testified that
21 property values may in fact be negatively impacted by the LID Improvements due to loss of
22 parking, increased traffic and noise, and increased potential for crime, homelessness and
23 sanitation issues. *See* 3/5/2020 (E. Leigh) Hrg. Tr. at 223:13-225:14; 227:8-229:10. And
24 Helios does not expect near term the increases assumed in ABS Valuations' spreadsheets or
25 the Final Study. Although Mr. Macaulay claims he analyzed impacts on the City's planned
26 elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how
27 lost parking might be a detriment, and no property-specific parking analysis in any of his
28 materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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41 10. Likewise, there was no analysis of the risks associated with disamenities such
42 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
43 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
44 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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1 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
2 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
3 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
4 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
5 the maintenance agreement. *Id.* at 13:4-14:2.
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11 11. There was also no consideration of negative impacts from another four-plus
12 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
13 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
14 law allowing him to dismiss these actual, non-speculative impacts. Because future special
15 benefits calculations are inherently speculative, Washington's eminent domain statute
16 specifically allows condemnees to postpone special benefits assessments until improvements
17 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
18 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
19 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
20 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
21 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
22 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
23 II.25, IV.B.8, and IV.B.9.
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36 12. Special benefit estimate is speculative. When calculating a special benefit,
37 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
38 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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5 13. Assuming without conceding that one day, the City’s planned LID
6 Improvements might increase the value of neighboring properties to some extent, that
7 potential benefit is many years away and speculative. While appraisers tolerate some degree
8 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
9 far too speculative to satisfy industry practices and standards.
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12 14. Although LIDs are sometimes finalized prior to completion of improvements,
13 this is typically just six month or a year prior, and the assessments are otherwise supported
14 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
15 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
16 will not be realized for four or five years. In the meantime, there is permitting risk,
17 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
18 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
19 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
20 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
21 projects because “we can’t read the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
22 testified: “I just don’t know what the market value would be as of the date the project would
23 be finally constructed” because “[t]here could be a lot of elements in the market that did
24 occur between now and then that impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
25 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
26 in 2024 because “markets tend to fluctuate over time” and “I can’t predict the future”).
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29 15. The record is clear that while no one can know what “special benefit” might
30 accrue to these properties in four years (if any), we do know that there are no actual benefits
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1 now. The LID improvements provide no immediate special benefit to property owners
2 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
3 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
4 sewer system for future users). For example, notwithstanding the questionable hypothesis
5 that apartments will benefit from an expected increase in tenant interest when the
6 improvements are complete, it is undisputed that tenants are not coming in larger numbers
7 and paying higher rental rates now because of something happening five years down the
8 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
9 today for 18 months would rent at a higher rate due to improvements coming in 2024).
10

11 16. Further, there are no “plans and specifications” on file with the Clerk’s
12 Office for the LID Improvements, and it is unlawful to move to final assessments without
13 such “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
14 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
15 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
16 dollars on projects still early in the design process. See Washington Attorney General
17 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
18 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
19 of programs and included “only so much of the overall costs” that took place within and
20 benefitted the assessed properties).
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22 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
23 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
24 anticipated to be delivered five years later. Even before COVID, it was speculative to
25 assume that market highs experienced in October 2019¹ would be sustained through 2024,
26 after an already extraordinarily long expansion period. See, e.g., 3/5/2020 (E. Leigh) Hrg.
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1 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
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3 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
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5 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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7 deposition in late February, his “thought process was that the market was going to continue
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9 to go up,” but now, they are already irrelevant. Id.; see Gibbons Decl. ISO Closing Stmt. at ¶
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11 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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13 (see Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
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15 rendered the hypothetical October 2019 Final Study valuations outdated.

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17 18. As another example of how future events could affect the accuracy and
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19 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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21 Examiner re-open the record to allow the City to explain whether the assessments against
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23 property owners within the LID are, in fact, being used by the City to fund the emergency
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25 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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27 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
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29 would be improperly imposing costs on property owners within the LID for improvements
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31 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
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34 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.

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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 habitat and City infrastructure—this does not provide any special benefit to LID property
2 owners.
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5 19. There is also no certainty the improvements will be delivered on time. Mr.
6 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
7 delay in construction schedule would not constitute a “material change” under the City
8 Council’s ordinance authorizing the improvements. In other words, the City cannot
9 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
10 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
11 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
12 potential delays and project changes inherent in those processes, that call into question the
13 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
14 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
15 Decl., dated 4/15/2020).
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18 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
19 he could not point to a single one where the assessment roll was finalized five years in
20 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
21 he has never recommended final special assessments based on designs less than 30 percent
22 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
23 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
24 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
25 at 66:17-25. He performed no independent due diligence to determine the reliability of the
26 City’s estimates for completion of the LID Improvements, or to ensure that proposed
27 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
28 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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1 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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3 68:11-18.

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5 21. The City has cited no authority—and Taxpayer is aware of none—that
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7 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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9 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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11 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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13 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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15 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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17 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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19 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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21 IV.C.14, and IV.C.18.

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23 22. Failure to discount special benefit estimates to account for risks and present
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25 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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27 have accounted for risks associated with delivery of the improvements (including permitting
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29 risk, construction risk, general economic risk) and any special damages associated with
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31 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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33 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
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35 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
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37 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
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39 the impact of future conditions [through] discounted cash flow analysis.”).

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41 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
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43 future condition not in place at the date of valuation and can discount for the time value of
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45 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
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47 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.

1 Discounting would also have been consistent with his approach for analyzing special
2 benefits to vacant land. He testified that the difference between similarly situated vacant
3 sites slated for development and already developed sites was that the labor, capital and risks
4 associated with development had not yet been borne for those vacant sites. Therefore, the
5 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
6 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
7 fully permitted, has not completed environmental review, and has not reached full design is
8 presently worth significantly less.
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11 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
12 present value, an appraiser would consider discount rates for land development to account
13 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
14 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
15 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
16 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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19 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
20 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
21 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
22 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
23 ignoring momentarily all of the other methodological and other flaws discussed here and in
24 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
25 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
26 exceeds special benefits when reduced to present value. Further, to the extent the City is
27 arguing that because they are permitted to assess 100% of the special benefit, the special
28 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
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1 is again wrong. After applying proper discounting, the City's proposed special benefit
2 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
3 100% of the total estimated special benefit.
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6 26. But even the assumption that the LID improvements would deliver benefits
7 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
8 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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10 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
11 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
12 indicates that during the construction period, the Greenway district "significantly" lagged in
13 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
14 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
15 30-31 (discussing New York City High Line and San Francisco Embarcadero
16 improvements). Given the lengthy delay, any prediction of future special benefits is
17 speculative, especially during the construction phase where values are likely to decline. And
18 assuming the LID Improvements take a similarly long period of time after they are complete
19 to start producing tangible property value benefits, each additional year of delay results in
20 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
21 Closing Stmt., ¶ 19, Ex. A.
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36 27. Applying the same discounting methods described above and in Mr. Gibbons
37 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
38 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
39 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
40 100% assessment should be no more than \$539,577.60. Anything more would permit the
41 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
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1 place and providing benefit, and ignore the risks, construction disamenity, and time value of
2 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
3 would counsel that the assessment should be only 39.2% of that assessment cap, or
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5 \$211,514.42.
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9 28. Attachment C includes two Excel spreadsheets applying these discounting
10 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
11 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
12 demonstrates that discounting the City's hypothetical October 2019 special benefits to
13 present value would reduce Taxpayer's assessment to \$770,011, exclusive of any other
14 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
15 reductions after taking into account (1) Taxpayer's exerts' estimated "Before" valued based
16 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
17 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
18 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
19 the time it takes for the improvements to capture property value.) After such reductions,
20 Taxpayer's assessment would be just \$540,759 (for the 5-year discount) or \$148,582 (for the
21 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
22 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
23 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
24 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
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41 **Appraisal and Assessment Calculation Methods Are Flawed**

42 29. The "general rule is that each lot, piece, or parcel of land should be assessed
43 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
44 Wn.2d at 97.
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1 30. It is proper to sustain a challenge to an assessment, even without the appraisal
2 testimony from the owner, where the objector's expert establishes that the assessment was
3 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
4 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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9 31. The City's appraiser purports to utilize the income method of valuation but
10 relied on inaccurate revenue and market data, as discussed further below.
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13 32. The City's appraiser purports to utilize the comparable sales method of
14 valuation, but no City witness attempted "to characterize any one, or all of them, as
15 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
16 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
17 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
18 characterize any one, or all of them, as comparable to any particular property within the LID").
19 And no City witness could explain how specific adjustments were made to these sales to
20 account for value increases due to the hypothesized Before and After Improvements. For this
21 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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25 33. Special assessment improperly includes value lift from the Before
26 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
27 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
28 Improvements, which WSDOT had independently committed to fund. However, Mr.
29 Macaulay did not calculate the actual market value of LID properties in October 2019 and
30 did not separately analyze the hypothetical increase to property values attributable to
31 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
32 current value and then separately calculate a hypothetical "With WSDOT" Before value);
33 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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1 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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3 Petition) at 3-4. Without any documented basis or support, Mr. Macaulay simply “ma[de] a
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5 judgment a call” on what occupancy and rates would have been for the commercial
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7 properties assuming all of the WSDOT Improvements are completed as of 2019. Macaulay
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9 Depo. at 129:19-130:11. This outright omission precludes any independent evaluation of the
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11 true market “Before” values. See 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet
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13 professional appraisal standards; if an appraiser uses current sales data to infer values, then
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15 the appraiser must explain how he analyzed that data and other information to come up with
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17 the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not
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19 just removal of the viaduct, but also other road, pedestrian and landscaping improvements
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21 WSDOT had already committed to make.

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23 34. However, because Mr. Macaulay testified that he did include some WSDOT-
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25 related value-lift in the “Before” values, it follows that part of the special assessment
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27 improperly is based on value attributable to the WSDOT Improvements. As shown by
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29 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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31 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
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33 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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35 special benefit assignment would result in \$300,000 of over-assessment. See Gibbons Decl.
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37 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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39 to properly exclude the value of Before Improvements from the assessments. For these
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41 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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43 Sections II.19, II.29, and IV.B.11(a)(ii)

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45 35. Special benefits were assigned rather than measured. Mr. Macaulay
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47 arbitrarily “assigns” special benefits to Before values instead of measuring them for each

1 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
2 O'Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
3 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
4 commercial properties, Taxpayer's experts concluded that Mr. Macaulay based adjustments
5 on hypothesized very small increases to property revenue and very small reductions to cap
6 rates to "calculate" an "After" value due to the coming 2024 LID Improvements.
7 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
8 "professional judgment" that are neither shown nor replicable.
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17 36. For these reasons, Taxpayer appeals the following portions of the Examiner's
18 Recommendation: Sections II.19, and IV.B.11(a)(iii).
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21 37. Special benefit falls within margin of error. The Final Special Benefit Study
22 applies an estimated value enhancement of less than 4%, which is generally within the
23 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
24 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
25 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
26 of one another, this difference is considered reasonable as it falls within the standard margin
27 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
28 O'Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay's micro-special benefit percentages
29 fall far below that 5% margin, "there is no way of authenticating" such incremental changes
30 because "[m]arket forces completely obliterate any tiny little noise factor like that." *See*
31 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
32 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
33 "Before" values are also based on a hypothetical that adds some unstated incremental value
34 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
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1 micro-value differences between hypothetical conditions that are so similar (the WSDOT
2 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
3 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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6 38. Even if it were possible to accurately tease out such a miniscule hypothetical
7 value change due to improvements coming five years later, experts testified that there is no
8 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
9 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
10 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
11 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
12 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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15 39. No analysis of value increase attributable to individual components of the
16 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
17 percentage difference between hypothetical Before and After conditions. Throughout his
18 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
19 descriptions in the Addenda even though he testified that he relied on these to calculate
20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
21 someone might be able to determine how he attributed value to After conditions described in
22 the Addenda, he answered that that was “not the scope of the assignment” because he was
23 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
24 that the six components were not actually a continuous project, that he was viewing them
25 together because the City asked him to, and that if he were to view them independently,
26 there was a low probability that properties in the north would specially benefit from
27 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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1 40. Not only did he fail to analyze benefits from each of these non-contiguous
2 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.*,
3 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
4 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
5 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
6 objectives that guided regulators' assessment of architectural plans for buildings along a
7 "signature street" were so vague that they amounted to ad hoc review based on the
8 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
9 even though he used the renderings as "visual aid[s] in appraising the property in the before
10 and after" to "visually see what the differences would be," he could not explain what
11 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
12 when shown a rendering of a two-lane road going down to one-lane in the After condition
13 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
14 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
15 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
16 could explain the depiction of the same trees in the After condition nearly twice as tall as in
17 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: II.27 and IV.B.4.
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 41. Special assessment is not supported by comparable studies, data or reports.
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3 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
4 that the LID Improvements will lead to meaningfully increased real estate values for
5 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
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7 comparable sales or information from the "over twenty-five studies and reports" to arrive at
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9 very precise special benefit increases for residential and commercial combined properties,
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11 including Taxpayer's property. For example, although Mr. Macaulay stated that no single
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13 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
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15 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
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17 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
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19 provided "some background to base decisions on." *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
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21 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
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23 for similarities and differences between these improvements and the comparable parks he
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25 looked at).
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28 42. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
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30 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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32 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
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34 research misinterprets his work in critical ways, including because the LID Improvements
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36 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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38 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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40 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
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42 related value increases are in fact smaller; that estimated increases are "best guesses" rather
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44 than predictions of property value increases in a particular city; and that percentages do not
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46 account for diminishing returns after taking into account water views, which would be the
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1 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
2 topography grants most properties in downtown a water view.
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5 43. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
6 that this was just one source of information that was not entirely relevant because, among
7 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
8 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
9 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
10 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
11 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
12 Crompton concluded that 500 feet via road from "park" improvements is just one or two
13 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
14 significantly beyond that which the park study indicated (even if it was legitimate to use the
15 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
16 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
17 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
18 Taxpayer's property is not within 500 road network feet from the "park" improvements. *See*
19 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Ex. E, F.
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23 44. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
24 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
25 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
26 based on the attention given to Dr. Crompton's work in the Final Study and supporting
27 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
3 parcel-by-parcel analysis.
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6 45. The destination parks discussed in the Final Special Benefit Study do not
7 provide reliable, comparable, and valid support for the calculation of special assessments
8 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
9 Study were funded by a LID. And in virtually all of those cases, the park improvements
10 dramatically restored unimproved or blighted areas, and properties evaluated were within
11 two or three blocks of the park.
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14 46. ABS's claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁸ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
21 the LID Improvements and could not explain how this impacted his condo analysis.
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37 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
38 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
39 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
40 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
41 park (or streetscape) improvement—other studies estimated premiums for real estate only much
42 closer or cited to Dr. Crompton.

43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
2 Property Values” primarily focused on whether the benefits accrue to the larger community
3 rather than properties adjacent to the park. And the 2014 New York City Department of
4 Transportation study is not based on real estate transactions and market sales and fails to
5 substantiate any link between increased retail sales and property values. Moreover, this
6 study only looked at impact either directly abutting the streetscape improvement, or a couple
7 hundred feet for plaza-like improvements.
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10 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
11 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
12 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
13 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
14 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
15 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
16 asked whether he considered that HR&A’s estimated LID impact is six times greater than
17 TPL’s assessment of Seattle’s entire park system, his surmised that it was because the
18 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
19 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
20 assumptions to account for this difference, which may be partly explained by the fact that
21 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
22 approximately 3.44% of King County tourists visit Seattle primarily because of the city
23 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
24 waterfront improvements.
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27 48. Although proximity to the improvements is a key factor in all of these
28 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
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1 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
2 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
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4 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
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6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
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8 Improvements is approximate 20 acres and it is not a community park.⁹
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11 49. There is no explanation in the Final Study or the supporting materials of how
12 the studies or comparable sales were used to derive values for Taxpayer's property. For
13 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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15 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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19 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
20 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
21 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
22 recognized) for developing the MAI standards for mass appraisals, testified that the Final
23 Study does not meet mass appraisal standards nor allow for independent assessment of the
24 accuracy of Mr. Macauley's conclusions.
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28 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
29 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
30 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
31 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
32 testimony suggests that he incorrectly believed that the only difference between direct
33 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
2 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
3 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
4 Gordon uses in doing his limited restricted report”).
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9 52. But the difference is not only in reporting—mass appraisal techniques must
10 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
11 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
12 parcel approach:
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16 The mass appraisal technique is an appraisal method used to evaluate
17 a group of properties that are subject to similar market forces as of a
18 certain date through the use of market data, statistical analysis and
19 testing. As a result, the mass appraisal technique does not require or
20 involve analysis of each individual property’s specific data.
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23 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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26 53. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
27 universe of properties as a given date using standard methodology, employing common data,
28 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
29 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
30 model” is “a mathematical expression of how supply and demand factors interact in a
31 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
32 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
33 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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42 54. Regardless of client direction, Mr. Macaulay is required to comply with
43 USPAP. So, if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have
44 been economically feasible because it would have taken “an incredible amount of time and
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1 cost” (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
2 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
3 (“performing an individual appraisal of each [condo] parcel would have been cost and time
4 prohibitive”).
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9 55. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
10 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
11 value, fails to calibrate the model structure to determine the contribution of the individual
12 characteristics affecting value, and does not review the mass appraisal results against actual
13 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
14 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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21 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
22 proximity to the elements, the increase in market rent, market vacancy changes,
23 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
24 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
25 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
26 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36 relationship between characteristics that affect value, and to calibrate that model to specify how
37 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
38 21). The purpose is to rationally determine what characteristics will create value, and by how much.
39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
2 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
3 were hypothetical, it was not possible to identify matched pair sales and no City witness
4 explained how ABS Valuation made adjustments to “comparable” sales in order to check
5 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
6 him to explain his model structure.
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12 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
13 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
14 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
15 and appeals the Examiner’s denial of that motion.
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21 58. Finally, Taxpayer’s property is not appurtenant—or even in close
22 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
24 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
25 property is not even within 500 road network feet from the core park improvements. And,
26 as described above, the special assessment is overstated because the Final Study makes no
27 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
28 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
29 improvements were not in place—and, in fact, much of the waterfront is a construction
30 zone following removal of the viaduct and now Pier 58 demolition. Under these
31 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
32 Mr. Macaulay at the very least should have discounted the special benefit estimates or
33 waited to perform the Study until the improvements were at least close to complete.
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Erroneous Pre-Improvement Valuation

59. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's property.

60. The City's Final Study was used to compute the proposed final assessment of Helios' property. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final Study does not accurately reflect this data. For example, the City's Study values Helios' property at \$298,884,000.00 as of October 1, 2019. However, the King County assessor determined the true and fair value of the property to be \$255,000,000.00, valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's valuation is 117.2% of King County's assessed value. The Final Special Benefit Study does not explain this difference—or any differences—between its pre-improvement valuation and its supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's Recommendation.

61. Further, the City's analysis was based on unreliable market data. The ABS appraisal overstated the before market value by about \$59 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of the Helios as of October 1, 2019 was \$239,884,000. *Id.* Additionally, for Helios, Mr. Macaulay undercounted the number of studios as compared with larger units, which resulted in a substantially inflated "Before" value. See 3/11/2020 (B. Scott) Hrg. Tr.) at 22:24-23:18; see also B. Scott's Supplemental Report for Helios

¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet (providing a "County Link" to the King County Department of Assessment's online "eReal Property" search tool).

1 (using the correct data would have reduced “Before” value by \$37,849,000). Additionally,
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3 Mr. Scott presented testimony that Mr. Macaulay incorrectly reduced the number of studios
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5 by 56 and increased the number of larger, higher rent units in his income calculation, which
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7 erroneously increased the property value and LID assessment. *See* 3/11/2020 Hrg. Tr. at
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9 22:21-24:17. The City only responded to the unit mix error by claiming that if this
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11 undercount in accurate, Mr. Macaulay will need to complete re-assessment of the Helios.
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13 *See* 6/23/2020 Hrg. Tr. at 56:21-57:8. The Examiner Recommendation failed to make a
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15 finding to address this error.

