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

Case Number CWF-0176

Names: Karen N. Gielen, Anton P. Gielen

Property Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

King County Tax Parcel ID: 9195900200

Owner's Mailing Address: 1009 Western Ave., Apt. 1209
Seattle, WA 98104

We, Karen N. Gielen and Anton P. Gielen, owners of the residential condominium property located at 1009 Western Ave., Ap. 1209, Seattle WA, 9104 (PIN 9195900200), respectfully submit the following closing arguments and statements in this matter, Case No. CWF-0176.

1. Introduction

Testimony provided by the city during its case presentation and subsequent cross examination of witnesses, along with declarations of other participants provided no rebuttal to our appeal filed on January 29, 2020.

2. "Before LID" Appraisal Process

The appraisal process used to develop "Before LID" appraisals of Residential Condominiums was inherently flawed and resulted in inaccurate appraisals which became the basis for establishing the "special benefit". The City and its witnesses provided no evidence that the appraisals were truly accomplished on a parcel-by-parcel basis or that they reflected accurate basic information on each unit.

a. Under cross examination, Mr. Macaulay stated that during the normal appraisal process there would be back and forth communication between the appraiser and property owner to catch any erroneous assumptions. Instead of querying the city as to why there was no feedback, he assumed that his appraisals were validated. The city process informed property owners that they should not include concerns specific to their individual properties in the LID formation hearings. The only opportunity to make these issues known was the process we are currently participating in. (Pages 133 – 136 , Macaulay cross-examination, June 26, 2020).

b. Mary Hamel stated that the following data from the King County Assessor were used as the basis for developing the "Before LID" appraisals for Residential Condominiums (Declaration of Mary K. Hamel, page 3): "…we relied on King County Assessor information for data on individual residential condominiums, including square footage, bathroom and bedroom counts, construction quality and type, and grade of view amenities". An individual property's view amenity is very important when considering the value of a downtown high-rise residential condominium.

c. The city failed to rebut the evidence we provided in our appeal, demonstrating the vast inferiority in the view from my unit as compared with another unit in the same building. Both units were assigned identical $825/sq. foot valuations when the data provided a very different conclusion. As compared to other units in the building, a valuation of $750/sq. ft. is appropriate, reducing the appraised value of PIN 9195900200 to $1,518,000.

d. In his testimony, Mr. Macaulay stated that in developing the "Before LID" appraisal, future development was considered when it became known by the market. In fact, there was no change in Before LID assessments for units in Waterfront Place between the Preliminary and Final special benefit studies. Plans to convert the parking facility at 1101 Western Ave. directly north of Waterfront Place into a 16 story apartment building developed after the preliminary study and would have come to the attention of the market prior to completion of the final study. This major view-altering impact did not make any change to the before lid assessment of affected parcels

Conclusion: "Before LID" appraisals for Waterfront Place Residential Condominiums and particularly our parcel are flawed. To be consistent to other parcels in our building, a more appropriate appraisal for our property would be at $750/per sq. ft. The Hearing Examiner should recommend that the "Before LID" appraisal for PIN 9195900200 be adjusted to $1,518,000.

2. <u>Proximity to Promenade</u>

In his conflicted testimony, Mr. Macaulay cited proximity to the Promenade conferring special benefit based on Dr. Crompton's analysis, while waving off any of the mitigating issues raised in Crompton's studies.

a. When asked about the special benefit to a residential property which already had direct access to the Waterfront as compared to one whose access was facilitated by the LID projects, Macaulay brought up the Maritime Building's experience once the LID became known to the marketplace. When queried how the proximity would benefit a residential property that could not benefit from increase in foot traffic,

Macaulay reverted to his standard verbiage about the market and studies with no actual data or specific references. (Testimony from June 26, pages 141 – 144). When questioned about Dr. Crompton's critique of his use of the proximate principal, he brushed it off by saying he never talked to Crompton rather than supplying evidence that the critique was wrong (Page 144).

