Before the Hearing Examiner of the City of Seattle **July 7, 2020**

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

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

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

King County parcel number: 2538831120

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

Emailed to: LIDHearingExaminer@seattle.gov

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

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

Objector's Real Estate Expert Credentials:
Sandra Justen:

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

William Justen:

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

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

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

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

Based on our study of the ABS Waterfront Seattle LID Final Special Benefit/Proportionate Assessment Study (City Exhibit C-17) and the ABS Final Special Benefit Study Addenda (City Exhibit C-18). We prepared and submitted at our objection hearing on February 13, 2020 our 14 page Objection Letter with 7 Exhibits totaling 84 pages. Our objections described both narratively and graphically why our condominium building at 1521 2nd Ave has too much distance, e.g. 1,240 feet of travel to the Promenade, for reasonable proximity to and from five of the six LID projects to receive any special benefits and we illustrated why the sixth LID project, the Pike/Pine Streetscape improvements, would actually create a disamenity for our building because that project would impede access to and from our building's garage.
In our Objection Letter we also expressed a great lack of confidence in the city of Seattle's ability to fund at least $187 million to complete the City cost estimate of $347M of LID scope of work after the $160 million of LID funding. Now in our new depressed economy, it is even more questionable that Friends Of the Waterfront will successfully raise their committed $110 million of philanthropy (which Marshall Foster says in his cross is unenforceable) and the City will be required to fund any gap in philanthropy to meet the city's legal requirement to complete the full LID scope of work.

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

From all of this additional information I'm adding to our original opening objection packet submitted on February 13, 2020, additional objections focused on the new information provided in the hearings and declarations since that time.
Our Closing Argument will focus on the following objection categories with several demonstrative exhibits that are excerpted from the City's evidence and exhibits.

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

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

I. Building Types/Uses

Throughout the City's and its consultants' documents and testimony, there is no explanation of how a building's type or use: (hotel, office, apartment or condominium) is weighed along with proximity and Before Value in determining the percentage of property value increase from the LID projects. In Mr. McAuley's cross-examination by Karen Gielen on June 26, Karen (copied below from the transcript) asked Mr. McAuley a hypothetical: consider an identical building in the same location, e.g. three blocks from the waterfront, how would different types of uses for example, hotel, office, condominium or apartment) make a difference in the value increase they would get from proximate to the waterfront?
Mr. McAuley rambled on about how it depends if it had retail in each building, which was not part of the hypothetical as the buildings were said to be exactly the same except for the principle use, and ultimately, Mr. McAuley could or would not answer the question of how different uses are weighed in determining value lift.

Page 122

19 BY MS. GIELEN:
20 **Q I'll figure out the technical things**
21 **eventually. Hello, Mr. Macaulay.**
22 A Hello.
23 **Q I would like to start with a hypothetical**
24 **question for you. If you had a building that was**
25 **three blocks, say, from the waterfront and you were --**

Page 123

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

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

Q How about condominiums and apartments?

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

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

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

Page 124

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

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

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

25

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

City of Seattle - Department of Finance and Administrative Services
Mr. Glen M. Lee, City Finance Director
Summary of Waterfront Seattle Project Formation Special Benefit/Proportionate
Assessment Study for Local Improvement District
Page 5

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

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

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

Valbridge Property Advisors | Puget Sound
17-0291 Summary of Waterfront Seattle Project Formation SB/Proportional Assessment Study for LID - *Copyright © 2018*

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

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

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

II. Building Size

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

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

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

22 BY MR. REUTER:
23 Q. Is there some math to these distinctions or is
24 this a judgment call?
25 A. When one building is significantly larger than

You created this PDF from an application that is not licensed to print to novaPDF printer (http://www.novapdf.com)

1 another, it is going to create a higher -- higher value.
2 And -- and most probably when you are looking at and
3 trying to be consistent with how you're looking at
4 similar properties, it's going to create a higher
5 benefit.
6 And that change in benefit for -- for a larger
7 building might be slightly different when the percentage
8 change might be slightly different than a similarly
9 situated building. But under the State statutes, they
10 have to be roughly proportionate. And I would say that

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

Argument/conclusion:

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

III. **Proximity**

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

Five buildings all on the west side of Second Avenue from Union Street to Virginia Street with the same proximity to the waterfront as 1521 2nd Ave., include:
Tower 12 at 2015 2nd Ave.
Cristalla condominium at 2030 2nd Ave.
Viktoria Apartment at 1915 2nd Ave
Newmark Tower condominium at 1401 2nd Ave.
Russell Center at 1301 2nd Ave

Two buildings being on the east side of Second Avenue at Pike Street and Pine Street, diagonally across from 1521 2nd Ave. with nearly the same or better proximity to the waterfront as 1521 2nd Ave., but these two properties have the added benefit from adjacency to the LID Pike/ Pine Street improvements:
WestEdge tower at 1430 2nd Ave.
Helios apartment tower and Charter Hotel at 206 Pine St.'

IV. **Proportionality between Properties**

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

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

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

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

<u>Comparable statistics 21521 2nd Ave. are as follows:</u>

WestEdge Tower, 39 stories, built in 2018, 340 units, 347,876 NSF, occupancy 580, special benefit $6,196,000, total assessment. $2,427,729, special benefit change 2.06%
Compared to 1521 2nd Ave.: One story taller, 28% more NSF, 10 years newer, 2.9 times the occupant load, 65% of the special benefit, special benefit change 2.06% (76% of 1521)

Helios And Charter Hotel: 40 stories, built in 2017, 401 units, 306,374 NSF, occupancy 650, special benefit $5,720,000, total assessment. $2,244,356, special benefit change 1.92%
Compared to 1521 2nd Ave.: two stories taller, 12.6% more NSF, 9 years newer, 3.25 times the occupant load, 60% of the special benefit, special benefit change 1.92% (71% of 1521)

An excellent comp.
Tower 12, 34 stories, built in 2017, 314 units, 298,958 NSF, occupancy 530, special benefit $4,042,000, total assessment $1,583,745, special benefit change 1.9%
Compared to 1521 2nd Ave.: four-story shorter, 10% more NSF, nine years newer, 2.65 times the occupant load, 43% of the special benefit (70% of the 1521)

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

Tower 12

From Wikipedia, the free encyclopedia

in 2017 Tower 12 is an apartment building in Seattle, Washington. The 34-story, 392-foot-tall (119 m) skyscraper has 314 apartments as well as 7,000 square feet (650 m^2) of ground-level retail space.[5] It is located at the northwest corner of 2nd Avenue and Virginia Street near Pike Place Market and Victor Steinbrueck Park at the southwestern edge of the Belltown neighborhood.

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

History[edit]

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

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

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

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

ABS

References

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

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

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

Newmark tower condominium, 24 stories, built in 1993 complete remodel in 2013, 214 units, occupancy 360, special benefit $3,050,434, total assessment $1,195,227, special benefit change 2.75%
Compared to 1521 2nd Ave.: 14-story shorter, 10% more NSF, nine years newer, 2.65 times the occupant load, 32% of the special benefit (102% of the 1521)

Russell Investment Center: 42 Stories, built in 2006, 872,026 NSF, occupancy 4,500, special benefit $8,074,000, total assessment $3,163,571, special benefit change 1.5%
Compared to 1521 2nd Ave.: 4 stories taller, 3.2 times more NSF, 8.8 Times the occupant load, 85% of the special benefit (55% of the 1521)

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

VI. Appraisal Method Weaknes

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

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

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

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

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

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

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

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

_____ _____

William J. Justen Sandra L. Justen