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17 62. Thus, aside from multiple other reasons why computation of the special
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19 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
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21 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
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23 appeals the following portions of the Examiner’s Recommendation: Sections II.13, II.14,
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25 and II.15.

26 27 **Erroneous Computation of Special Benefit**

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29 63. “Special benefit” is “the increase in fair market value attributable to the local
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31 improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property
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33 may receive by reason of the improvement is not measured alone by the physical character
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35 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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37 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
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39 the particular tract or property benefited by the entire improvement, and is it assessed
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41 proportionately with the other property included within the assessment district?” *Id.* 165–
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43 66.

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45 64. The proposed final assessment erroneously overstates the special benefit of
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47 LID improvements in a number of ways.

1 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
2 the Helios, Mr. Macaulay assumed room/rental rates would increase by 1.75% (low) and
3 2.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
4 percentages (1.75% and 2.25%) to increase retail and parking. He then uses this
5 hypothesized increased revenue to calculate a new net operating income for the commercial
6 properties and capitalizes that to come up with an “After” valuation.
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12 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
13 operating income remains the same as in the hypothetical “Before” condition but changes
14 the cap rate. For the Helios, the cap rate goes from 4.05% to 3.95% (low scenario, creating
15 a bigger value increase) and 3.99% (high scenario, creating a lower value increase).
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20 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
21 benefit conclusion. For the Helios, this is an increase in property value of 1.92% due to the
22 LID Improvements.
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26 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
27 and capitalization rates. When asked precisely what the basis is for his special benefit
28 percentage increases to revenue for each commercial property, he could not point to
29 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
30 is nothing in the report to allow a reader to understand how he came up with these
31 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
32 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
33 the basis for his belief that certain factors—liked increased connectivity—will increase
34 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
35 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
36 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
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1 sources equally even though there was no separate analysis done for food and beverage or
2 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer's expert's
3 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
4 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer's
5 properties.
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10 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
11 check for commercial properties. But as explained above, no City witness has explained
12 how anyone, or all, of the sales are comparable to any particular commercial property within
13 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
14 in order to make sales "comparable," he would have had to make adjustments to account for
15 Before and After conditions, but there is no way to understand how adjustments were made
16 because he "didn't do a separate sales comparison approach where we showed adjustments
17 and whatnot." 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
18 his adjustments were reliable, he said it would have simply been a "test of reasonableness."
19 *Id.* at 127:10-128:24.
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30 70. It also bears noting that any "internal review" of the special benefit estimates
31 would have been largely arbitrary given Mr. Macaulay's testimony that there is no margin of
32 error. Indeed, given all the same information, he seemed to suggest that it would be
33 perfectly reasonable for another experienced appraiser to come up with special benefit
34 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
35 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
36 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
37 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
38 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
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margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still reasonable and unreasonable variations within the appraisal field. *See* Examiner’s Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or special because it is arbitrarily assigned; and it is too small to realistically be supported by appraisal techniques.

71. No evidence of special benefit. Meanwhile, there is “no actual evidence from any seller or purchaser that the price was higher because of the LID improvements.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not identified any seller or buyer, or any particular property where the existence of the LID improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has explained that the property has not increased rental rates or revenue due to the forthcoming LID Improvements, because, among other reasons (and apart from COVID), the improvements ABS believes will generate value do not exist and will not for a number of years to come. There are no comparable sales because the LID Improvements are not in place, nor will they be until the end of 2024 if completed on schedule.

72. The fair market value of Helios’ property has not changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially benefited from installation of new water main and fire hydrant where it was already adequately supplied with water and afforded adequate fire protection). And in any event, any value attributable to removal of the viaduct was to be excluded from the assessment calculation.

73. There is no special benefit to Helios because its apartment demand is driven by proximity to downtown job centers, and the average short tenancies means that the building tenants will likely turnover completely before LID improvements are delivered, providing no market justification for increased rents. In fact, the LID improvements

1 diminish the value of Helios property by drawing visitors away towards improvements that
2 do not abut the property and increasing competition in other areas of the city. *See Kuskys*, 85
3 Wn. App. 493 (testimony of owners' expert that LID actually diminished value of property
4 was sufficient to rebut presumption that assessment was proper). The ground floor retail
5 tenants will also suffer from a decrease in foot traffic, which will be pulled toward the
6 improved amenities around Pike Place Market. Mr. Macaulay did not account for any of
7 these impacts.
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15 74. Moreover, the assessment formula is an attempt to distribute costs that do not
16 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
17 "merely a mathematical model that distributes costs").
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21 75. The Special Benefit Study fails to address whether the \$346,000,000
22 estimated LID project cost takes into account the investment that would have occurred in the
23 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
24 invested. This is a critical component of estimating which properties receive a direct benefit
25 from the improvements, versus more incidental benefits further from the park.
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31 76. Mr. Macaulay also included personal property in his valuation of hotels even
32 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
33 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
34 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
35 "[a]ppraisal applies to the land and building improvements only" (C-17 at 197). *See also*
36 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
37 receiving a disproportionately high LID assessment in comparison to other property types,
38 since hotels were the only property type subject to personal property LID assessments.
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47 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO

1 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
2 notice procedures because hotel property owners only received notice that their real estate
3 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
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6 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
7 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
8 a television at the waterfront Marriott is assigned a greater special benefit than the same
9 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
10 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
11 unreasonable to assign a value lift to personal property that is replaceable at the same cost
12 and may be obsolete before the LID improvements are even completed. Further, personal
13 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
14 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
15 be redone to correct for this error.
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18 78. The proposed final assessment substantially exceeds the special benefit to the
19 property and is grossly disproportionate to similarly situated properties within the LID. For
20 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
21 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).
22

23 **State Environmental Policy Act and Other Environmental Permitting**

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25 79. While this appeal is not challenging the City's environmental review and
26 permitting processes, those processes are relevant in determining the legality of the
27 assessments, and to assessing the delivery risk, the present value of the City's plans, and
28 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
29 pursue projects that have not yet undergone environmental review (thus limiting the choice
30 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
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1 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
2 is just beginning. Further, the City has segmented environmental review, and still has a
3 gauntlet of federal, state and tribal review processes to complete before it will be clear what
4 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
5 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
6 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
7 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
8 committing to reconstruction of Pier 58 and major street improvements without
9 environmental review, or the City's Final Special Study has improperly included and is
10 proposing to assess the Taxpayer the costs and special benefits of improvements that may
11 not get built. Either way, it is faulty process.

22 **Due Process Rights**

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24 80. The City's failed to notify Helios sufficiently in advance of the hearing to
25 allow Helios to obtain evidence and prepare to properly challenge the assessments. Because
26 LID assessments involve a deprivation of property, affected owners have the right to a
27 hearing as to whether the improvement resulted (or will result) in special benefits to their
28 properties and whether their assessments are proportionate, which necessarily includes the
29 right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
30 555, 569–70, 229 P.3d 761 (2010).

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32 81. The LID statute specifies that cities must mail notices giving the time and
33 place of the hearing to the affected owners "[a]t least fifteen days before" the hearing and
34 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
35 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
36 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
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1 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
2 secure their own appraisal), evaluate proportionality of the proposed assessments, and
3 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
4 for anybody to get an appraisal”).
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8 82. The City’s Notice of Assessment was sent on December 30, 2019. And the
9 Final Special Benefit Study has only been available for public review since January 7, 2020.
10 Due to this short time frame, Helios requested a prehearing conference and scheduling order
11 that would preserve and protect Helios’ right to analyze and respond to the Final Study,
12 obtain expert appraisal testimony, conduct depositions, and to accommodate preliminary
13 motions (*e.g.*, with respect to the interplay between SEPA and the City’s assessment of taxes
14 for Pier 58 and Pike/Pine improvements). The Hearing Examiner erroneously denied that
15 request. For this reason, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: I.B.
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26 **VII. Relief Requested**

27 Helios respectfully requests that the City Council:
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- 29 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection
30 and:
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32 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
33 final assessment dated December 20, 2019; or
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35 b. Revise Taxpayer’s Waterfront Local Improvement District No. 6751
36 proposed final assessment to \$0 (zero), or such amount as Taxpayer
37 establishes at the hearing in this matter; or
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- 1 c. Remand the matter to the Hearing Examiner or City appraiser to
2 recalculate and reduce Taxpayer's assessment using recognized
3 appraisal techniques consistent with USPAP and:
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6 i. Excluding any property value increase attributable to viaduct
7 removal and other planned WSDOT Improvements;
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9 ii. Taking into account the effects of COVID-19 pandemic on the
10 value of Taxpayers property and other relevant developments
11 since October 2019;
12
13 iii. Accounting for and excluding (1) any special benefits from
14 existing or planning improvements that already provide
15 similar benefits to Taxpayers property, and (2) any special
16 detriments from construction and other anticipated LID-
17 related disamenities;
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19 iv. Accounting for and including only those actual benefits
20 anticipated to accrue to Taxpayer's property based on its
21 location relative to Pier 58, Overlook Walk, and the
22 Promenade, and specific elements of the LID Improvements;
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24 v. Discounting anticipated special benefits to present value,
25 based on reliable estimates regarding when special benefits
26 will start accruing following completion of the LID
27 Improvements; and
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29 vi. Accounting for such other issues specific to Taxpayer's
30 property relevant to calculation of such assessment; and
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47 2. Grant such further relief as the City Council deems just and proper.

1
2 DATED: September 22, 2020
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4

PERKINS COIE LLP

By:



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FILED

4:33 pm, Tue, September 22, 2020

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Lin, Megan \(BEL\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Stillwell, Jacob \(SEA\)](#); [Carmody, Jane \(Perkins Coie\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Campbell, Karen \(BEL\)](#)
Subject: RE: Waterfront LID Appeal for Case No. CWF-0441 CORRECTED
Date: Tuesday, September 22, 2020 4:00:27 PM
Attachments: [CWF-0441 CORRECTED.zip](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0441 **CORRECTED**.
This file replaces the prior zip file sent for CWF-0441.

Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:

CWF-0441

A – Master List of Evidence

B – E-044-001 Helios

C – Discounting for CWF-0441

CWF-0441 Appeal Notice

Supplemental Decl. to Attachment C

Kimball Mullins | Perkins Coie LLP

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From: Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>

Sent: Tuesday, September 22, 2020 3:13 PM

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Cc: Lutz, Jerry (BEL) <JLutz@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Starkey, Byron (SEA) <ByronStarkey@perkinscoie.com>; Stillwell, Jacob (SEA) <JStillwell@perkinscoie.com>; Carmody, Jane (SEA) <JCarmody@perkinscoie.com>; Mahon, Robert (SEA) <RMahon@perkinscoie.com>; Mullins, Kimball (SEA) <KPMullins@perkinscoie.com>; Campbell, Karen (BEL) <KCampbell@perkinscoie.com>

Subject: Waterfront LID Appeal for Case No. CWF-0441

Dear City Council Clerk,

Attached please find the Waterfront LID Appeal for Case No. CWF-0441.
Please advise if you have problems extracting the documents in the attached zip file.

Thank you,
Kimball Mullins

Zip enclosures:
CWF-0441
A – Master List of Evidence
B – E-044-001 Helios
C – Discounting for CWF-0441
CWF-0441 Appeal Notice

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

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Attachment A

Master List of Taxpayer's Filings and Evidence Presented

	Presentation before Hearing Examiner	Date
	Opening Statement (all Perkins cases) Anthony Gibbons' Direct and Cross-examination (all Perkins cases) Randall Scott's Direct and Cross-examination (all Perkins cases)	3/3/2020
	Fourth Avenue Associates' Presentation of its Case-in-chief (CWF-0423) <ul style="list-style-type: none"> Ben Scott and Gary Carpenter's property-specific direct and cross-examination Brian O'Connor's Direct and Cross-examination (CWF-0425, 0426, 0427, 0440, 0441) Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott, Brian O'Connor, and Ed Leigh's property-specific direct and cross-examination 	3/5/2020
	Equity Residential's Presentation of its Case-in-chief (CWF-0425, 0426, 0427, 0440, 0441) <ul style="list-style-type: none"> Ben Scott's property-specific direct and cross-examination SCD2+U, LLC's Presentation of its Case-in-chief (CWF-0421) <ul style="list-style-type: none"> Ben Scott and Christian Gunter's property-specific direct and cross-examination GID's Presentation of its Case-in-chief (CWF-0410, 0411, 0412, 0416) <ul style="list-style-type: none"> Ben Scott and Elton Lee's property-specific direct and cross-examination Peter Shorett's Direct and Cross-examination (CWF-0318, 0413, 0414, 0415, 0417, 0418, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439)	3/11/2020
	RRRR Investments' Presentation of its Case-in-chief (CWF-0430 and 0431) <ul style="list-style-type: none"> Peter Shorett and Byron Madsen's property-specific direct and cross-examination Sound Vista's Presentation of its Case-in-chief (CWF-0435) <ul style="list-style-type: none"> Peter Shorett and Greg Vic's property-specific direct and cross-examination United Way's Presentation of its Case-in-chief (CWF-0417) <ul style="list-style-type: none"> Peter Shorett and David Brown's property-specific direct and cross-examination John Gordon's Direct Examination regarding Valuation of Hotels Generally (CWF-0318, 0413, 0414, 0415, 0418, 0429, 0432, 0433, 0434, 0436, 0437, 0438, 0439) Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon's property-specific direct 	3/12/2020
	Scheduling Conference	4/2/2020
	Hedreen's Presentation of its Case-in-chief (CWF-0413, 0414, 0418, 0429, 0436, 0437, 0438) <ul style="list-style-type: none"> John Gordon property-specific direct (Zahoor Ahmed testified by declaration, filed 4/16/2020) Alexis Hotel's Presentation of its Case-in-chief (CWF-0318) <ul style="list-style-type: none"> John Gordon property-specific direct (Tom Waithe testified by declaration, filed 4/16/2020) John Gordon's Direct Exam re impact from COVID Sound Hotel and Arrive Apartments Presentation of its Case-in-chief (CWF-0415) <ul style="list-style-type: none"> John Gordon property-specific direct 	4/13/2020

	<ul style="list-style-type: none"> o (Randy Meyer testified by declaration, filed 4/16/2020) 	
	Seattle Hotel Group's Presentation of its Case-in-chief (CWF-0432, 0433, 0434) <ul style="list-style-type: none"> o John Gordon property-specific direct o (Angelica Palladino testified by declaration, filed 4/16/2020) Ashford/Marriott's Presentation of its Case-in-chief (CWF-0439) <ul style="list-style-type: none"> o John Gordon and Clayton Rash (by declaration filed 4/16/2020)) John Gordon's Cross-examination Brian O'Connor's Direct and Cross-examination re Helios (CWF-0441)	4/14/2020
	Frye Motion Oral Argument Dr. John Crompton's Direct and Cross-examination Closing Presentation	4/16/2020
	City's Case-in-chief (Marshall Foster, Mark Lukens, started Robert Macaulay)	6/18/2020
	City's Case-in-chief (finish direct exam of Robert Macaulay)	6/19/2020
	Cross-examination of Robert Macaulay (Perkins Coie and other objectors)	6/23/2020
	Cross-examination of Robert Macaulay (other objectors)	6/25/2020
	Cross-examination of Mark Lukens and Marshall Foster (Perkins and other objectors)	6/26/2020
Hearing Exhibits	Description/ file name	Entered
01	Opening Brief and Exhibits thereto (03-03-2020) Exhibit 1 - Excerpts of Deposition of Robert J. Macaulay (02-27-2020) Exhibit 2 - Economic & Fiscal Impacts Net New Visitation Methodology	3/3/2020
02	Objections to Proposed Final Assessment for Waterfront LID for Perkins Coie clients (CASE NOS. CWF-0318, 0410, 0411, 0412, 0413, 0414, 0415, 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426, 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436, 0437, 0438, 0439, 0440, 0441)	3/3/2020
03	Waterfront Seattle Project - Summary of Final Special Benefit/ Proportionate Assessment Study for Waterfront Seattle Project LID - ABS Valuation dated 2019-11-18 (also marked Ex 19 for CWF-336 et al)	3/3/2020
04	Waterfront Seattle Project - Summary of Waterfront Seattle Project- Final Special Benefit/ Proportionate Assessment Study for LID - ABS Addenda Volume dated 2019-11-12 (also marked Ex 31 for CWF-336 et al)	3/3/2020
05	Findings of Fact and Conclusions of Law at Trial for Sound Transit v PS Business Parks	3/3/2020
06	2020-01-30 Gibbons letter re Waterfront Seattle LID Special Benefits (File Ref 19-0101 - November 18, 2019, Authored by Valbridge)	3/3/2020
07	Waterfront photographs - viaduct construction-removal	3/3/2020
08	Map Waterfront Seattle Program No LID	3/3/2020
09	LID Before and After Conditions write up with photos	3/3/2020
10	ABS valuation - City of Seattle -Waterfront Seattle Project - Final Special Benefit/ Proportionate Assessment Study - Items Forming the Basis of Recommended Final Assessments Waterfront LID Project	3/3/2020
11	Page 58 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
12	Page 65 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020
13	Page 66 <i>Local and Road Improvement Districts Manual for WA State</i> (6th Ed).pdf	3/3/2020

14	<i>Real Estate Valuation in Litigation</i> (2nd Ed) by Eaton - re Special Benefit page 334	3/3/2020
15	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 2	3/3/2020
16	ABS valuation - City of Seattle - Department of Finance and Administrative Services, Mr. Glen M. Lee, City Finance Director, Summary of Waterfront Seattle Project - Special Benefit/ Proportionate Assessment Study, page 7	3/3/2020
17	Randall Scott List of Clients	3/3/2020
18	2020-01-31 Randall Scott - Appraisal Review of Century Square Retail (Parcel 197570-0365)	3/3/2020
19	USPAP 2020-2021 - Standard 5 - Mass Appraisal Development (pages 32 - 41)	3/3/2020
20	LID Property Summary for CWF-0423 (Century Square)	3/11/2020
21	Benjamin Scott List of Clients	3/11/2020
22	2020-01-31 Benjamin Scott letter re: 4th Ave parcel 197570-0365	3/11/2020
23	King Co Assessor Data for 197570-0365	3/11/2020
24	<i>Alternative Development Option for a Site in Downtown Seattle</i> by Christopher Kirk (1972)	3/11/2020
25	<i>Seattle WA Municipal Code</i> SMC 25.05.675	3/11/2020
26	Journal of Leisure Research - <i>Impact on property values of distance to parks and Open Spaces: An update of the US studies in the new millennium</i> (John Crompton and Sarah Nicholls)	3/11/2020
27	Landscape and Urban Planning - <i>Property values, parks, and crime: A hedonic analysis in Baltimore, MD</i> (Austin Troy and J. Morgan Grove)	3/11/2020
28	Amendment 2 to Lease (4th Ave Associates, dated 04-23-1979)	3/11/2020
29	Amendment 4 to Lease (4th Avenue Associates, dated 03-03-1988)	3/11/2020
30	LID Property Summary for CWF-0425, 426, 427, 440 (Harbor Steps)	3/11/2020
31	2020-01-31 Benjamin Scott letter (Equity Res. parcels 197620-0070, 0075, 0076, 766620-2465)	3/11/2020
32	ULI Development Case Studies for Harbor Steps (2002)	3/11/2020
33	Metropolitan Policy Program - <i>Walk this Way - The Economic Promise of Walkable Places in Metropolitan Washington, DC</i> (May, 2012)	3/11/2020
34	Assessing the Effect of Parks on Surrounding Property Values Using Hedonic Models and Multilevel Models (I Hui Lin) (Aug. 2016)	3/11/2020
35	Real Estate Economics - <i>The Walkability Premium in Commercial Real Estate Investments</i> (Gary Pivo and Jeffrey Fisher) (2011)	3/11/2020
36	Research paper- From elevated freeways to surface boulevards- neighborhood and housing price impact in SF (2009) (Robert Cervero and Kevin Shivley)	3/11/2020
37	Appraisal Review of ABS Valuation Appraisal of Waterfront LID project (O'Connor Consulting) (Jan. 31, 2020)	3/11/2020
38	LID Property Summary for CWF-0441 (Helios)	3/11/2020
39	2020-01-31 Benjamin Scott letter re: Equity Res parcel 768389-0010	3/11/2020
40	LID Property Summary for CWF-0421 (2+U)	3/11/2020
41	2020-31-2020 Benjamin Scott letter (Skansa parcels 197470-0175, 0210, 0190)	3/11/2020

