

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

CITY OF SEATTLE
OFFICE OF THE CITY CLERK

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

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

NOTICE OF APPEAL

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

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

OBJECTIONS

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

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

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

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

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

The Recommendation states the following regarding Appellants’ cases:

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

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

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

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

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

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

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

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

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

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

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


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21 **RELIEF REQUESTED**

22 Appellants request the right to appeal the recommendation made by the Public Assets and
23 Native Communities Committee if that recommendation is for the City Council to reject or
24 significantly modify the Hearing Examiner's Recommendation, or if upon remand the City
25 appraiser's revaluation is objectionable.
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1 DATED this 22 day of September, 2020.

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3 FOSTER GARVEY PC

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13 219, 220, 333, 353
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