42	LID Property Summary for CWF-0416 (The Martin)	3/11/2020
43	2020-01-31 Benjamin Scott letter (GID parcel 069600-0055)	3/11/2020
44	LID Property Summary for CWF-0412 (The Cirrus)	3/11/2020
45	2020-01-31 Benjamin Scott letter (GID parcel 066000-0575)	3/11/2020
46	LID Property Summary for CWF-0410, 411 (The Stratus)	3/11/2020
47	2020-01-31 Benjamin Scott letter (GID parcel 06600-0545, 0540)	3/11/2020
48	Exhibit 1 Attachment to Appraisal Review (Kidder Matthews)	3/11/2020
49	Supplement to Appraisal Reviews Waterfront Seattle Project Special Benefit Study (Oct. 1 2019) (Kidder Matthews)	3/11/2020
50	LID Property Summary for CWF-0430, 431 (1521 Second Ave Condos).pdf	3/11/2020
51	Appraisal Review Waterfront Seattle Project Special Benefit Study RRRR Investments Condo (Oct 1 2019) (Kidder Matthews)	3/11/2020
52	LID Property Summary for CWF-0435, 99 Union Street Private Residences)	
53	Appraisal Review Waterfront Seattle Project Special Benefit Study Sound Vista Condo (Oct. 1 2019) (Kidder Matthews)	3/11/2020
54	LID Property Summary for CWF-0417 (Foster & Marshall Bldg, UWKC)	3/11/2020
55	Exhibit 5 Appraisal Review Waterfront Seattle Project Special Benefit Study (Oct. 1, 2019) (Kidder Matthews)	3/11/2020
56	Exhibit 7 Restricted Appraisal Report United Way Bldg (Jan. 24, 2020) (Kidder Matthews)	3/11/2020
57	Special Warranty Deed UWKC parcel 093900-0240 (April 15, 2019)	3/11/2020
58	Statutory Warranty Deed UWKC parcel 093900-0240 (Dec. 29, 2016)	3/11/2020
59	WA Recorders correction sheet re Special Warranty Deed UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
60	Special Warranty Deed - Development Rights UWKC parcel 093900-0240 (Nov. 25, 2015)	3/11/2020
61	Statutory Warranty Deed - Development Rights UWKC parcel 093900-0240 (Jul .27, 2015)	3/11/2020
62	Picture of staircase	3/11/2020
63	Picture hotel and Big Wheel	3/11/2020
64	Restricted Appraisal for Renaissance Hotel (Jan. 1. 2020)	4/13/2020
64	Exhibit 7 2020-02-03 Peter Shorett letter re Renaissance Hotel	3/11/2020
65	Renaissance Hotel - Supplemental Tables	4/13/2020
66	Renaissance Hotel Comparison Table.	4/13/2020
67	Hyatt Regency Hotel - Restricted Appraisal Report (Jan. 1, 2020)	4/13/2020
68	Hyatt Regency Hotel - Supplemental tables for the Hyatt Regency	4/13/2020
69	Hyatt Regency Comparison Table	4/13/2020
70	Hyatt at Olive 8 Restricted Appraisal (Jan. 1, 2020)	4/13/2020
71	Hyatt at Olive 8 - Supplemental tables	4/13/2020
72	Hyatt at Olive 8 Comparison Table	4/13/2020
73	Grand Hyatt Restricted Appraisal (Jan. 1, 2020_)	4/13/2020
74	Grand Hyatt - Supplemental tables	4/13/2020

75	Grand Hyatt Comparison Table	4/13/2020
76	Kimpton Alexis Restricted Appraisal (Jan. 1,2020)	4/13/2020
77	Appraisal Review for Kimpton Alexis (Oct. 1, 2019) (Kidder Matthews)	4/13/2020
78	Kimpton Alexis Hotel - Supplemental tables for the Alexis	4/13/2020
79	Kimpton Alexis Comparison Table	4/13/2020
80	Oxford Economic Study - Impact on Hotel Room Demand and Total Job Loss - Comparison between 9/11, Recession, and early stage of Coronavirus Pandemic	4/13/2020
81	<i>The Hotel Market and COVID-19</i> (March 16, 2020) (John Gordon, Kidder Matthews)	4/13/2020
82	Top 25: RevPAR Falls Off A Cliff (STR US-Weekly, March 14, 2020)	4/13/2020
83	Market Trends: Hotel - Seattle (2020 Q1) (Kidder Matthews)	4/13/2020
84	NO EXH 84	4/14/2020
85	Appraisal Review Sound Hotel & Arrive Luxury Apartments (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
86	Sound Hotel - Restricted Appraisal - CORRECTED (Jan. 1, 2020)	4/14/2020
87	Sound Hotel Comparison	4/14/2020
88	Sound Hotel Table Restricted Appraisal - Supplemental Tables CORRECTED	4/14/2020
89	Exhibit 5 - Appraisal Review Four Seasons (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
90	Appraisal Review Seattle Marriott Waterfront (Oct. 1, 2019) (Kidder Matthews)	4/14/2020
91	Exhibit 6 - Appraisal Review of ABS Valuation Appraisal - Helios (Jan. 31, 2020) (O'Connor Consulting Group)	4/14/2020
92	Page 126 from 2018-19_eUSPAP	4/14/2020
93	Appraisal Institute Coronavirus (COVID-19) - Coronavirus Updates	4/14/2020
94	2019-11-18 Dr. Crompton's Report re: File Ref: 19-0101	4/16/2020
95	Journal of Leisure Research - Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium (John Crompton and Sarah Nichols)	4/16/2020
96	Appendix 3 - Template for Approximating the Contribution of the Proximate Premium to a Local Community's Tax Revenue	4/16/2020
97	Waterfront Open Space Analysis (2020.02.25)	4/16/2020
98	Pages from Macaulay Depo--parks (Feb. 27, 2020)	4/16/2020
99	Pages from 2019 Addenda to Final Study -each component LID vs. No-LID	4/16/2020
100	Pages from LID Description - Before & After Full Renderings	4/16/2020
101	Journal of Park and Recreation Administration - Impact of Greenways and Trails on Proximate Property Values: An Updated Review (Fall, 2019) (John Compton and Sarah Nichols)	4/16/2020
102	Pages from Deposition of Robert J. Macaulay Deposition Transcript (Feb. 27, 2020)	4/16/2020
103	Objectors' Closing Brief	4/16/2020
104	Declaration of Ellen Kersten and Exhibits	4/16/2020
105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
106	Declaration of Angelica Palladino	4/16/2020
107	Declaration of Camie Anderson	4/16/2020
108	Declaration of Clayton Rash	4/16/2020

109	Declaration of Randy Meyer	4/16/2020
110	Declaration of Reid Shockey	4/16/2020
111	Declaration of Richard Shiroyama	4/16/2020
112	Declaration of Ross Beckley	4/16/2020
113	Declaration of Thomas Waithe	4/16/2020
114	Declaration of Zahoor Ahmed	4/16/2020
115	Declaration of Peter Shorett	4/16/2020
116	Closing Presentation	4/16/2020
117	Local And Road Improvement Districts Manual	6/23/2020
118	5 Nichols on Eminent Domain Section 18.19	6/23/2020
119	ABS Spreadsheet D-146 Hyatt Regency	6/23/2020
120	ABS Spreadsheet E-110-002 and E-111-001 Grand Hyatt	6/23/2020
121	ABS Spreadsheet E-111-002 Hyatt Parking	6/23/2020
122	Declaration of Robert J. Macaulay (2020-04-30)	6/23/2020
123	2019 HR&A Study Beyond Real Estate Increment: the Value of the Central Seattle Waterfront (February, 2019)	6/23/2020
124	Trust for Public Land - <i>The Economic Benefits of Seattle's Park and Recreation System</i> (March, 2011)	6/23/2020
125	2020-04-14 Waterfront LID Hearing Transcript	6/23/2020
126	USPAP Advisory Opinion 32 (AO-32)	6/23/2020
127	2020-06-19 Waterfront LID Hearing Transcript	6/23/2020
128	2020-04-21 - Seattle Times - <i>Seattle projects coronavirus crisis could knock \$210 M to \$300M hole in city budget</i>	6/23/2020
129	2020.06.18 Waterfront LID Hearing Transcript	6/23/2020
130	2019-21-30 Assessment Notice for Seattle Tower I (Parcel 0696000015)	6/23/2020
131	Excerpt from Alaska Way, Promenade, and Overlook Walk Final EIS (Oct. 2016)	6/23/2020
132	Spreadsheet showing discounting [not admitted]	6/23/2020
133	Declaration of Mark Lukens (April 30, 2020)	6/26/2020
134	LW Hospitality Advisors PowerPoint presentation, U.S. Lodging Industry 2020: COVID-19: Shocking Unprecedented Downtown, dated May 20, 2020	6/26/2020
135	ABS Spreadsheet for the Hyatt at Olive 8	6/26/2020
136	PwC: National Development Land Market, Land Development 2Q20 Korpacz Survey	6/26/2020
137	Seattle COVID-19 Response and 2020 Budget Rebalancing (June 24, 2020)	6/26/2020
138	Declaration of Jill Macik (April 20, 2020)	6/26/2020
	Exhibit A to Macik Declaration (Waterfront LID Improvements table)	
139	Exhibit B to Macik Declaration (Pier 62 Environmental Permitting and Review) with Email	6/26/2020
FILINGS	FILING	FILED
	Objectors' Appeal Petition and Supporting Exhibits	2/4/2020
	12/30/2019 Notice of Assessment	2/4/2020
	5/2/2018 Anthony Gibbons Letter	2/4/2020

	Chart of environmental review, permits and approvals to be obtained as of 9/11/2019	2/4/2020
	1/30/2020 Anthony Gibbons Letter	2/4/2020
	2/3/2020 Peter Shorett Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Randall Scott Letter (for some properties)	2/4/2020
	1/31/2020 Brian O'Connor Appraisal Review (for some properties)	2/4/2020
	1/31/2020 Ben Scott Letter (for some properties)	2/4/2020
	Property-specific restricted appraisal and other materials (for some properties)	2/4/2020
	Motions to Amend Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575 (and Exhibit 1 thereto)	2/12/2020
	Amended Statement of Objections to Waterfront LID No. 6751 Proposed Final Assessment for parcel 0660000575	2/12/2020
	Motion for Prehearing Conference	1/21/2020
	Motion to Compel Depositions (and Exhibits 1 to 5 thereto)	2/21/2020
	Reply ISO Motion to Compel Depositions (and Exhibit 1 thereto)	3/2/2020
	Motion to Exclude the Expert Testimony of Robert J. Macaulay and Supporting Decls.	4/8/2020
	Declaration of Clark Nichols (and Exhibits 1 to 13 thereto)	4/8/2020
	Declaration of Ellen Kersten (and Exhibits A to G thereto)	4/7/2020 (filed 4/8/2020)
	Objectors' Closing Brief and Supporting Materials	4/16/2020
Ex. 103	Objectors' Closing Brief	4/16/2020
Ex. 104	Declaration of Ellen Kersten and Exhibits	4/7/2020 (filed 4/16/2020)
Ex. 105	Declaration of R. Gerard Lutz and Exhibits	4/16/2020
Ex. 106	Declaration of Angelica Palladino	4/15/2020 (filed 4/16/2020)
Ex. 107	Declaration of Camie Anderson	4/15/2020 (filed 4/16/2020)
Ex. 108	Declaration of Clayton Rash	4/14/2020 (filed 4/16/2020)
Ex. 109	Declaration of Randy Meyer	4/15/2020 (filed 4/16/2020)
Ex. 110	Declaration of Reid Shockey	4/15/2020 (filed 4/16/2020)
Ex. 111	Declaration of Richard Shiroyama	4/15/2020 (filed 4/16/2020)
Ex. 112	Declaration of Ross Beckley	4/16/2020
Ex. 113	Declaration of Thomas Waithe	4/15/2020 (filed 4/16/2020)
Ex. 114	Declaration of Zahoor Ahmed	4/15/2020 (filed 4/16/2020)
Ex. 115	Declaration of Peter Shorett	4/16/2020

	Declaration of John D. Gordon re impact of COVID on hotels	4/21/2020
	Motion to Strike and Motion to Shorten Time and Extend Deadline for Replies	5/4/2020
	Submission of ABS Valuation's Spreadsheets	5/5/2020
	Objectors' Reply Declarations	5/8/2020
	Declaration of Angelica Palladino	5/6/2020 (filed 5/8/2020)
	Declaration of Camie Anderson	5/8/2020
	Declaration of John Gordon	5/7/2020 (filed 5/8/2020)
	Declaration of Reid Shockey	5/8/2020
	Declaration of Richard Shiroyama	5/6/2020 (filed 5/8/2020)
	Declaration of Zahoor Ahmed	5/7/2020 (filed 5/8/2020)
	Reply in Support of Motion to Strike	5/11/2009
	Objectors' Supplemental Reply Declarations	6/2/2020
	Declaration of Anthony Gibbons	6/2/2020
	Declaration of John Crompton	6/2/2020
	Declaration of John Gordon	5/29/2020 (filed 6/2/2020)
	Objectors' Closing Statement Following the City of Seattle's Presentation of its Case	7/7/2020
	Exhibit A - Summary of testimony for each parcel	7/7/2020
	Declaration of Anthony Gibbons (and Exhibits A to C thereto)	7/7/2020
	Declaration of Benjamin Scott (and Exhibits A to B thereto)	7/7/2020
	Declaration of Brian O'Connor	7/7/2020
	Declaration of Randall Scott	7/7/2020
	Declaration of John Gordon (and Exhibits A to B thereto)	7/7/2020
	Declaration of Peter Shorett (and Exhibit A thereto)	7/7/2020
	Response to City's Requests to Strike	7/15/2020

CONFIDENTIAL**Helios Apartments**

Map Nos.:	E-044-001
Tax Parcel Nos.:	768389-0010
Property key:	9153
Address	1600 2nd Avenue
Zoning:	DMC 240/290-440
Property rights:	No apparent restrictions
Previous sale:	N/A
Proximity to project:	Adjacent to Pine
Ownership:	EQR-Second & Pine, LLC
Description:	26,807 SF site on the southeast corner of 2nd Avenue and Stewart Street, condominium, of which this property comprises a 74.39% interest, consis 2016, with no apparent rights to 329-stall parking structure.

INCOME ANALYSIS Before	Year Built	2015
	Parking	329

Potential Gross Income

	Units	SF NRA	Total NRA	Rent	Rent/SF
Studio	100	468	46,800	\$2,076	\$4.44
1-bedroom	148	779	115,292	\$3,040	\$3.90
2-bedroom	150	1,137	170,550	\$4,574	\$4.02
3-bedroom			0	\$0	\$0.00
Total apartments	398	836	332,642	\$3,376	\$4.04
	GBA	NRA			
Retail	4,163	4,163		SF NRA @	\$35.00
Office				SF NRA @	
Restaurant				SF NRA @	
Other				SF NRA @	
Subtotals	4,163	4,163			
Parking Area/Stalls	127,958		329	stalls @	\$300.00
Basement	0	0		SF NRA @	\$0.00
Other	0	0		SF NRA @	\$0.00
Other				1.0%	of PGI
Total Bldg Area & Gross Income	559,958	306,374		SF NRA @	\$57.49
Less: Vacancy/credit allowance @	4.0%	of apartment revenue			
	5.0%	of commercial revenue			
	0.0%	of parking revenue			
Total vacancy/credit allowance					
Effective gross income					
Less: Operating expenses					
Management fee @	5.0%	of total EGI			
Parking operating expenses @		of parking EGI			
Apartment operating expenses	25.0%	of apartment EGI			

Structural maintenance/reserve	\$0.25	per SF of GBA		
Total operating expenses			\$15.86	28.6%
Net operating income				
Indicated Value				
Land Value		26,751		
		19,900	SF @	\$1,800.00
Residual Improvements		306,374	SF NRA @	\$858.64
		559,958	SF GRA @	\$469.79

Special Benefit Summary

	Land			% Change
	Per SF	Total	Improved	
Without LID	\$1,800.00	\$35,820,000	\$263,064,000	N/A
With LID				
Scenario A1	\$1,836.00	\$36,537,000	\$267,638,000	1.74%
Scenario A2	\$1,836.00	\$36,537,000	\$269,150,000	2.31%
Scenario B1	\$1,836.00	\$36,537,000	\$269,914,000	2.60%
Scenario B2	\$1,836.00	\$36,537,000	\$266,842,000	1.44%
Percent change in land value	2.00%		\$268,386,000	2.02%
Overall Summary				
Without LID	\$1,800.00	\$35,820,000	\$263,064,000	N/A
With LID	\$1,836.00	\$36,537,000	\$268,075,000	1.90%

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Helios Apartments

Scenario A: Rental and Vacancy Rate Changes

Ownership	APN	Description
EQR-Second & Pine, LLC	768389-0010	Apartments
RB-WW Seattle, LLC	768389-0020	Hotel Units

, platted into a 2-parcel
 containing a 229-room hotel built in

		INCOME ANALYSIS After		Year Built	2015
		Potential Gross Income			
			Units	SF NRA	
	\$2,491,200	Studio	100	468	
	\$5,399,040	1-bedroom	148	779	
	\$8,233,200	2-bedroom	150	1,137	
	\$0	3-bedroom	0	0	
	\$16,123,440	Total apartments	398	836	
			GBA	NRA	
per SF =	\$145,705	Retail	4,163	4,163	SF
per SF =	\$0	Office	0	0	SF
per SF =	\$0	Restaurant	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$145,705	Subtotals	4,959	7,383	
/month	\$1,184,400	Parking Area/Stalls	127,958	0	329
per SF =	\$0	Basement	0	0	SF
per SF =	\$0	Other	0	0	SF
	\$161,234	Other			
/SF =	\$17,614,779	Total Bldg Area & Gross Income	559,958	306,374	SF
	(\$644,938)	Less: Vacancy/credit allowance of apartment			
	(\$7,285)	of commercial			
	\$0	of parking			
	(\$652,223)	Total vacancy/credit allowance			
	\$16,962,557	Effective gross income			
		Less: Operating expenses			
	(\$848,128)	Management fee @	5.0%	of total EGI	
	\$0	Parking operating expenses @	0.0%	of parking EGI	
	(\$3,869,626)	Apartment operating expenses	25.0%	of apartment EGI	

\$12,205	<div> <div>(\$139,990)</div> <div>(\$4,857,743)</div> </div> <div>\$12,104,814</div>
Capitalized @ Indicated value (R) Per DU	<div>4.05%</div> <div>\$298,884,287</div> <div>\$298,884,000</div> <div>\$750,965</div>
per SF =	\$35,820,000
per SF =	\$263,064,000

Structural maintenance/reserve	\$0.25	per SF of GBA
Total operating expenses		
Net operating income		
Indicated Value		
Land Value		
		19,900
Residual Improvements		

Total Estimated Value	Special Benefit	% Change	
\$298,884,000	N/A	N/A	
			Per DU
\$304,175,000	\$5,291,000	1.77%	\$13,294
\$305,687,000	\$6,803,000	2.28%	\$17,093
\$306,451,000	\$7,567,000	2.53%	\$19,013
\$303,379,000	\$4,495,000	1.50%	\$11,294
\$298,884,000	N/A		
\$304,612,000	\$5,728,000	1.92%	\$14,392

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Helios Apartments
Scenario B: Overall Capitalization

tion	Land Area	%	GBA	NRA
ent Unit	19,900	74.39%	559,958	306,374
nit	6,851	25.61%	185,492	185,492
	26,751	100.00%	745,450	491,866

	Per DU	Per DU	Low	High
	\$2,112	\$2,123	1.75%	2.25%
	\$3,093	\$3,108	\$2,534,796	\$2,547,252
	\$4,654	\$4,677	\$5,493,523	\$5,520,518
	\$0	\$0	\$8,377,281	\$8,418,447
	\$3,435	\$3,452	\$0	\$0
			\$16,405,600	\$16,486,217
			1.75%	2.25%
∴ NRA @	\$35.61	\$35.79	\$148,255	\$148,983
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
			\$148,255	\$148,983
	Per Month	Per Month	1.75%	2.25%
stalls @	\$305.25	\$306.75	\$1,205,127	\$1,211,049
	Per SF	Per SF	0.00%	0.00%
∴ NRA @	\$0.00	\$0.00	\$0	\$0
∴ NRA @	\$0.00	\$0.00	\$0	\$0
1.0%	of PGI		\$164,056	\$164,862
∴ NRA @	\$58.50	\$58.79	\$17,923,038	\$18,011,112
revenue	4.00%	4.00%	(\$656,224)	(\$659,449)
revenue	5.00%	5.00%	(\$7,413)	(\$7,449)
revenue	0.00%	0.00%	\$0	\$0
			(\$663,637)	(\$666,898)
			\$17,259,401	\$17,344,214
			(\$862,970)	(\$867,211)
			\$0	\$0
			(\$3,937,344)	(\$3,956,692)

INCOME ANALYSIS After	
Potential Gross Income	
Studio	
1-bedroom	
2-bedroom	
3-bedroom	
Total apartments	
Retail	
Office	
Restaurant	
Other	
Subtotals	
Parking Area/Stalls	
Basement	
Other	
Other	
Total Bldg Area & Gross Income	
Less: Vacancy/credit allowance @	
Total vacancy/credit allowance	
Effective gross income	
Less: Operating expenses	
Management fee @	
Parking operating expenses @	
Apartment operating expenses	

		(\$139,990)	(\$139,990)
		(\$4,940,304)	(\$4,963,892)
		\$12,319,098	\$12,380,322
Capitalized @		4.05%	4.05%
		\$304,175,251	\$305,686,955
(R)		\$304,175,000	\$305,687,000
Per DU		\$764,259	\$768,058
% change		1.77%	2.28%
SF @ \$1,836.00 per SF =		\$36,537,000	\$36,537,000
		\$267,638,000	\$269,150,000
Per SF NRA		\$873.57	\$878.50

2.00%

Structural maintenance/reserve
Total operating expenses
Net operating income
Indicated Value
Land Value
Residual Improvements

Rates Changes

Year Built 2015						
Units	SF NRA	Total NRA	Rent	Rent/SF		
100	468	46,800	\$2,076	\$4.44		\$2,491,200
148	779	115,292	\$3,040	\$3.90		\$5,399,040
150	1,137	170,550	\$4,574	\$4.02		\$8,233,200
0	0	0	\$0	\$0.00		\$0
398	836	332,642	\$3,376	\$4.04		\$16,123,440
4,163	4,163		SF NRA @	\$35.00	per SF =	\$145,705
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
4,959	7,383					\$145,705
127,958	0	329	stalls @	\$300.00	/month	\$1,184,400
0	0		SF NRA @	\$0.00	per SF =	\$0
0	0		SF NRA @	\$0.00	per SF =	\$0
			1.0%	of PGI		\$161,234
559,958	306,374		SF NRA @	\$57.49	/SF	\$17,614,779
4.0% of apartment revenue						(\$644,938)
5.0% of commercial revenue						(\$7,285)
0.0% of parking revenue						\$0
						(\$652,223)
						\$16,962,557
5.0% of total EGI						(\$848,128)
0.0% of parking EGI						\$0
25.0% of apartment EGI						(\$3,869,626)

\$0.25 per SF of GBA		<div>(\$139,990)</div> <div>(\$4,857,743)</div> <div>\$12,104,814</div>
Capitalized @ Indicated Value (R) Per DU % change	Low	High
	3.95%	3.99%
	\$306,450,978	\$303,378,788
	\$306,451,000	\$303,379,000
	\$1,000.25	\$990.22
	2.53%	1.50%
19,900 SF @ \$1,836.00 per SF =	\$36,537,000	\$36,537,000
	\$269,914,000	\$266,842,000
per SF NRA	\$881.00	\$870.97

2.00%

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0441	Helios	206 Pine Street	7683890010

ASSESSMENT BASED ON 5-YR DISCOUNT TO PRESENT VALUE			Value	5-yr delay
H	City LID special benefit for subject		\$5,728,000	
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr			34.29%
J	Percentage of Special benefit to be assessed by City		39.20%	
L	City's Assessment - 5-yr Discount to Present Value only			\$770,011

Model Input			
Appeal #	Property	Address	Assessor's #
CWF-0441	Helios	206 Pine Street	7683890010

BEFORE		Appraiser	Value
A	Final City Before Value	City	\$298,884,000
B	Actual Value per Taxpayer - January 2020	Taxpayer	\$239,884,000
C	COVID 19 Discount and value		-12.5%
D			
(B*(1+C) unless no value for B, then A*(1+C)) Corrected FMV for Assessment			\$209,898,500

SPECIAL BENEFIT				5-yr delay	10-yr delay
E	City Total LID Special Benefit	City	\$447,908,000		
F	Discount to present value (Dollars)	Taxpayer		\$153,601,847	\$42,204,577
G	Discount to present value (percentage of total)			34.29%	9.42%

CORRECTION OF ASSESSMENT				Value	5-yr delay	10-yr delay
H	City LID special benefit for subject			\$5,728,000		
H/A	As Percentage of Final City Before Value			1.916%		
H/A * D	Apply "Percentage of Final City Before Value" to "Corrected FMV for Assessment"			\$4,022,626.20		
	Discount for Date of Benefit Receipt (F) - 5-yr and 10-yr				34.29%	9.42%
I	Final Concluded Special Benefit Assignment for Subject - Discounted to Present Value				\$1,379,486	\$379,036
J	Percentage of Special benefit to be assessed by City			39.20%		
J * I	Recomputed Assessment (5-yr delay, and 10-yr delay)				\$540,759	\$148,582

DISTANCE FROM PARK IMPROVEMENTS				Value	5-yr delay	10-yr delay
K	> 2,000 feet from Pier 58, Overlook, Promenade		No			
J*I unless K = Yes	Recomputed Assessment (5-yr delay, and 10-yr delay)			N/A	N/A	N/A

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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0441

NOTICE OF APPEAL OF HEARING
EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-SECOND
& PINE LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
7683890010

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33 Eqr-Second & Pine LLC (“Helios”) files this appeal pursuant to RCW 35.44.070,
34 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, the notice of the
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36 Seattle Office of the City Clerk dated December 30, 2019, and the Hearing Examiner’s
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38 Findings and Recommendation issued September 8, 2020 (“Examiner’s Recommendation”).
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42 **I. Taxpayer / Appellant**

43 The Taxpayer filing this appeal is:

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45 Eqr-Second & Pine LLC
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1 2 N Riverside Plz
2 Suite 400
3 Chicago, IL 60606
4

5 **II. Taxpayer's Representatives**

6 Helios' representatives in this matter are:

7
8
9 R. Gerard Lutz, WSBA No. 17692
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26 Facsimile: 206.359.9000
27

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29 **III. Statement of Taxpayer's Interest**

30 Helios owns the property that is subject to the proposed final assessment described in
31
32 Section IV. The property at issue is a multifamily residential apartment building located a
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34 block east of Pike Place Market, approximately two blocks from the proposed overlook
35
36 walk.
37

38 The basis of the proposed assessment is a Final Special Benefit/Proportionate
39
40 Assessment Study for Waterfront Seattle Local Improvement District ("Final Study"), dated
41
42 October 1, 2019 and prepared by Robert Macaulay with ABS Valuation (the City's
43
44 appraiser). The Final Study proposes assessments that are purportedly limited to paying for
45
46 the LID-funded components—namely, the Promenade, Overlook Walk, Pioneer Square
47

1 Street Improvements, Union Street Pedestrian Connection, Pike/Pine Streetscape
2
3 Improvements, and Pier 58 (together, the “LID Improvements”). The Final Study purports
4
5 to exclude charges for other improvement projects in the Central Waterfront, and
6
7 specifically those WSDOT had already agreed to pay for and construct: viaduct demolition,
8
9 the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State Route 99
10
11 Tunnel, the Pier 62 rebuild, Bell Street improvements, and parking spaces WSDOT planned
12
13 fronting piers between Pike and Madison (together, the “WSDOT Improvements”). But
14
15 because construction was not complete on the LID Improvements or the WSDOT
16
17 Improvements at the time the Final Study was prepared, Mr. Macaulay’s October 1, 2019
18
19 “Before” and “After” valuations are both based on hypothetical conditions rather than actual
20
21 facts. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was
22
23 based on the Final Study.

24 25 **IV. Matter Under Appeal**

26 Helios appeals the Hearing Examiner’s recommendation to deny Taxpayer’s
27
28 objection to the City of Seattle’s Waterfront Local Improvement District No. 6751 proposed
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30 final assessment dated December 30, 2019 against the following property:

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32
33 King County Parcel No. 7683890010
34 Site Address: 206 Pine St., Seattle, Washington
35 Proposed Final LID Assessment for Parcel: \$2,244,356.42

36
37 See Examiner’s Recommendation at 61-62, 107. To avoid repetition, Taxpayer incorporates
38
39 the evidence and arguments raised before the Hearing Examiner into this appeal. In
40
41 particular, Taxpayer points the City Council to Taxpayer’s initial Appeal Petition, *Frye*
42
43 motion, Closing Brief submitted at the close of its case-in-chief (dated 4/16/2020), and
44
45
46
47

1 supplemental Closing Statement submitted at the close of the City's case-in-chief (dated
2 7/7/2020).¹
3

4 As discussed more fully below, Taxpayer specifically appeals the following Findings
5 and Recommendations in the Hearing Examiner's September 8, 2020 Recommendation:
6
7 Pages 61-62, 107, Sections II.6, II.7, II.13, II.14, II.15, II.18, II.19, II.20, II.21, II.22, II.23,
8 II.24, II.25, II.26, II.27, II.28, II.29, II.30, II.31, II.32, II.33, IV.A, IV.B.1, IV.B.2, IV.B.3,
9 IV.B.4, IV.B.5, IV.B.6, IV.B.7, IV.B.8, IV.B.9, IV.B.11(a), IV.B.11(a)(i), IV.B.11(a)(ii),
10 IV.B.11(a)(iii), IV.B.11(a)(iv), IV.B.11(c), IV.C.3, IV.C.4, IV.C.5, IV.C.7, IV.C.8, IV.C.9,
11 IV.C.11, IV.C.12, IV.C.14, IV.C.18
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18 Taxpayer also appeals the Hearing Examiner's failure to make findings of fact or
19 recommendations on material issues raised during Taxpayer's appeal that were supported by
20 law, expert testimony, and fact. The Final Study fails in numerous ways to satisfy the basic
21 requirements of a LID assessment study, and the Examiner's Recommendation ignores the
22 many deficiencies in the Final Study. In fact, the only instances in which the Examiner
23 recommended anything other than denial of objectors' appeals were where the City's
24 appraiser confessed error. The appraiser's proposed assessments, and the Examiner's
25 Recommendations, would have the City impose arbitrary and capricious Waterfront LID
26 special assessments based on "fundamentally wrong methods."
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40 ¹ Because the City has not provided "metered index numbers," our appeals cannot reference
41 them. See SMC 20.04.110. However, as part of the prehearing conference, we recommend that the
42 Public Works committee secure and provide appellants with such a record, so that the appeals can
43 then be supplemented with that additional information, so as to make the Committee's consideration
44 of each individual appeal more efficient and fair. Until that is provided, unless otherwise stated,
45 citations to the record before the Hearing Examiner are to the record for CWF-0233. Based on the
46 Examiner's electronic records, it appears most of the materials submitted on behalf of all objectors
47 retained by Perkins Coie are part of this case file.

1 The special benefit for which special taxes are assessed must be “actual, physical and
2 material and not merely speculative or conjectural.” *Heavens v. King Cty. Rural Library*
3 *Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). For a proposed assessment roll to comply
4 with the law, the assessments may not materially exceed the actual special benefit conferred
5 by the LID Improvements. *Id.* The special benefit assessment cannot include charges for
6 general benefits enjoyed by the public at large. *Id.* Further, LID assessments must be
7 proportionate. *Id.* Failure to meet any one of these legal requirements is fatal to the
8 assessment. In this case, the proposed assessment fails each of the legal requirements for
9 special assessments and must be annulled as arbitrary or capricious, or founded on
10 fundamentally wrong methods.
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22 **Legal Requirement:** Actual, non-speculative special benefit

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24 **ABS Study:** Estimates a hypothetical benefit based on “Before” values that increase
25 “actual 2019” values (unstated) assuming the WSDOT Improvements were in place in
26 October 2019 (they were not), and an “After” value purporting to assess the value of
27 properties with the LID improvements in place at least five years before anticipated
28 completion.
29

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31 **Legal Requirement:** Cannot materially exceed the special benefit

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33 **ABS Study:** ABS calculates a special benefit of \$5,728,000 assuming the LID
34 Improvements were in place and providing benefit in October 2019. However, the LID
35 Improvements will not be completed until the end of 2024 if the City meets its current
36 schedule, and many of WSDOT’s alternative improvements will not be built. The present
37 value of future improvements deliverable in five years is significantly lower than the
38 current value of improvements that already exist. Further, ABS’s own materials show that
39 benefits may not accrue for at least five years after they are completed, in 2029. If the
40 hypothesized special benefits are discounted to present value, the assessments materially
41 exceed the hypothesized special benefits.
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45 **Legal Requirement:** Actual, non-speculative special benefit—Date of valuation/COVID
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1 **ABS Study:** The City has not finalized the assessment roll. After the City's appraiser
2 prepared his Final Study in October 2019, and the City issued its preliminary roll in
3 December 2019, COVID devastated downtown hotel and retail properties. The Hearing
4 Examiner finds that COVID is irrelevant because it happened after ABS's appraisal and
5 the City's preliminary roll. On the contrary, the City's assessments have yet to be made
6 and must be based on actual special benefits. While that does not mean ABS's appraisal
7 was wrong when completed, values and benefits need to be reanalyzed before assessments
8 are finalized in light of the unprecedented changes to the downtown real property market.
9

10
11 **Legal Requirement:** Actual benefit that cannot materially exceed special benefit—
12 Assessment cannot include value attributable to future WSDOT Improvements.
13

14
15 **ABS Study:** The City's appraiser asserts that the City is not collecting assessments "based
16 on the value of WSDOT's planned improvements." See Final Study at 3. However, the
17 City's own expert, Mark Lukens, acknowledged that was false. In the "Before" condition,
18 the City's appraiser increased 2019 property market values as though WSDOT had
19 completed its work by 2019. The proposed assessment is against this hypothetical
20 WSDOT-enhanced "Before" value, which ABS acknowledges is (to some unstated extent)
21 higher than actual 2019 market values. The City is collecting an assessment against both
22 the 2019 current values and the phantom 2019 WSDOT market value lift, in direct
23 contravention of law and the City's promise not to impose an assessment based on the
24 value of viaduct demolition and the other components of WSDOT's planned work.
25

26
27 **Legal Requirement:** Benefits must be special, not general
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29
30 **ABS Study:** The City's appraiser fails to determine or explain what general benefits arise
31 due to the LID Improvements. However, the far-reaching and public nature of the
32 improvements make any benefit arising from them general—not special.
33

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35 **Legal Requirement:** Benefits must be "physical and material and not merely speculative
36 or conjectural"
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38 **ABS Study:** Not only are the improvements not yet "physical or material," but
39 environmental review and permitting for the City's proposed LID Improvements is not
40 complete, and the LID improvements are not anticipated to be complete until the end of
41 2024. The appraiser nevertheless hypothesized that they were all completed as of 2019 in
42 a manner consistent the City's then-current proposals, which were in many respects merely
43 conceptual designs.
44

45
46 **Legal Requirement:** Must comply with appraisal standards
47

1 **ABS Study:** ABS's valuation methodology cannot be tested. It is a hybrid of "Individual" and "Mass" appraisal techniques, but fails to meet USPAP requirements for either. Until
2 the Examiner admonished ABS, ABS even asserted its analysis was "confidential and
3 proprietary." ABS's analysis and conclusions can neither be tested nor replicated. The
4 Final Study fails to meet basic standards for admissibility and must be remanded.
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8 **Legal Requirement:** Actual and measurable special benefit
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10 **ABS Study:** ABS's proposed assessments are assigned rather than measured, as
11 demonstrated by formulas in ABS's spreadsheets. The percentage assignments are based
12 on a host of "micro-judgments" that are not supported by any documentation, nor capable
13 of replication or quality assurance/quality control. The assessments are undocumented,
14 unreliable, and not supported by empirical studies, data, or reports.
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17 **Legal Requirement:** Actual and measurable special benefit—Park benefits must be
18 supported by empirical evidence
19

20 **ABS Study:** Dr. John Crompton, the world's preeminent expert regarding the economic
21 value of parks and other public amenities and on whom ABS purported to rely, testified
22 that ABS had completely misapplied his work and dramatically overstated both the
23 distance to which economic benefits might extend from the LID Improvements and the
24 extent of any anticipated benefit within the potentially benefited area.
25
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27 **Legal Requirement:** Actual special benefit—Must take into account potential
28 disamenities
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30 **ABS Study:** The appraiser ignores the negative value impact of five years or more of
31 construction, as well as other potential disamenities associated with public places.
32
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34 **Legal Requirement:** Cannot prematurely commit to build
35

36 **ABS Study:** The City has not completed NEPA review or other entitlement process for its
37 Pier 58 plans or planned Pike Pine or Pioneer Square improvements for which assessments
38 are being imposed. But finalizing the roll is a commitment by the City to build the
39 improvements, which is a violation of legal process and commits the City to build things it
40 may not secure permission to build.
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1 In addition to these general objections, there are property-specific issues raised by
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3 Taxpayer as to which the Examiner also erred, discussed in the course of the appeal
4
5 statement below.
6

7 **V. Standard of Review**
8

9 “When considering the assessment roll, the city council sits ‘as a board of
10 equalization.’” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 948, 320 P.3d 163
11 (2014) (quoting RCW 35.44.080(2)). “As such, the council or hearings officer ‘will consider
12 the objections made and will correct, revise, raise, lower, change, or modify the roll or any
13 part thereof or set aside the roll.’” *Id.* at 949 (quoting RCW 35.44.080(3)).
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18 The proposed assessments are presumed correct, “unless overcome by clear, cogent
19 and convincing evidence.” *Hasit*, 179 Wn. App. at 948. This standard is less deferential
20 than the heightened presumption of correctness on judicial appeal because “applying these
21 elevated standards at the municipal hearing would afford unwarranted deference to a report
22 prepared under contract by a private appraisal firm.” *Id.* at 949. Importantly, “a
23 presumption is not evidence and its efficacy is lost when the other party adduces credible
24 evidence to the contrary.... The sole purpose of a presumption is to establish which party has
25 the burden of going forward with evidence on an issue....” *In re Indian Trail Trunk Sewer*
26 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (1983). In other words, because objectors have
27 presented credible evidence showing that the City’s proposed assessment is arbitrary,
28 capricious and founded on a number of fundamentally wrong foundations, the burden shifts
29 to the City to prove the assessments are actual, measurable, special, non-speculative and
30 proportionate. The City failed that burden.
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1 **VI. Grounds for Appeal**

2 Helios appeals the Hearing Examiner's Findings and Recommendations on the
3 following grounds.
4

5 **Taxpayer Not Required to Provide A Special Benefit Study**

6
7 1. Contrary to the Examiner's findings and recommendations, there is no
8 requirement that experts or property owners provide an alternative special benefit
9 calculation under these circumstances—to do so would also require the same improper
10 speculation the City's expert engaged in, given the timing and information provided. *See,*
11 *e.g.,* Decl. of Anthony Gibbons ISO Closing Stmt., ¶ 3(dated 7/7/2020); *see also* Decl. of
12 Ben Scott ISO Closing Stmt., ¶ 3(dated 7/7/2020); Decl. of Brian O'Connor ISO Closing
13 Stmt., ¶ 3(dated 7/7/2020). A Washington court has explained: "[W]e have explicitly
14 rejected an argument that, because certain protestors 'failed to offer expert testimony at the
15 city council hearing[,] the presumptions [in favor of the assessment] were still operative as
16 to their property.'" *Hasit*, 179 Wn. App. at 946 (quoting *In re Indian Trail Trunk Sewer*, 35
17 Wn. App. at 843); *see also Kuskay v. City of Goldendale*, 85 Wn. App. 493, 933 P.2d 430
18 (1997) (although appraiser did not submit an appraisal, he provided expert opinion showing
19 that improvements actually diminished value of the property). In fact, no independent
20 evidence is required at all if, for example, objectors show that the assessment was grounded
21 on a fundamentally wrong basis due to an error in the City's appraiser's methods—as is the
22 case here. *Hasit*, 179 Wn. App. at 947 (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88,
23 106, 786 P.2d 253 (1990)). As a simple example, a property owner could simply point out
24 that the square footage assumed in the City's appraisal was incorrect.
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27 2. On March 5 and 11, 2020, Helios presented testimony from experts Ben Scott
28 and Brian O'Connor. The Hearing Examiner failed to meaningfully respond either the expert
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1 testimony or the expert appraisal reviews, including testimony by Mr. Scott showing that
2 Mr. Macaulay incorrectly reduced the number of studios at the Helios by 56 and increased
3 the number of larger, higher rent units in his income calculation, which erroneously
4 increased the property value and LID assessment. *See* 3/11/2020 Hrg. Tr. at 22:21-4:17.
5
6 Instead, the Hearing Examiner simply dismissed Helios' expert evidence as insufficient
7 appraisal evidence. *See* Examiner's Recommendation at IV. C.7-9. This is contrary to law.
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12 3. For these reasons, Taxpayer appeals the following portions of the Examiner's
13 Recommendation: Sections II.13, II.14, II.15, IV.A, IV.B.11(a), IV.C.7, IV.C.8, IV.C.9, and
14 IV.C.11.
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18
19 **No Actual, Measurable, Non-speculative, Proportionate, Special Benefit**
20

21 4. RCW 35.43.040 provides cities and towns authority for ordering local
22 improvements and for levying and collecting special assessments "on property specially
23 benefited thereby[.]" The cost and expense of the local improvement "shall be assessed upon
24 all the property in accordance with the special benefits conferred thereon." RCW 35.44.010.
25
26

27 5. No analysis of general benefits. Special assessments have been "held valid
28 for the construction and improvement of streets, curbs, gutters, sidewalks, and for the
29 installation of sanitary and storm sewers, drains, levees, ditches, street lighting, and water
30 mains." *Heavens*, 66 Wn. 2d at 563. "All such assessments have one common element:
31 they are for the construction of local improvements that are appurtenant to specific land and
32 bring a benefit substantially more intense than is yielded to the rest of the municipality." *Id.*
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35 6. Helios' property is not specially benefited by the LID Improvements. The
36 primary purpose and effect of the LID Improvements are to benefit "members of the whole
37 community" and the public at large. *See, e.g., id.* at 565 ("it is plain that a public library is
38 for the benefit of the members of the whole community individually and collectively who
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1 may be served by it"). Mr. Macaulay's own chapter of the LID Manual states clearly that
2 appraisers should "[c]onsider general benefits as well as special benefits" (Hrg. Exhibit 117
3 (LID Manual) at 58²) and he admits that "general benefits probably accrue to the LID area"
4 as well (*see* 6/23/2020 Hrg. Tr. at 22:4-12). Taxpayer's expert confirmed that if an
5 appraiser "identifies both general and special benefits, these benefits should be clearly
6 distinguished and explained, and only special benefits should be included in the After
7 assessment." Gibbons Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020); *see also* 3/3/2020 (A.
8 Gibbons) Hrg. Tr. at 96:6-97:4; 3/5/2020 (B. O'Connor) Hrg. Tr. at 158:13-159:8, 192:8-
9 193:2. It is undisputed that Mr. Macaulay did not analyze or measure general benefits,
10 including those arising from construction necessary to meet basic design standards. *See*
11 Hrg. Exhibit 117 (LID Manual) at 58 ("[c]onsideration may also be given to those
12 construction costs related to meeting design standards which may be general benefits as
13 distinct from construction costs emanating from requirements of the LID project"). To the
14 extent Taxpayer's property may benefit from the LID improvements, the benefit is general
15 and incidental, and failure to consider general benefits was a fatal flaw in the City's
16 methodology. For these reasons, Taxpayer appeals the following portions of the Examiner's
17 Recommendation: Sections IV.B.7, and IV.B.11(a)(i), IV.B.11(a)(iv), and IV.C.4.

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35 7. LID Improvements not necessary. Unlike typical LID projects, the
36 Waterfront LID improvements are largely unnecessary to the functionality of any particular
37 property, including Taxpayer's property. *See In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d

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² "Hrg. Exhibits" refer to exhibits that were submitted on behalf of multiple objectors represented by Perkins Coie during its seven days of hearing before Hearing Examiner Vancil (March 3, March 5, March 11, March 12, April 13, April 14, and April 16, 2020) and during the two days of cross-examination of the City's witnesses (June 23, 25 and 26, 2020). For ease of reference, Taxpayer has attached a master list of the hearing exhibits as Attachment A to this appeal notice.

1 436 (1954) (assessment levied for the purpose of raising the grade of a road by 16 to 18 feet
2 held invalid where owners would have benefitted equally from increase of only 9 feet);
3
4 *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d 259 (1958) (assessment against land at
5
6 intersection for new water main for hydrant held invalid because land was already afforded
7
8 functional hydrant at nearby street). Here, Taxpayer provide evidence that the LID
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10 Improvements are not necessary to the business of their income-producing properties, all of
11
12 which already have sufficient access to the waterfront, downtown restaurants, and other
13
14 amenities necessary for their clients and users. And for residential properties, the assumption
15
16 that an increase in tourism will cause lifts in property value is both anecdotally and
17
18 empirically unsupported. The fact that there is no case law differentiating between binary
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20 improvements and parks does not change the law prohibiting assessments on properties
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22 already adequately served by existing amenities. *See* Examiner's Recommendation at
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24 IV.C.3 (reasoning that "no case law is provided to support the differentiation between a
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26 hardscape benefit and the more ephemeral benefits of park"). Nor does the Examiner's
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28 reasoning excuse the City's failure to account for existing amenities as part of the special
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30 benefit calculation. As Dr. Crompton testified, existing view amenities may in fact diminish
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32 the incremental effect of new park improvements on the value of properties, much like
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34 turning on a weak light in an already brightly illuminated room. *See* Hrg. Exhibit 94
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36 (Crompton's Report) at 12-13.

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39 8. To the extent benefits can be considered "special" as opposed to general, they
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41 are nominal or nonexistent for many properties even in the Central Waterfront, which
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43 already has a promenade, viewpoints, as well as connecting streets and bridges. *Douglass v.*
44
45 *Spokane Cty.*, 115 Wn. App. 900, 64 P.3d 71 (2003) (properties' fair market value did not
46
47 change due to expansion of sewer service *near* owners' parcel which were already

1 connected). Here, Helios will not specially benefit from the LID Improvements because its
2 apartment demand is driven by proximity to downtown job centers, restaurants, night life,
3 and shopping. *See* 3/5/2020 (E. Leigh) Hrg. Tr. at 220:25-221:6. Even if the City could
4 assess for a view change (and it has promised not to assess for viaduct removal), the fair
5 market value of Helios' property has not changed because the LID Improvements have not
6 improved the property's waterfront view or access to the waterfront, nor will they when the
7 City anticipates completion in 2024. For these reasons, Taxpayer appeals the following
8 portions of the Examiner's Recommendation: Sections IV.C.3, IV.B.9, and IV.C.3.
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17 9. No analysis of special detriments. The Final Study fails to properly account
18 for special detriments. *See Kusky*, 85 Wn. App. at 501 (city failed to consider the costs to
19 owners for removal and cleanup of underground storage tanks discovered during the
20 improvement project). The Property owner representative for Helios, Ed Leigh, testified that
21 property values may in fact be negatively impacted by the LID Improvements due to loss of
22 parking, increased traffic and noise, and increased potential for crime, homelessness and
23 sanitation issues. *See* 3/5/2020 (E. Leigh) Hrg. Tr. at 223:13-225:14; 227:8-229:10. And
24 Helios does not expect near term the increases assumed in ABS Valuations' spreadsheets or
25 the Final Study. Although Mr. Macaulay claims he analyzed impacts on the City's planned
26 elimination of 450 parking stalls on a parcel-by-parcel basis, there is no explanation of how
27 lost parking might be a detriment, and no property-specific parking analysis in any of his
28 materials. 6/23/2020 Hrg. Tr. at 185:20-24; 186:14-187:12.
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41 10. Likewise, there was no analysis of the risks associated with disamenities such
42 as increased crime, homelessness and unsanitary conditions, and Mr. Macaulay did not
43 quantify the risk that the waterfront will not in fact be maintained. 6/23/2020 Hrg. Tr. at
44 193:21-194. Instead he relied on the maintenance ordinance (Ordinance 125761) to dismiss
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1 these concerns. However, Mr. Foster explained that although the ordinance anticipates that
2 City Council will appropriate \$4.8M each year for waterfront operation, it does not bind any
3 future city councils or guaranty funding. 6/26/2020 Hrg. Tr. at 12:7-20; 15:2-10.³ And if
4 the City fails to appropriate that baseline funding, there is an option to suspend or terminate
5 the maintenance agreement. *Id.* at 13:4-14:2.
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11 11. There was also no consideration of negative impacts from another four-plus
12 years of construction (at least). Mr. Macaulay reasoned that construction impacts are not
13 compensable in eminent domain cases. However, there is nothing in the LID statutes or case
14 law allowing him to dismiss these actual, non-speculative impacts. Because future special
15 benefits calculations are inherently speculative, Washington's eminent domain statute
16 specifically allows condemnees to postpone special benefits assessments until improvements
17 are in place. RCW 8.25.220; *State v. Green*, 90 Wn.2d 52, 56, 578 P.2d 855 (1978).
18 Moreover, the studies that Mr. Macaulay relied on demonstrate that construction disamenity
19 is real and does have a near-term negative effect on property values. *See* Gibbons Decl. ISO
20 Closing Stmt. (dated 7/7/2020), Ex. C at 24 (during construction of Rose Kennedy
21 Greenway, the Greenway district "significantly" lagged in value). For these reasons,
22 Taxpayer appeals the following portions of the Examiner's Recommendation: Sections
23 II.25, IV.B.8, and IV.B.9.
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36 12. Special benefit estimate is speculative. When calculating a special benefit,
37 "[f]air market value cannot include a speculative value." *Bellevue Plaza, Inc.*, 121 Wn.2d at
38 411. "When an appraiser uses a factor 'beyond the knowledge of reasonable certainty', it
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45 ³ The Examiner suggests that the issue of whether future City Councils are bound is not at issue.
46 However, the issue of maintenance was part of Mr. Macaulay's special benefit analysis and therefore
47 the assessment amounts.

1 becomes pure speculation.” *Id.* (quoting *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324
2 P.2d 1078 (1958)).
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5 13. Assuming without conceding that one day, the City’s planned LID
6 Improvements might increase the value of neighboring properties to some extent, that
7 potential benefit is many years away and speculative. While appraisers tolerate some degree
8 of estimation and judgment, Taxpayer’s expert testified that Mr. Macaulay’s Final Study is
9 far too speculative to satisfy industry practices and standards.
10

11
12 14. Although LIDs are sometimes finalized prior to completion of improvements,
13 this is typically just six month or a year prior, and the assessments are otherwise supported
14 by the near-term construction of the improvements. *See* 3/3/2020 (A. Gibbons) Hrg. Tr. at
15 117:20-118:9; 119:5-120:9; 122:15-124:9. By contrast, the estimated special benefits here
16 will not be realized for four or five years. In the meantime, there is permitting risk,
17 construction risk, and general economic risk (e.g., COVID), which renders ABS’s 2019
18 hypotheticals inherently speculative and unreliable because it is impossible to predict which,
19 and to what extent, different factors will impact value. *Id.* at 51:13-53:5. Ultimately, Mr.
20 Macaulay concedes that there is inherent uncertainty in valuing the future delivery of
21 projects because “we can’t read the future.” 6/23/2020 Hrg. Tr. at 79:18-80:8. As he
22 testified: “I just don’t know what the market value would be as of the date the project would
23 be finally constructed” because “[t]here could be a lot of elements in the market that did
24 occur between now and then that impact value.” 6/25/2020 Hrg. Tr. at 212:9-13; *see also id.*
25 at 211:8-20 (no way to know if his estimates will be higher or lower than comparable sales
26 in 2024 because “markets tend to fluctuate over time” and “I can’t predict the future”).
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29 15. The record is clear that while no one can know what “special benefit” might
30 accrue to these properties in four years (if any), we do know that there are no actual benefits
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1 now. The LID improvements provide no immediate special benefit to property owners
2 because the bulk of the components are still in design stages. *Cf. Hasit*, 179 Wn. App. 917
3 (assessments calculated on a fundamentally wrong basis by including costs for an oversized
4 sewer system for future users). For example, notwithstanding the questionable hypothesis
5 that apartments will benefit from an expected increase in tenant interest when the
6 improvements are complete, it is undisputed that tenants are not coming in larger numbers
7 and paying higher rental rates now because of something happening five years down the
8 road. See O'Connor Decl. ISO Closing Stmt., ¶ 7 (dated 7/7/2020) (no apartment leased
9 today for 18 months would rent at a higher rate due to improvements coming in 2024).
10

11 16. Further, there are no “plans and specifications” on file with the Clerk’s
12 Office for the LID Improvements, and it is unlawful to move to final assessments without
13 such “plans and specifications.” Ordinance 125760, Section 3; *Local and Road Improvement*
14 *Districts Manual for Washington State 6th Edition*, pp. 3, 19, 31, 44 (2009). It is also
15 unlawful to bind future City Councils and future budgets to spend hundreds of millions of
16 dollars on projects still early in the design process. See Washington Attorney General
17 Opinion 2012 No. 4 (May 15, 2012)); *cf. City of Seattle v. Rogers Clothing for Men, Inc.*,
18 114 Wn.2d 213, 787 P.2d 39 (1990) (assessment upheld because City has apportioned costs
19 of programs and included “only so much of the overall costs” that took place within and
20 benefitted the assessed properties).
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22 17. The COVID-19 crisis highlights how fundamentally speculative and unfair it
23 would be to base a special benefit assessment on twin 2019 hypotheticals for improvements
24 anticipated to be delivered five years later. Even before COVID, it was speculative to
25 assume that market highs experienced in October 2019¹ would be sustained through 2024,
26 after an already extraordinarily long expansion period. See, e.g., 3/5/2020 (E. Leigh) Hrg.
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1 Tr. at 119:15-123:6; 3/3/2020 (A. Gibbons) Hrg. Tr. at 117:6-118:9, 119:17-120:9. And Mr.
2
3 Macaulay conceded: “[W]hen I was doing my analysis in October 2019, who would have
4
5 thought that this COVID issue would happen?” 6/23/2020 Hrg. Tr. at 80:3-8. At his
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7 deposition in late February, his “thought process was that the market was going to continue
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9 to go up,” but now, they are already irrelevant. Id.; see Gibbons Decl. ISO Closing Stmt. at ¶
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11 12 (dated 7/7/2020). Although COVID does not change actual values as of October 2019
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13 (see Examiner’s Recommendation at 109), the pandemic has impacted *current* values and
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15 rendered the hypothetical October 2019 Final Study valuations outdated.

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17 18. As another example of how future events could affect the accuracy and
18
19 reliability of the City’s 2019 proposed assessment, Taxpayer recently requested the Hearing
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21 Examiner re-open the record to allow the City to explain whether the assessments against
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23 property owners within the LID are, in fact, being used by the City to fund the emergency
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25 dismantling and reconstruction of Pier 58.⁴ It has been reported that the City plans to use
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27 LID funding to pay for the expedited, emergency repairs and replacement.⁵ If true, the City
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29 would be improperly imposing costs on property owners within the LID for improvements
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31 that are required to maintain the safety of Pier 58 and to remove a threat to critical salmon
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34 ⁴ Associated Press, *Seattle mayor approves ‘emergency dismantling’ of waterfront Pier 58* (King
35 5, Aug. 15, 2020), available at <https://www.king5.com/article/news/local/seattle/seattle-mayor-approves-emergency-dismantling-of-waterfront-pier-58/281-f6b7c7d0-78f2-4826-97c8-0b60d4097aa3>; See Aug. 21, 2020 Memo from R. Holtz et al. to L. Arber re HPA Request for Pier
36 58 (Waterfront Park) Emergency Demolition Project, available at
37 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=UxFpa3XqI8020u5QdaIfpJXX0C+FfKT5/OpyMkto74=>; see also Aug. 13, 2020 Ltr. from H.
38 Burton to D. Graves et al. re Review of Pier 58 Movement Observation Report & Recommendations,
39 available at
40 <https://www.govonlinesaas.com/WA/WDFW/Public/EnSuite/Shared/pages/util/StreamDoc.ashx?query=EvGV09Syk1HCKYhwoN5Gqo5VpGOK5QBr3KFzTsfO4Lw=>.

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45 ⁵ Asia Fields, *‘Substantial’ pier shift closes Seattle’s Waterfront Park* (Seattle Times, Aug. 8,
46 2020), available at <https://www.seattletimes.com/seattle-news/substantial-pier-shift-closes-seattles-waterfront-park/>.
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1 habitat and City infrastructure—this does not provide any special benefit to LID property
2 owners.
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5 19. There is also no certainty the improvements will be delivered on time. Mr.
6 Foster testified that 2024 is not a hard deadline for delivery of the improvements, and a
7 delay in construction schedule would not constitute a “material change” under the City
8 Council’s ordinance authorizing the improvements. In other words, the City cannot
9 guarantee that the LID Improvements will be delivered as expected in 2024 or any time after
10 that. 6/26/2020 Hrg. Tr. at 18:5-13. Meanwhile, Taxpayer’s experts Reid Shockey and
11 Richard Shiroyama testified via declaration as to the City’s permitting gauntlet, and
12 potential delays and project changes inherent in those processes, that call into question the
13 assumption that the City can deliver the LID Improvements by 2024. Hrg. Exhibits 110
14 (Shockey Decl., dated 4/15/2020); 111 (Shiroyama Decl., dated 4/15/2020); 107 (Anderson
15 Decl., dated 4/15/2020).
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18 20. Unsurprisingly, of the over one hundred LIDs Mr. Macaulay has worked on,
19 he could not point to a single one where the assessment roll was finalized five years in
20 advance of the anticipated project completion. *See* 6/23/2020 Hrg. Tr. at 16:1-22. Likewise,
21 he has never recommended final special assessments based on designs less than 30 percent
22 complete, other than in this case. *Id.* at 17:22-18:2. Nevertheless, he proceeded with his
23 2019 hypothetical before, hypothetical after analysis because the City “wanted to get
24 moving ahead with the project” and gave him assurances that designs would not change. *Id.*
25 at 66:17-25. He performed no independent due diligence to determine the reliability of the
26 City’s estimates for completion of the LID Improvements, or to ensure that proposed
27 designs or cost estimates were not going to materially change. *Id.* at 78:14-79:13. Yet he
28 agreed that if any of his assumptions are incorrect, his opinion of market value would need
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1 to be revised. 6/23/2020 Hrg. Tr. at 68:19-69:8; *see also id.* at 64:13-65:12; 67:10-16;
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3 68:11-18.

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5 21. The City has cited no authority—and Taxpayer is aware of none—that
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7 affirms the use of hypothetical, anticipatory Before and After values in order to estimate and
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9 assess taxes for “actual” special benefits that will not accrue for another five years (if all
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11 goes off without a hitch). To the contrary, the hypothetical assumption that all of the Before
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13 and After Improvements are constructed as of October 1, 2019 allows Mr. Macaulay to base
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15 his estimates on “pure speculation.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 411. For these
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17 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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19 Sections II.6, II.7, II.33, IV.B.1, IV.B.2, IV.B.3, IV.B.5, IV.B.6, IV.B.11(c), IV.C.12,
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21 IV.C.14, and IV.C.18.

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23 22. Failure to discount special benefit estimates to account for risks and present
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25 value. Due to the inherent uncertainty, Taxpayer’s expert opine that the Final Study should
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27 have accounted for risks associated with delivery of the improvements (including permitting
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29 risk, construction risk, general economic risk) and any special damages associated with
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31 interim construction. 3/3/2020 (A. Gibbons) Hrg. Tr. at 119:17-120:9, 59:20-60:20. In
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33 addition, as is typical appraisal practice, Mr. Macaulay should have discounted the
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35 anticipated 2024 benefit to account for the time value of money. *Id.* at 54:17-55:1; *see also*
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37 Gibbons Decl. ISO Closing Stmt., ¶ 13, 16 (dated 7/7/2020) (“Appraisers routinely consider
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39 the impact of future conditions [through] discounted cash flow analysis.”).

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41 23. Mr. Macaulay acknowledged that appraisers can discount the value of a
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43 future condition not in place at the date of valuation and can discount for the time value of
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45 money. 6/23/2020 Hrg. Tr. at 74:1-75:1. And he agreed that if improvements are not built
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47 until 2024, “[y]ou would be discounting it back to a present value.” *Id.* at 77:2-19.

1 Discounting would also have been consistent with his approach for analyzing special
2 benefits to vacant land. He testified that the difference between similarly situated vacant
3 sites slated for development and already developed sites was that the labor, capital and risks
4 associated with development had not yet been borne for those vacant sites. Therefore, the
5 vacant land was not valued as highly and received a smaller assessment. 6/19/2020 Hrg. Tr.
6 at 28:1-13; *see also* 6/18/2020 Hrg. Tr. at 205:9-12. *A fortiori*, a project that has not been
7 fully permitted, has not completed environmental review, and has not reached full design is
8 presently worth significantly less.
9

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11 24. The City's hotel expert, Mr. Lukens, likewise explained that to calculate
12 present value, an appraiser would consider discount rates for land development to account
13 for inflation, entitlement risks, cash flow issues, construction, etc. 6/26/2020 Hrg. Tr. at
14 184:5-185:22. And Mr. Lukens agreed that it would be reasonable for an appraiser to refer to
15 the PricewaterhouseCoopers Korpacz study for applicable discount rates. *Id.* at 187:18-
16 189:23; *see also* Gibbons Decl. ISO Closing Stmt, ¶ 17 (dated 7/7/2020).
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19 25. Applying the Q19 Korpacz rates and assuming *arguendo* that Macauley's
20 total estimated special benefit is correct, \$447,908,000 discounted to 2019 present value for
21 raw land to be developed by 2024 is approximately \$153,600,000. *See* Gibbons Decl., ¶ 17,
22 Ex. A. Notably, this is lower than the City's proposed \$171,000,000 assessment. Thus,
23 ignoring momentarily all of the other methodological and other flaws discussed here and in
24 Taxpayer's case-in-chief, and assuming that the LID Improvements provide special benefits
25 as soon as they are complete in 2024, Mr. Macaulay's hypothetical assessment materially
26 exceeds special benefits when reduced to present value. Further, to the extent the City is
27 arguing that because they are permitted to assess 100% of the special benefit, the special
28 benefit estimate can be off by 60.8% because they only assess 39.2% of that benefit, the City
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1 is again wrong. After applying proper discounting, the City's proposed special benefit
2 assessment is far more than 39.2% of the total estimated special benefit, and in fact exceeds
3 100% of the total estimated special benefit.
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6 26. But even the assumption that the LID improvements would deliver benefits
7 as soon as they were complete in 2024 is not supported by the studies Mr. Macaulay relied
8 on. Rather, those studies demonstrate that a discount period of five years is conservative.
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10 *See* Gibbons Decl. ISO Closing Stmt., ¶ 18 (dated 7/7/2020). In particular, HR&A's study
11 on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay's backup files)
12 indicates that during the construction period, the Greenway district "significantly" lagged in
13 value (i.e., construction disamenity). *Id.*, Ex. C at 24. That study also recognized that the
14 "reorientation of development to capture value takes time"—specifically, 12-13 years. *Id.* at
15 30-31 (discussing New York City High Line and San Francisco Embarcadero
16 improvements). Given the lengthy delay, any prediction of future special benefits is
17 speculative, especially during the construction phase where values are likely to decline. And
18 assuming the LID Improvements take a similarly long period of time after they are complete
19 to start producing tangible property value benefits, each additional year of delay results in
20 further discount to the present value of any future alleged benefit. Gibbons Decl. ISO
21 Closing Stmt., ¶ 19, Ex. A.
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36 27. Applying the same discounting methods described above and in Mr. Gibbons
37 declaration, the 2019 net present value of ABS's estimate for benefits that actually start
38 accruing in 2029 is just \$42,204,597, only 9.4% of the benefits ABS hypothesized, even
39 before applying the 39.2% percentage assessment. *Id.* For Taxpayer, this means at most the
40 100% assessment should be no more than \$539,577.60. Anything more would permit the
41 City to assess Taxpayer based on a hypothetical assumption that these improvements are in
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1 place and providing benefit, and ignore the risks, construction disamenity, and time value of
2 money that normal appraisal principles would take into account. *Id.*, ¶ 20. Proportionality
3 would counsel that the assessment should be only 39.2% of that assessment cap, or
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5 \$211,514.42.
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9 28. Attachment C includes two Excel spreadsheets applying these discounting
10 methods to Taxpayer's assessment. It is undisputed that special benefits will not actually
11 accrue until the LID Improvements are complete in 2024. Accordingly, the first spreadsheet
12 demonstrates that discounting the City's hypothetical October 2019 special benefits to
13 present value would reduce Taxpayer's assessment to \$770,011, exclusive of any other
14 flaws in the City's proposed assessment. The second spreadsheet shows even more drastic
15 reductions after taking into account (1) Taxpayer's experts' estimated "Before" valued based
16 on actual data from Taxpayer; (2) a rough discount for property value loss due to COVID-
17 19; and (3) discounting to present value for 5 years (*i.e.*, from 2024 when the City
18 anticipates completing the LID Improvements) and 10 years (*i.e.*, from 2029 to account for
19 the time it takes for the improvements to capture property value.) After such reductions,
20 Taxpayer's assessment would be just \$540,759 (for the 5-year discount) or \$148,582 (for the
21 10-year discount). Neither of these spreadsheets address other issues raised by Taxpayer's
22 appeal, but are intended to help demonstrate how unfair and inflated the City's proposed
23 hypothetical assessment is. The Hearing Examiner's Recommendation simply dismisses
24 Taxpayer's discounting argument without legal or factual analysis; that failure is error.
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41 **Appraisal and Assessment Calculation Methods Are Flawed**

42 29. The "general rule is that each lot, piece, or parcel of land should be assessed
43 separately" for purposes of local improvement district special assessment. *Doolittle*, 114
44 Wn.2d at 97.
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1 30. It is proper to sustain a challenge to an assessment, even without the appraisal
2 testimony from the owner, where the objector's expert establishes that the assessment was
3 "clearly grounded upon a fundamentally wrong basis" due to an error in the method
4 employed by the City's appraiser. *See, e.g., Doolittle*, 114 Wn.2d at 106.
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9 31. The City's appraiser purports to utilize the income method of valuation but
10 relied on inaccurate revenue and market data, as discussed further below.
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13 32. The City's appraiser purports to utilize the comparable sales method of
14 valuation, but no City witness attempted "to characterize any one, or all of them, as
15 comparable to [Taxpayer's property]." *See Bellevue Plaza*, 121 Wn.2d at 406 (finding
16 "several serious flaws" in ABS's LID analysis in that case, including that the appraiser
17 "attache[d] a list of a number of land sales within the CBD, but ma[de] no attempt to
18 characterize any one, or all of them, as comparable to any particular property within the LID").
19 And no City witness could explain how specific adjustments were made to these sales to
20 account for value increases due to the hypothesized Before and After Improvements. For this
21 reason, Taxpayer appeals Section II.23 of the Examiner's Recommendation.
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25 33. Special assessment improperly includes value lift from the Before
26 Improvements. Mr. Macauley is required to exclude (and claims to have excluded) any
27 assessment based on value attributable to demolition of the viaduct and the planned WSDOT
28 Improvements, which WSDOT had independently committed to fund. However, Mr.
29 Macaulay did not calculate the actual market value of LID properties in October 2019 and
30 did not separately analyze the hypothetical increase to property values attributable to
31 WSDOT's planned improvements. *See* 6/23/2020 Hrg. Tr. at 41:11-18 (did not estimate a
32 current value and then separately calculate a hypothetical "With WSDOT" Before value);
33 *see also* Gibbons Decl. ISO Closing Stmt., ¶ 8 (dated 7/7/2020); *see also* Gibbons 1/30/2020
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1 Letter (attached to Appeal Petition) at 4; Gibbons 5/2/2018 Letter (attached to Appeal
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3 Petition) at 3-4. Without any documented basis or support, Mr. Macaulay simply “ma[de] a
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5 judgment a call” on what occupancy and rates would have been for the commercial
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7 properties assuming all of the WSDOT Improvements are completed as of 2019. Macaulay
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9 Depo. at 129:19-130:11. This outright omission precludes any independent evaluation of the
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11 true market “Before” values. See 6/23/2020 Hrg. Tr. at 44:25-45:9. It also fails to meet
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13 professional appraisal standards; if an appraiser uses current sales data to infer values, then
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15 the appraiser must explain how he analyzed that data and other information to come up with
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17 the hypothetical value. 3/3/2020 (A. Gibbons) Hrg. Tr. at 128:1-130:4. This includes not
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19 just removal of the viaduct, but also other road, pedestrian and landscaping improvements
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21 WSDOT had already committed to make.

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23 34. However, because Mr. Macaulay testified that he did include some WSDOT-
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25 related value-lift in the “Before” values, it follows that part of the special assessment
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27 improperly is based on value attributable to the WSDOT Improvements. As shown by
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29 mathematical formulas in his spreadsheets, Mr. Macaulay applies a special benefit
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31 percentage to Before values. So, for example, if Mr. Macaulay believed the WSDOT
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33 Improvements would add \$10,000,000 in value, then his method of analysis assuming a 3%
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35 special benefit assignment would result in \$300,000 of over-assessment. See Gibbons Decl.
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37 ISO Closing Stmt., ¶ 9 (dated 7/7/2020). At a minimum, the Final Study should be redone
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39 to properly exclude the value of Before Improvements from the assessments. For these
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41 reasons, Taxpayer appeals the following portions of the Examiner’s Recommendation:
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43 Sections II.19, II.29, and IV.B.11(a)(ii)

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45 35. Special benefits were assigned rather than measured. Mr. Macaulay
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47 arbitrarily “assigns” special benefits to Before values instead of measuring them for each

1 property. *See* 1/30/2020 Gibbons Letter (attached to Appeal Petition); 3/5/2020 (B.
2 O'Connor) Hrg. Tr. at 147:10-149:21; 3/3/2020 (A. Gibbons) Hrg Tr. at 88:25-89:3; 90:8-
3 91:13. Based on formulas in spreadsheets that Mr. Macaulay used to analyze the
4 commercial properties, Taxpayer's experts concluded that Mr. Macaulay based adjustments
5 on hypothesized very small increases to property revenue and very small reductions to cap
6 rates to "calculate" an "After" value due to the coming 2024 LID Improvements.
7 Attachment B (ABS Spreadsheet). These series of micro adjustments were based on
8 "professional judgment" that are neither shown nor replicable.
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17 36. For these reasons, Taxpayer appeals the following portions of the Examiner's
18 Recommendation: Sections II.19, and IV.B.11(a)(iii).
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21 37. Special benefit falls within margin of error. The Final Special Benefit Study
22 applies an estimated value enhancement of less than 4%, which is generally within the
23 margin of error for appraisals and, therefore, not a reliable difference. *See Bellevue Plaza,*
24 *Inc.*, 121 Wn.2d at 401 (must substantiate use of percentages when allocating assessments).
25 Taxpayer's experts explained that if two appraisers independently arrive at values within 5%
26 of one another, this difference is considered reasonable as it falls within the standard margin
27 of error accepted in the profession. 3/3/2020 (A. Gibbons) Hrg. Tr. at 164:2-9; 3/5/2020 (B.
28 O'Connor) Hrg. Tr. 201:7-204:8. Because Mr. Macaulay's micro-special benefit percentages
29 fall far below that 5% margin, "there is no way of authenticating" such incremental changes
30 because "[m]arket forces completely obliterate any tiny little noise factor like that." *See*
31 3/3/2020 (A. Gibbons) Hrg. Tr. at 160:23-161:5. Mr. Macaulay agreed during his deposition
32 that 0.25% is too small to measure. Macaulay Depo. at 25:17-25. Additionally, the fact that
33 "Before" values are also based on a hypothetical that adds some unstated incremental value
34 to actual 2019 values exacerbates this issue—the ability for an appraiser to discern the
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1 micro-value differences between hypothetical conditions that are so similar (the WSDOT
2 improvements compared to the LID improvements) “verges on being ludicrous.” 3/3/2020
3 (A. Gibbons) Hrg. Tr. at 89:4-90:7.
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6 38. Even if it were possible to accurately tease out such a miniscule hypothetical
7 value change due to improvements coming five years later, experts testified that there is no
8 data to justify the mathematical adjustments—they are just the appraiser’s guesses as to
9 what he felt the changes (hypothetically) would be. *See* 3/3/2020 (A Gibbons) Hrg. Tr. at
10 88:21-88:24 (“you cannot measure one percent difference in a high-rise building for this
11 kind of a medium ... it’s simply assigned to a before value”). For these reasons, Taxpayer
12 appeals the following portions of the Examiner’s Recommendation: II.27 and IV.B.4.
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14

15 39. No analysis of value increase attributable to individual components of the
16 LID Improvements. The Final Special Benefit Study lacks clarity to fairly estimate a small
17 percentage difference between hypothetical Before and After conditions. Throughout his
18 testimony, Mr. Macaulay could not explain what benefit arose from specific Before/After
19 descriptions in the Addenda even though he testified that he relied on these to calculate
20 special benefits. 6/23/2020 Hrg. Tr. at 26:21-30:10. When asked where in his report
21 someone might be able to determine how he attributed value to After conditions described in
22 the Addenda, he answered that that was “not the scope of the assignment” because he was
23 asked to look at all of the projects as a whole. 6/23/2020 Hrg. Tr. at 30:3-8. But he admitted
24 that the six components were not actually a continuous project, that he was viewing them
25 together because the City asked him to, and that if he were to view them independently,
26 there was a low probability that properties in the north would specially benefit from
27 improvements in the south and vice versa. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5.
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1 40. Not only did he fail to analyze benefits from each of these non-contiguous
2 improvements, his familiarity with descriptions as whole was tenuous at best. *See, e.g.*,
3 6/23/2020 Hrg. Tr. at 26:21-30:10 (Mr. Macaulay could not explain what specific benefit
4 arose from specific Before/After descriptions in the Addenda); *cf. Anderson v. City of*
5 *Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (deprivation of due process where building design
6 objectives that guided regulators' assessment of architectural plans for buildings along a
7 "signature street" were so vague that they amounted to ad hoc review based on the
8 regulators' subjective impressions and feelings).⁶ It became clear through his testimony that
9 even though he used the renderings as "visual aid[s] in appraising the property in the before
10 and after" to "visually see what the differences would be," he could not explain what
11 specific elements in the visuals added or reduced value. *Id.* at 36:3-39:12. For example,
12 when shown a rendering of a two-lane road going down to one-lane in the After condition
13 near the Pike Street Market, he dismissively reasoned there would be no potential impact on
14 traffic because cars could still technically get through. *Id.* at 171:11- 173:11. When shown a
15 rendering of street improvements on Pike/Pine, he posited absurdly that seasonal variation
16 could explain the depiction of the same trees in the After condition nearly twice as tall as in
17 the Before. *Id.* at 173:17-175:4. For these reasons, Taxpayer appeals the following portions
18 of the Examiner's Recommendation: II.27 and IV.B.4.
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41 ⁶ As an aside, this admission suggests that there should have been an explicit City Council
42 finding that properties within the LID would benefit from the improvements as a whole. *See* RCW
43 35.43.050. Without this finding, the cost and expense of each component must "be ascertained
44 separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and
45 expense of each unit." *Id.* In other words, Mr. Macaulay should have estimated the benefit to each
46 property from each component separately, consistent with the law and in recognition of his testimony
47 that not all properties benefit from all components.

1 41. Special assessment is not supported by comparable studies, data or reports.
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3 Mr. Macaulay's references to empirical research do not justify his fundamental assumption
4 that the LID Improvements will lead to meaningfully increased real estate values for
5 Taxpayer. Indeed, no City witness was able to explain how ABS Valuation used
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7 comparable sales or information from the "over twenty-five studies and reports" to arrive at
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9 very precise special benefit increases for residential and commercial combined properties,
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11 including Taxpayer's property. For example, although Mr. Macaulay stated that no single
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13 report or study was directly on point due to the unique nature of the LID Improvements (*see*,
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15 *e.g.*, 6/25/2020 Hrg. Tr. at 146:21-147:8), he could not explain how he made specific
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17 adjustments in his parcel-by-parcel analysis other than to say that the studies generally
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19 provided "some background to base decisions on." *See* 6/23/2020 Hrg. Tr. at 161:5-162:12;
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21 *see also* 6/26/2020 Hrg Tr. at 118:7-19 (did not make any specific adjustments to account
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23 for similarities and differences between these improvements and the comparable parks he
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25 looked at).
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28 42. Mr. Macaulay purports to rely on Dr. Crompton's research to justify the
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30 assignment of incremental increase of 0.5% to 4% to property values within the LID.
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32 However, among other critiques, Dr. Crompton testified that Mr. Macaulay's reliance on his
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34 research misinterprets his work in critical ways, including because the LID Improvements
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36 manifest the characteristics of a parkway (not a park), and his research indicates that most of
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38 a *park's* impact on single-family home values occurs within a 500-foot range (or 1.5 blocks
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40 in Seattle). *See* Hrg. Exhibit 94 (Crompton's report). Further, updated research shows park-
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42 related value increases are in fact smaller; that estimated increases are "best guesses" rather
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44 than predictions of property value increases in a particular city; and that percentages do not
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46 account for diminishing returns after taking into account water views, which would be the
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1 driving value enhancer. The latter is especially true in a city like Seattle where the sloping
2 topography grants most properties in downtown a water view.
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5 43. Rather than addressing Dr. Crompton's critiques, Mr. Macaulay simply states
6 that this was just one source of information that was not entirely relevant because, among
7 other things, Dr. Crompton's research dealt with parks and not streetscapes. However, Dr.
8 Crompton's critiques were based on Mr. Macaulay's own testimony that the core "park"
9 improvements are the Promenade, Overlook Walk, and Pier 58. Macaulay Depo. at 178:15-
10 180:2 (explaining that for purposes of "drawing boundaries around a park" he was
11 considering only at Overlook Walk, Promenade, and Pier 58). Based on this testimony, Dr.
12 Crompton concluded that 500 feet via road from "park" improvements is just one or two
13 Seattle blocks and that Mr. Macaulay "inappropriately extend[ed] the LID impact
14 significantly beyond that which the park study indicated (even if it was legitimate to use the
15 park review's findings)." Hrg. Exhibit 94 (Crompton's Report) at 7. Indeed, the LID area
16 extends even past 2,000 feet from the core "park" improvements, which is the outer limit of
17 impact applicable to "community parks"—which the LID Improvements are not. *Id.*
18 Taxpayer's property is not within 500 road network feet from the "park" improvements. *See*
19 Hrg. Exhibit 104 (Ellen Kersten Decl.) at Ex. E, F.
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23 44. Further, Mr. Macaulay's testimony that he analyzed streetscapes, parkways,
24 greenways, and park-amenities separately contradicts his insistence that he viewed all of the
25 six LID components together as one entity. *See* 6/23/2020 Hrg. Tr. at 167:15-180:16. And
26 based on the attention given to Dr. Crompton's work in the Final Study and supporting
27 materials, it was clearly an important—if not *the* most important—source of information for
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1 estimating special benefits (especially with respect to the condos).⁷ No City witness
2 adequately explained exactly how Dr. Crompton's research informed ABS Valuation's
3 parcel-by-parcel analysis.
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6 45. The destination parks discussed in the Final Special Benefit Study do not
7 provide reliable, comparable, and valid support for the calculation of special assessments
8 here. *See* Gibbons 5/2/2018 Letter at 4. None of the parks cited in the Final Special Benefit
9 Study were funded by a LID. And in virtually all of those cases, the park improvements
10 dramatically restored unimproved or blighted areas, and properties evaluated were within
11 two or three blocks of the park.
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14 46. ABS's claimed reliance on three economic studies to support property value
15 increase is also flawed. The HR&A study does not inform what value increases are
16 expected from the LID Improvements because it projects increases to tourism from *all* of the
17 Waterfront Projects (not just those funded by the LID) and is based on tourism data from
18 dissimilar parks in other cities,⁸ making the methodological application to the LID
19 speculative. Further, Mr. Macaulay appears to have selectively ignored the HR&A Study's
20 conclusion that there would be *no new net visitors* from downtown residents as a result of
21 the LID Improvements and could not explain how this impacted his condo analysis.
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37 ⁷ Of the 62 files in Mr. Macaulay's "2019 Report Info" folder, which he explained contains all of
38 the studies he relied on to prepare the Final Study (*see* Hrg. Exhibit 122 at ¶ 12; 6/23/2020 Hrg. Tr.
39 at 152:10-154:18), 10 are authored by Dr. Crompton and 9 cite Dr. Crompton. Further, it appears
40 Dr. Crompton's study is the only one that found property value increases up to 2,000 feet from a
41 park (or streetscape) improvement—other studies estimated premiums for real estate only much
42 closer or cited to Dr. Crompton.

43 ⁸ These included distinct destination parks like Golden Gate Park, Hudson River Park, Rose
44 Kennedy Greenway, and Millennium Park where tourist "capture rates" varied from 5% (Rose
45 Kennedy Greenway in Boston) to 44% (Golden Gate Park in San Francisco). Further, the calculated
46 expected tourists visiting the LID park was calculated using data from only from New York City, a
47 notorious tourist destination.

1 6/25/2020 Hrg. Tr. at 152:15-153:21. The Texas A & M study on “The Impact of Parks on
2 Property Values” primarily focused on whether the benefits accrue to the larger community
3 rather than properties adjacent to the park. And the 2014 New York City Department of
4 Transportation study is not based on real estate transactions and market sales and fails to
5 substantiate any link between increased retail sales and property values. Moreover, this
6 study only looked at impact either directly abutting the streetscape improvement, or a couple
7 hundred feet for plaza-like improvements.
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10 47. Meanwhile, Mr. Macaulay decided not to include the Trust for Public Lands
11 (TPL) Study in the Final Report even though it is Seattle-specific. *Id.* at 171:21-17; Hrg.
12 Exhibit 124. One explanation of that this omission could be TPL’s estimate of the economic
13 impact of the *whole park system* on the Seattle economy is much lower—\$30 million as
14 compared with HR&A’s estimate of \$191 million for just the waterfront improvements, and
15 thus would counsel a much lower assessment. Hrg. Exhibit 124 at 3. Regardless, when
16 asked whether he considered that HR&A’s estimated LID impact is six times greater than
17 TPL’s assessment of Seattle’s entire park system, his surmised that it was because the
18 HR&A Study came out in 2019, whereas the TPL Study came out in 2011. *See* 6/23/2020
19 Hrg. Tr. at 172:19-173:10. But, he did not do any additional analysis and did not adjust his
20 assumptions to account for this difference, which may be partly explained by the fact that
21 the TPL study is Seattle-specific. *Id.* at 173:11-174:1. The TPL Study also estimated that
22 approximately 3.44% of King County tourists visit Seattle primarily because of the city
23 parks, whereas HR&A estimated that 55% of visitors would visit primarily because of the
24 waterfront improvements.
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27 48. Although proximity to the improvements is a key factor in all of these
28 studies, Mr. Macaulay could not explain in what circumstances he measured distance as the
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1 crow flies or via travel routes. *See* 6/23/2020 Hrg. Tr. at 180:17-182:19. And he seemed to
2 not understand that for both the Trust for Public Lands study and Dr. Crompton's study,
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4 benefits extending out 2,000 feet were only observed for community parks that exceeded 40
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6 acres. *See* 6/25/2020 Hrg. Tr. at 145:2-21. By contrast, the total size of the LID
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8 Improvements is approximate 20 acres and it is not a community park.⁹
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11 49. There is no explanation in the Final Study or the supporting materials of how
12 the studies or comparable sales were used to derive values for Taxpayer's property. For
13 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
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15 Sections II.18, II.20, II.21, II.22, II.23, II.24, II.26, II.30, II.32, and IV.C.5.
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19 50. Failure to comply with USPAP. Taxpayer's assessment also rests on a
20 fundamentally wrong basis due to the City's appraiser's decision to utilize a hybrid mass-
21 appraisal method. Randall Scott, a former mass appraiser responsible (and professionally
22 recognized) for developing the MAI standards for mass appraisals, testified that the Final
23 Study does not meet mass appraisal standards nor allow for independent assessment of the
24 accuracy of Mr. Macauley's conclusions.
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31 51. Specifically, because the parcel-by-parcel approach is not a mass appraisal,
32 Mr. Macaulay was required to comply with USPAP Standards 1 and 2 which govern direct
33 appraisals. *See* Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020). However,
34 the Final Study does not purport to comply with Standards 1 and 2. And Mr. Macaulay's
35 testimony suggests that he incorrectly believed that the only difference between direct
36 appraisals and mass appraisals is the reporting. *See* 6/23/2020 Hrg. Tr. at 207:7-208:12;
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44 ⁹ *See*
45 [https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf)
46 [Qs_Final.pdf](https://waterfrontseattle.blob.core.windows.net/media/Default/pdf/2019_0208_Waterfront_LID_FA_Qs_Final.pdf) ("Waterfront Seattle will create about 20 acres of improved parks and public spaces
47 connecting Seattle's central waterfront to downtown.").

1 6/25/2020 Hrg. Tr. at 140:23-141:7 (explaining that he does not have to comply with
2 USPAP Standards 1 and 2 because he has not written an actual report on any condo unit); *id.*
3 at 205:8-14 (explaining that his mass appraisal simply uses “limited techniques, such as
4 Gordon uses in doing his limited restricted report”).
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9 52. But the difference is not only in reporting—mass appraisal techniques must
10 instead comply with substantive standards in USPAP Standards 5 and 6. For example, as
11 Paul Bird (City’s witness) testified, the mass appraisal approach is distinct from a parcel-by-
12 parcel approach:
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16 The mass appraisal technique is an appraisal method used to evaluate
17 a group of properties that are subject to similar market forces as of a
18 certain date through the use of market data, statistical analysis and
19 testing. As a result, the mass appraisal technique does not require or
20 involve analysis of each individual property’s specific data.
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23 Second Decl. of Paul Bird ¶ 20 (dated 6/26/2020).
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26 53. Indeed, USPAP’s definition for “mass appraisal” is “the process of valuing a
27 universe of properties as a given date using standard methodology, employing common data,
28 and allowing for statistical testing.” Appraisal Foundation, Uniform Standards of
29 Professional Appraisal Practice at 5 (2020-2021). And the definition for “mass appraisal
30 model” is “a mathematical expression of how supply and demand factors interact in a
31 market.” *Id.* Mr. Scott explains that a mass appraisal must use a model that is suitable for
32 statistical testing—otherwise, there would be no way to assess the accuracy or validity of the
33 mass appraisal. R. Scott Decl. ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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42 54. Regardless of client direction, Mr. Macaulay is required to comply with
43 USPAP. So, if, as he determined, a “[p]arcel-by-parcel direct appraisal” would not have
44 been economically feasible because it would have taken “an incredible amount of time and
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1 cost” (6/18/2020 Hrg. Tr. at 125:15-10), then ABS Valuation should have conducted an
2 appraisal consistent with USPAP Standards 5 and 6. *See also* Hamel Decl. at ¶ 8
3 (“performing an individual appraisal of each [condo] parcel would have been cost and time
4 prohibitive”).
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9 55. But Mr. Macaulay’s methods fail to comply with USPAP Standards 5 and 6
10 because, *inter alia*, he fails to develop a model structure that reflects characteristics affecting
11 value, fails to calibrate the model structure to determine the contribution of the individual
12 characteristics affecting value, and does not review the mass appraisal results against actual
13 sales/data as a quality assurance/quality control check. *See* 3/3/2020 Hrg. Tr. at 216:18-
14 217:1;¹⁰ Decl. of Randall Scott ISO Closing Stmt., ¶ 4 (dated 7/7/2020).
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21 56. Mr. Macaulay explained that factors like “aesthetic change in the area, the
22 proximity to the elements, the increase in market rent, market vacancy changes,
23 capitalization rate changes, and things of that nature” drove value increases. 6/23/2020 Hrg.
24 Tr. at 211:14-212:3. But he could not specify how these factors were considered in his
25 “parcel-by-parcel” approach, and no one reviewing his work would have a clue. And he did
26 not calibrate his approach to determine how each factor contributes to value. *Id.* at 212:8-
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35 ¹⁰ Standard 5 requires mass appraisals to develop a model structure that conceptualizes the
36 relationship between characteristics that affect value, and to calibrate that model to specify how
37 individual characteristics affect value. *See* USPAP Standard 5: Mass Appraisal, Development (2020-
38 21). The purpose is to rationally determine what characteristics will create value, and by how much.
39 This allows the mass appraiser to not only generate outputs, but also to test the reliability of the
40 model (and allow others to do so) by comparing the results of the model with actual sales. *See*
41 3/3/2020 (R. Scott) Hrg. Tr. at 197:7-15; 203:21-205:13 (explaining that it is typical to test output
42 against actual sales). USPAP Standard 6 sets forth the mass appraisal reporting requirements, which
43 include explanation of the model specification, data requirements, calibration methods, and
44 mathematical form of the final model. *See* USPAP Standard 6: Mass Appraisal, Reporting at 6-2(i)-
45 (o). Without this reporting, it is impossible for users of the appraisal report to determine how the
46 appraiser determined value, and this omission renders the report not credible. *See* 3/3/2020 (R. Scott)
47 Hrg. Tr. at 206:15-207:17.

1 213:5. As for reviewing the mass appraisal results, there were no criteria governing the
2 internal review process. *Id.* at 104:24-105:20. And because both the Before and After values
3 were hypothetical, it was not possible to identify matched pair sales and no City witness
4 explained how ABS Valuation made adjustments to “comparable” sales in order to check
5 their conclusions. Finally, Mr. Macaulay failed to comply with Standard 6 which requires
6 him to explain his model structure.
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12 57. For these reasons, Taxpayer appeals the following portions of the Examiner’s
13 Recommendation: Sections II.28, II.31 and IV.C.8. In addition, Taxpayer renews Objectors’
14 Motion To Exclude The Expert Testimony of Robert J. Macaulay, filed on April 8, 2020,
15 and appeals the Examiner’s denial of that motion.
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21 58. Finally, Taxpayer’s property is not appurtenant—or even in close
22 proximity—to any proposed improvements. *See Hasit*, 179 Wn. App. at 947 (“the burden of
23 proving special benefit” shifted to the City because the protestors’ parcels merely stood “in
24 close proximity to the property on which expert testimony was given”). Indeed, Taxpayer’s
25 property is not even within 500 road network feet from the core park improvements. And,
26 as described above, the special assessment is overstated because the Final Study makes no
27 attempt to determine general benefits, existing amenities for Taxpayer’s specific property, or
28 special detriments. In addition, it is speculative due to the fact that, as of October 2019,
29 improvements were not in place—and, in fact, much of the waterfront is a construction
30 zone following removal of the viaduct and now Pier 58 demolition. Under these
31 circumstances, rather than relying on entirely imaginary income and shaky hypotheticals,
32 Mr. Macaulay at the very least should have discounted the special benefit estimates or
33 waited to perform the Study until the improvements were at least close to complete.
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Erroneous Pre-Improvement Valuation

59. The proposed final assessment erroneously overstates the pre-improvement value of Taxpayer's property as of October 1, 2019 and, as a result, overstates the special benefit to the Taxpayer's property.

60. The City's Final Study was used to compute the proposed final assessment of Helios' property. The City's Study purportedly uses data from the King County Department of Assessments,¹¹ but the pre-improvement valuation information in the Final Study does not accurately reflect this data. For example, the City's Study values Helios' property at \$298,884,000.00 as of October 1, 2019. However, the King County assessor determined the true and fair value of the property to be \$255,000,000.00, valued in 2019 for tax year 2020. In other words, the Final Special Benefit Study's valuation is 117.2% of King County's assessed value. The Final Special Benefit Study does not explain this difference—or any differences—between its pre-improvement valuation and its supposed source for market data. For this reason, Taxpayer appeals Section IV.C.11 of the Examiner's Recommendation.

61. Further, the City's analysis was based on unreliable market data. The ABS appraisal overstated the before market value by about \$59 million. B. O'Connor's Jan. 31, 2020 Report (attached to Appeal Petition), Ex. 6. Based on our expert appraiser's appraisal review, the true and fair value of the Helios as of October 1, 2019 was \$239,884,000. *Id.* Additionally, for Helios, Mr. Macaulay undercounted the number of studios as compared with larger units, which resulted in a substantially inflated "Before" value. See 3/11/2020 (B. Scott) Hrg. Tr.) at 22:24-23:18; see also B. Scott's Supplemental Report for Helios

¹¹ See, e.g., Final Special Benefit Study, "All Other LID Commercial Properties" Spreadsheet (providing a "County Link" to the King County Department of Assessment's online "eReal Property" search tool).

1 (using the correct data would have reduced “Before” value by \$37,849,000). Additionally,
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3 Mr. Scott presented testimony that Mr. Macaulay incorrectly reduced the number of studios
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5 by 56 and increased the number of larger, higher rent units in his income calculation, which
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7 erroneously increased the property value and LID assessment. *See* 3/11/2020 Hrg. Tr. at
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9 22:21-24:17. The City only responded to the unit mix error by claiming that if this
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11 undercount in accurate, Mr. Macaulay will need to complete re-assessment of the Helios.
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13 *See* 6/23/2020 Hrg. Tr. at 56:21-57:8. The Examiner Recommendation failed to make a
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15 finding to address this error.

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17 62. Thus, aside from multiple other reasons why computation of the special
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19 benefits was flawed (discussed further below), the assessment is based incorrectly on pre-
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21 improvement values that do not accurately reflect market data. For these reasons, Taxpayer
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23 appeals the following portions of the Examiner’s Recommendation: Sections II.13, II.14,
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25 and II.15.

26 27 **Erroneous Computation of Special Benefit**

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29 63. “Special benefit” is “the increase in fair market value attributable to the local
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31 improvements.” *Doolittle*, 114 Wn.2d at 103. “A benefit that a particular piece of property
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33 may receive by reason of the improvement is not measured alone by the physical character
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35 or cost of that portion of the improvement upon which the property abuts. *La Franchi v. City*
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37 *of Seattle*, 78 Wash. 158, 165, 138 P. 659, 662 (1914). “The question is: To what extent is
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39 the particular tract or property benefited by the entire improvement, and is it assessed
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41 proportionately with the other property included within the assessment district?” *Id.* 165–
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43 66.

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45 64. The proposed final assessment erroneously overstates the special benefit of
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47 LID improvements in a number of ways.

1 65. Spreadsheets show arbitrary changes to revenue and capitalization rates. For
2 the Helios, Mr. Macaulay assumed room/rental rates would increase by 1.75% (low) and
3 2.25% (high) due to the 2024 LID Improvements. Mr. Macaulay then uses these same
4 percentages (1.75% and 2.25%) to increase retail and parking. He then uses this
5 hypothesized increased revenue to calculate a new net operating income for the commercial
6 properties and capitalizes that to come up with an “After” valuation.
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11 66. For changes to capitalization rate (“cap rate”), Mr. Macaulay assumes the net
12 operating income remains the same as in the hypothetical “Before” condition but changes
13 the cap rate. For the Helios, the cap rate goes from 4.05% to 3.95% (low scenario, creating
14 a bigger value increase) and 3.99% (high scenario, creating a lower value increase).
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20 67. Mr. Macaulay then averages his four “After” values to arrive at a final special
21 benefit conclusion. For the Helios, this is an increase in property value of 1.92% due to the
22 LID Improvements.
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26 68. Mr. Macaulay offered little justification for his micro adjustments to revenue
27 and capitalization rates. When asked precisely what the basis is for his special benefit
28 percentage increases to revenue for each commercial property, he could not point to
29 anything specific other than his judgment. 6/23/2020 Hrg. Tr. at 113:24-115:24. There also
30 is nothing in the report to allow a reader to understand how he came up with these
31 percentages. *Id.* at 112:24-113:3. And there is no model or equation that he relied on—
32 again, just his “judgment.” *Id.* at 113:4-6. Although he claims that the spreadsheets explain
33 the basis for his belief that certain factors—liked increased connectivity—will increase
34 property values (*id.* at 50:7-25), he could not explain how he went from general principles to
35 very specific percentage adjustments to revenue and capitalize rate. *Id.* at 115:10-24. And
36 for the first two “Scenarios” in the spreadsheet, he applied percentage changes to all revenue
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1 sources equally even though there was no separate analysis done for food and beverage or
2 parking. *Id.* at 116:14-25, 117:11-21. Thus, he has not rebutted Taxpayer's expert's
3 conclusion that the adjustments are arbitrary and fall below generally accepted margins of
4 error, and that there is no actual, measurable, non-speculative special benefit to Taxpayer's
5 properties.
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10 69. Mr. Macaulay testified that he used comparable sales as a reasonableness
11 check for commercial properties. But as explained above, no City witness has explained
12 how anyone, or all, of the sales are comparable to any particular commercial property within
13 the LID. *Compare Bellevue Plaza*, 121 Wn.2d at 406. Further, Mr. Macaulay testifies that
14 in order to make sales "comparable," he would have had to make adjustments to account for
15 Before and After conditions, but there is no way to understand how adjustments were made
16 because he "didn't do a separate sales comparison approach where we showed adjustments
17 and whatnot." 6/23/2020 Hrg. Tr. at 128:25-129:24. When asked how he determined that
18 his adjustments were reliable, he said it would have simply been a "test of reasonableness."
19 *Id.* at 127:10-128:24.
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30 70. It also bears noting that any "internal review" of the special benefit estimates
31 would have been largely arbitrary given Mr. Macaulay's testimony that there is no margin of
32 error. Indeed, given all the same information, he seemed to suggest that it would be
33 perfectly reasonable for another experienced appraiser to come up with special benefit
34 estimates that were five times higher than his estimates. 6/23/2020 Hrg. Tr. at 93:2-12; *see*
35 *also id.* at 89:20-90:2 (testifying that it might be reasonable for two appraisers with the exact
36 same quality of data to be 50% off). Ultimately, his repeated insistence that there is no
37 margin of error conflicts with the testimony of Taxpayer's experts and reaffirms that there
38 are absolutely no standards governing his process. *See id.* at 91:6-94:5. Even if the typical
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margin of error (5%) is a “rule of thumb” and not a “hard legal standard,” there are still reasonable and unreasonable variations within the appraisal field. *See* Examiner’s Recommendation at IV.B.4. Thus, the special assessment is not actual, measurable or special because it is arbitrarily assigned; and it is too small to realistically be supported by appraisal techniques.

71. No evidence of special benefit. Meanwhile, there is “no actual evidence from any seller or purchaser that the price was higher because of the LID improvements.” *Bellevue Plaza, Inc.*, 121 Wn.2d at 409. As in *Bellevue Plaza*, the City’s appraiser “has not identified any seller or buyer, or any particular property where the existence of the LID improvements had an effect on the market price.” *Id.* at 410-11. Meanwhile, Taxpayer has explained that the property has not increased rental rates or revenue due to the forthcoming LID Improvements, because, among other reasons (and apart from COVID), the improvements ABS believes will generate value do not exist and will not for a number of years to come. There are no comparable sales because the LID Improvements are not in place, nor will they be until the end of 2024 if completed on schedule.

72. The fair market value of Helios’ property has not changed due to increased waterfront view. *Cf. Appeals of Jones*, 52 Wn.2d 143 (property was not specially benefited from installation of new water main and fire hydrant where it was already adequately supplied with water and afforded adequate fire protection). And in any event, any value attributable to removal of the viaduct was to be excluded from the assessment calculation.

73. There is no special benefit to Helios because its apartment demand is driven by proximity to downtown job centers, and the average short tenancies means that the building tenants will likely turnover completely before LID improvements are delivered, providing no market justification for increased rents. In fact, the LID improvements

1 diminish the value of Helios property by drawing visitors away towards improvements that
2 do not abut the property and increasing competition in other areas of the city. *See Kuskys*, 85
3 Wn. App. 493 (testimony of owners' expert that LID actually diminished value of property
4 was sufficient to rebut presumption that assessment was proper). The ground floor retail
5 tenants will also suffer from a decrease in foot traffic, which will be pulled toward the
6 improved amenities around Pike Place Market. Mr. Macaulay did not account for any of
7 these impacts.
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15 74. Moreover, the assessment formula is an attempt to distribute costs that do not
16 relate to special benefits. *See Bellevue Plaza, Inc.*, 121 Wn.2d at 416 (model cannot be
17 "merely a mathematical model that distributes costs").
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21 75. The Special Benefit Study fails to address whether the \$346,000,000
22 estimated LID project cost takes into account the investment that would have occurred in the
23 LID area anyway. Furthermore, there is no spatial presentation concerning where dollars are
24 invested. This is a critical component of estimating which properties receive a direct benefit
25 from the improvements, versus more incidental benefits further from the park.
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31 76. Mr. Macaulay also included personal property in his valuation of hotels even
32 though none of the assessment notices were for personal property (*see* Hrg. Exhibit 130) and
33 he did not include personal property values for any other types of property. 6/23/2020 Hrg.
34 Tr. at 62:5-11. This is contrary to an explicit disclosure in the Final Study stating that the
35 "[a]ppraisal applies to the land and building improvements only" (C-17 at 197). *See also*
36 Gibbons Decl. ISO Closing Stmt., ¶ 10 (dated 7/7/2020). This also resulted in hotels
37 receiving a disproportionately high LID assessment in comparison to other property types,
38 since hotels were the only property type subject to personal property LID assessments.
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47 Fourth Decl. of Gordon ISO Closing Stmt., ¶ 11 (dated 7/7/2020); Gibbons Decl. ISO

1 Closing Stmt., ¶ 10. Further, inclusion of personal property in hotel valuations violated
2 notice procedures because hotel property owners only received notice that their real estate
3 was being assessed. *See* Fourth Decl. of Gordon ISO Closing Stmt., ¶ 12 (dated 7/7/2020).
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6 77. With seemingly no basis, Mr. Macaulay calculated special benefit to personal
7 property at the same rate as real property. 6/23/2020 Hrg. Tr. at 134:5-24. So, for example,
8 a television at the waterfront Marriott is assigned a greater special benefit than the same
9 television at the Hyatt Regency. *Id.* at 134:25-135. But it is simply wrong to assume that
10 furniture and equipment is instantly worth more at a hotel closer to the waterfront, and
11 unreasonable to assign a value lift to personal property that is replaceable at the same cost
12 and may be obsolete before the LID improvements are even completed. Further, personal
13 property is highly depreciable, and likely to be fully depreciated or potentially discarded by
14 2024. *Id.*; *see also* Gibbons Decl. ISO Closing Stmt., ¶ 10. Thus, the hotel valuations must
15 be redone to correct for this error.
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18 78. The proposed final assessment substantially exceeds the special benefit to the
19 property and is grossly disproportionate to similarly situated properties within the LID. For
20 these reasons, Taxpayer appeals the following portions of the Examiner's Recommendation:
21 Sections II.22, II.23, II.27, IV.B.4, and IV.B.11(a)(iii).
22

23 **State Environmental Policy Act and Other Environmental Permitting**

24
25 79. While this appeal is not challenging the City's environmental review and
26 permitting processes, those processes are relevant in determining the legality of the
27 assessments, and to assessing the delivery risk, the present value of the City's plans, and
28 ultimately the amount of the assessment. If the roll is finalized, the City will commit to
29 pursue projects that have not yet undergone environmental review (thus limiting the choice
30 of reasonable alternatives to those projects). For example, if the roll is finalized, the City is
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1 committed to build all of LID Improvements, even though NEPA review of Pier 58 (and 63)
2 is just beginning. Further, the City has segmented environmental review, and still has a
3 gauntlet of federal, state and tribal review processes to complete before it will be clear what
4 the City can legally build, and when. *See Summary and Fiscal Note*, Sea. City Council Bill
5 No. 119447 at 3 (Jan. 28, 2019); *see also* SMC 25.05.070(A), SMC 25.05.440(D)(2)(b),
6 SMC 25.05.406 and their counterparts in the SEPA Rules, Chapter 197-11 WAC. Either the
7 City is violating SEPA and chapter 25.05 SMC by finalizing the assessment roll and
8 committing to reconstruction of Pier 58 and major street improvements without
9 environmental review, or the City's Final Special Study has improperly included and is
10 proposing to assess the Taxpayer the costs and special benefits of improvements that may
11 not get built. Either way, it is faulty process.

22 **Due Process Rights**

23
24 80. The City's failed to notify Helios sufficiently in advance of the hearing to
25 allow Helios to obtain evidence and prepare to properly challenge the assessments. Because
26 LID assessments involve a deprivation of property, affected owners have the right to a
27 hearing as to whether the improvement resulted (or will result) in special benefits to their
28 properties and whether their assessments are proportionate, which necessarily includes the
29 right to adequate notice of the hearing. *Carlisle v. Columbia Irrigation Dist.*, 168 Wn.2d
30 555, 569–70, 229 P.3d 761 (2010).

31
32 81. The LID statute specifies that cities must mail notices giving the time and
33 place of the hearing to the affected owners "[a]t least fifteen days before" the hearing and
34 publish the notice once a week for 2 consecutive weeks in the city's official newspaper, with
35 the final publication at least 15 days prior to the hearing. RCW 35.44.090. However, strict
36 compliance with the statute does not necessarily satisfy due process. *Hasit*, 179 Wn. App. at
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1 956. The key inquiry is whether the owner had sufficient time to gather evidence (and
2 secure their own appraisal), evaluate proportionality of the proposed assessments, and
3 whether the owner asked for more time. *Id.* (noting that 15 days was entirely “insufficient
4 for anybody to get an appraisal”).
5
6

7
8 82. The City’s Notice of Assessment was sent on December 30, 2019. And the
9 Final Special Benefit Study has only been available for public review since January 7, 2020.
10 Due to this short time frame, Helios requested a prehearing conference and scheduling order
11 that would preserve and protect Helios’ right to analyze and respond to the Final Study,
12 obtain expert appraisal testimony, conduct depositions, and to accommodate preliminary
13 motions (*e.g.*, with respect to the interplay between SEPA and the City’s assessment of taxes
14 for Pier 58 and Pike/Pine improvements). The Hearing Examiner erroneously denied that
15 request. For this reason, Taxpayer appeals the following portions of the Examiner’s
16 Recommendation: I.B.
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26 **VII. Relief Requested**

27 Helios respectfully requests that the City Council:
28

- 29 1. Reject the Hearing Examiner’s recommended denial of Taxpayer’s objection
30 and:
31
32 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
33 final assessment dated December 20, 2019; or
34
35 b. Revise Taxpayer’s Waterfront Local Improvement District No. 6751
36 proposed final assessment to \$0 (zero), or such amount as Taxpayer
37 establishes at the hearing in this matter; or
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- 1 c. Remand the matter to the Hearing Examiner or City appraiser to
2 recalculate and reduce Taxpayer's assessment using recognized
3 appraisal techniques consistent with USPAP and:
4
5
6 i. Excluding any property value increase attributable to viaduct
7 removal and other planned WSDOT Improvements;
8
9 ii. Taking into account the effects of COVID-19 pandemic on the
10 value of Taxpayers property and other relevant developments
11 since October 2019;
12
13 iii. Accounting for and excluding (1) any special benefits from
14 existing or planning improvements that already provide
15 similar benefits to Taxpayers property, and (2) any special
16 detriments from construction and other anticipated LID-
17 related disamenities;
18
19 iv. Accounting for and including only those actual benefits
20 anticipated to accrue to Taxpayer's property based on its
21 location relative to Pier 58, Overlook Walk, and the
22 Promenade, and specific elements of the LID Improvements;
23
24 v. Discounting anticipated special benefits to present value,
25 based on reliable estimates regarding when special benefits
26 will start accruing following completion of the LID
27 Improvements; and
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29 vi. Accounting for such other issues specific to Taxpayer's
30 property relevant to calculation of such assessment; and
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47 2. Grant such further relief as the City Council deems just and proper.

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2 DATED: September 22, 2020
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PERKINS COIE LLP

5 By:

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Attorneys for Eqr-Second & Pine LLC

3:44 pm, Tue, February 16, 2021

OFFICE OF THE CITY CLERK

From: [Mullins, Kimball \(Perkins Coie\)](#)
To: [City Clerk Filing](#)
Cc: [Lutz, Jerry \(BEL\)](#); [Mahon, Robert \(Perkins Coie\)](#); [Starkey, Byron \(Perkins Coie\)](#); [Lin, Megan \(BEL\)](#); [Campbell, Karen \(BEL\)](#); [Mullins, Kimball \(SEA\)](#)
Subject: Waterfront LID Amended Appeal for Case No. CWF-0441
Date: Tuesday, February 16, 2021 3:25:03 PM
Attachments: [Helios Amended LID Appeal before City Council.pdf](#)

CAUTION: External Email

Dear City Council Clerk,

Attached please find the Waterfront LID Amended Appeal for the above captioned matter. This amendment is a supplement and to be read in conjunction with Objector's initial appeal to the City Council.

Thank you,
Kimball Mullins

enclosures:
[Helios Amended LID Appeal before City Council.pdf](#)

Kimball Mullins | Perkins Coie LLP

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Visit our COVID-19 page: www.perkinscoie.com/coronavirus

Read our Commitment to Racial Equality: www.perkinscoie.com/racialequality



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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0441

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON EQR-SECOND
& PINE LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
7683890010

32
33 EQR-SECOND & PINE LLC files this amended appeal pursuant to RCW 35.44.070,
34 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle
35
36 Resolution 31979, the notice of the Seattle Office of the City Clerk dated December 30,
37
38 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing
39
40 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
41
42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
45
46
47

1 **I. Eqr-Second & Pine LLC / Appellant**

2 The taxpayer filing this amended appeal is:

3
4
5 EQR-SECOND & PINE LLC
6 2 N Riverside Plz Suite 400
7 Chicago, IL 60606
8

9 **II. Eqr-Second & Pine LLC's Representatives**

10 EQR-SECOND & PINE LLC'S representatives in this matter are:

11
12
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15 Perkins Coie LLP
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17 Bellevue, Washington 98004
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Seattle, Washington 98101
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Facsimile: 206.359.9000

22 **III. Statement of Eqr-Second & Pine LLC's Interest and Incorporation of Prior**
23 **Arguments**

24
25 EQR-SECOND & PINE LLC owns the property that is subject to the proposed final
26
27 assessment described in Section IV.
28

29 Eqr-Second & Pine LLC is amending its appeal as authorized in City of Seattle
30
31 Resolution 31979 to include additional arguments relevant to the revised Final
32
33 Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4,
34
35 2020, Eqr-Second & Pine LLC timely filed an objection to the assessment, which was based
36
37 on the Final Study. Eqr-Second & Pine LLC further timely filed an appeal of the Hearing
38
39 Examiner's 2020 recommendations to the City Council. Eqr-Second & Pine LLC maintains
40
41 and incorporates all objections and arguments raised in its appeal filed with the City Clerk
42
43 on September 22, 2020. This amendment is a supplement is to be read together with Eqr-
44
45 Second & Pine LLC's appeal filed on September 22, 2020. Eqr-Second & Pine LLC
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47

1 incorporates by reference all filings, evidence, and pleadings filed by any party before the
2
3 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
4
5 records pertaining to the November 2020 through February 2021 remand hearing ordered by
6
7 Council.
8

9 **IV. Amended Arguments on Appeal**

10 EQR-SECOND & PINE LLC supplements its appeal of the Hearing Examiner's
11
12 recommendation to deny Eqr-Second & Pine LLC's objection to the City of Seattle's
13
14 Waterfront Local Improvement District No. 6751 proposed final assessment dated
15
16 December 30, 2019 against the following property:
17

18 King County Parcel No. 7683890010
19 Site Address: 206 Pine St., Seattle, Washington
20 Proposed Final LID Assessment for Parcel: \$2,244,356.42
21
22

23 To avoid repetition, Eqr-Second & Pine LLC incorporates the evidence and
24
25 arguments raised before the Hearing Examiner and before the City in its September 22, 2020
26
27 appeal, into this amended appeal.
28

29 **A. The Anticipated Special Benefits to Eqr-Second & Pine LLC's Property**
30 **should be Discounted to Present Value and Assessments Adjusted as**
31 **Appropriate**
32

33 On remand, the City's appraiser acknowledged that special benefits to parcels can be
34
35 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
36
37 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
38
39 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
40
41 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
42
43 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
44
45 accepted that recommendation. The City's appraiser further acknowledged that benefit
46
47 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined

1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
13
14

15 All special benefit taxes assessed by a municipality must be based on “actual,
16 physical and material [special benefits that are] not merely speculative or conjectural.”
17 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
18 Additionally, the assessments may not materially exceed the actual special benefit conferred
19 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
20 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
21 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
22 discount benefits the City estimated would accrue to the properties from improvements to be
23 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
24 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
25 property while treating all or most others (including Taxpayer’s) differently, and
26 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefit are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
9

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17 **B. The City's Appraiser's Disregard of Data on Remand is Another**
18 **Example of How His Analysis is Unreliable, Not Admissible under Frye**
19 **or ER 702, and His Proposed Special Assessments are not based on**
20 **Actual, Measurable and Special Value Increases from the anticipated**
21 **LID Improvements.**
22

23 The City's appraiser was provided actual performance data for the remanded hotels,
24 including their average daily room rates, from which he had been instructed to "recalculate"
25 hotel "before" values on remand. *See* Hearing Examiner Initial Recommendation at p. 117
26 (Sept. 8, 2020). The appraiser refused, explaining that, had he done so, his before values
27 would be "too low." His remand analysis demonstrates that his whole "income approach to
28 valuation", used for both hotels and other commercial properties, like Taxpayer's, is
29 contrived speculation on speculation. The City's appraiser disregarded these hotels' actual
30 net income in a supposed "income analysis." *See e.g.*, Deposition of Robert J. Macaulay,
31 7:10-13 (December 22, 2020) (Attached as Exhibit A to Objector's Statement on Remand
32 for Case Nos. CWF-0318, 0413, 0415, 0417, 0418, 0423, 0429, 0436).
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42 Taxpayer's appraiser submitted an appraisal which was similarly realistic and
43 specific to the property but was disregarded. Taxpayer's appraiser demonstrated the actual
44 value of the property is \$239,884,000, and the LID assessment should be reduced to reflect
45
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1 this before-value. *See* CWF-0441 Statement of Objections, Exh. 6, Appraisal of Brian
2
3 O'Connor (Jan. 31, 2020).
4

5 **C. In Light of Covid's Continuing Impact on Eqr-Second & Pine LLC and**
6 **other Downtown Property Owners and other Material Changes Since**
7 **October 2019, the LID Should be Cancelled, or at Least Assessments**
8 **Recalculated, to take Into Account Property Value Reductions**
9

10 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
11 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
12 other relevant developments since October 2019." When Washington's first COVID
13 restrictions were imposed in March and April 2020, there was an assumption that they
14 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
15 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
16 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
17 gotten much worse. The City has already imposed higher minimum wages and taxes on
18 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
19 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
20 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
21 years from completion, as a best case. In current circumstances, a downtown tax to fund
22 new, non-essential park improvements against financially strapped taxpayers, and likely
23 passed through to financially strapped tenants and customers would be unfair to taxpayers
24 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
25 rethinks its budget priorities for the next few years, and its potentially funding sources,
26 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
27 property owners) have a chance to recover, and that any assessment take into account the
28 changed circumstances since this appeal process started on February 4, 2020 to avoid
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1 unnecessarily and perhaps permanently killing downtown properties and businesses in the
2 name of bettering them.
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5 **V. Relief Requested**

6 Particularly in light of the Committee's decision not to take further comment, Eqr-
7
8 Second & Pine LLC respectfully request that each Committee member carefully review the
9 record transmitted to Council before voting on our appeal.
10

11
12 EQR-SECOND & PINE LLC respectfully reiterates its request from the September
13 22, 2020 appeal that the City Council:
14

- 15 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
16 assessment dated December 30, 2019; or
17
- 18 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
19 proposed final assessment to \$0 (zero), or such amount as Taxpayer
20 establishes at the hearing in this matter; or
21
- 22 3. Grant the Examiner's recommended remand but with instructions to
23 recalculate and reduce Taxpayer's assessment using recognized appraisal
24 techniques consistent with USPAP and
25
26 a. Excluding any property value increase attributable to viaduct removal
27 and other planned WSDOT Improvements;
28
29 b. Taking into account the effects of the COVID-19 pandemic on the
30 value of Taxpayer's property and other relevant developments since
31 October 2019;
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33 c. Accounting for and excluding (1) any special benefits from existing
34 or planned improvements that already provide similar benefits to
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1 Taxpayer's property, and (2) any special detriments from construction
2 and other anticipated LID-related disamenities;
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5 d. Accounting for and including only those actual benefits anticipated to
6 accrue to Taxpayer's property based on its location relative to Pier 58,
7 Overlook Walk, and the Promenade, and specific elements of the LID
8 Improvements;
9

10
11
12 e. Discounting anticipated special benefits to present value, based on
13 reliable estimates regarding when special benefits will start accruing
14 following completion of the LID Improvements; and
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16
17 f. Accounting for such other issues specific to Taxpayer's property
18 relevant to calculation of such assessment; and
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22 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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PERKINS COIE LLP

5 By:

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22 Attorneys for EQR-SECOND & PINE LLC
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