b. Dr. Crompton's found that "Most of the enhanced value of parks derives from people's willingness to pay a premium to be proximate to the tranquility, peace, and psychological relaxation many parks provide." And "In contrast, enhanced property values associated with greenways are likely to come from access to a trail rather than from the views of nature and open space and is their functionality or activity potential that is likely to confer most added value." Also, "there's no evidence to suggest that they (trails) have a positive impact, so no proximate premium is recommended". When questioned why these would not directly apply in the context of the Promenade, Macaulay declined to call Crompton's critique wrong, instead stating that "I'm not saying they're incorrect. They're --they're -- they're different than what -- what is being done in the LID projects. So, again, they're used as background basis." This answer provided no evidence that there was an alternate study that would be more applicable than Dr. Crompton's analysis which was waved away as "background". (Page 145).

c. Mr. Macaulay testified that condo owners would receive special benefit from the LID projects due to their proximity, which would be greater than the general public benefit, which cannot be measured. The HR&A Study, February 2019, directly contradicted this testimony. The study determined that downtown park adjacent visitors would make no net new visits to the park. In contrast, non-adjacent Metro residents would increase by 69,000 net new visitor days per year and other non-city residents would increase net new visitor days by 327,000. When challenged by this data demonstrating that adjacent property owners would perceive no value in terms of usage of the promenade when other city dwellers would receive a tangible benefit, Mr. Macaulay provided no evidence supporting his position.

Conclusion: The city provided no evidence justifying a 2.7% special benefit for properties directly abutting the Promenade. In fact, the testimony indicated that the Crompton study was mis-applied to residential properties and would result in a minimal, if any, benefit to adjacent residential properties. This was corroborated by the H&RA study indicating that nearby properties would use the park no more than if the LID was not constructed. The Hearing Officer should recommend that the special assessment made against our property be vitiated.

3. <u>Erroneous Alaskan Way "before LID" depiction</u>

The "Before LID" renderings of Alaskan Way did not reflect the actual build-out that would be required for the "Before" condition, resulting in overstated special benefit assessments in the "After LID" condition for adjacent Waterfront Place Residential Condominiums.

a. At the time the formation study was completed, there was no rendering of the completed Alaskan Way if there were no LID. In fact, as stated in Marshall Foster's testimony, "the contract called the main corridor included both the LID improvements and the reconstruction of Alaskan Way, itself", so there was no distinct data available on what Alaska Way would be like if the LID was not enacted.

   i. During meetings with the office of the waterfront in July 2018, Mr. Foster was asked to produce a rendering of what a completed Alaskan Way would look like without the LID. He provided the drawings included in our appeal (Exhibit CWF-0176-2) showing a Before LID Alaskan Way with exactly the same amount of green space as in the "After LID" rendering. At the time, he stated that the large planting areas in the LID design would be required for drainage purposes, whether or not the LID improvements were accomplished. The need for this surface drainage to complete the restoration of Alaskan Way was delineated in the Final special benefits study Addendum A, which stated that the "Before LID" scenario would be built to Green Stormwater Infrastructure (GSI) Code.

   ii. Despite Mr. Foster's attempt to brush off questioning, Seattle Public Utilities website describes GSI code as follows "GSI includes stormwater best management practices (BMP's) designed to reduce runoff from development using infiltration, evapotranspiration and/or stormwater reuse. To be considered Green Stormwater Infrastructure, it must provide a function in addition to stormwater management such as water reuse, providing greenspace and/or habitat in the City. Examples of green stormwater infrastructure include trees, bioretention facilities, rain gardens, permeable pavement, vegetated roofs, and rainwater harvesting." Each of these approaches requires more open green space thane included in traditional street environment.

   iii. King County Wastewater Treatment Division website states that**: "**Drainage solutions that use plants, trees, and soil to soak up the rain are called green stormwater infrastructure (GSI) or natural drainage. These solutions are different from traditional infrastructure solutions that use pipes, underground storage tanks, and treatment plants to collect and clean the water. Natural drainage allows stormwater to soak into the earth, the way it did before Seattle was developed. This reduces the risk of combined sewer

overflows (CSOs) on rainy days, the cost and size of traditional facilities required to control CSOs, and neighborhood impacts." This further reinforces the requirement for a significant increase in green space for GSI as compared to traditional stormwater facilities.

b. Macaulay testified that the before LID rendering included in Addendum A depicts a multi-lane roadway with parking, sidewalks and nominal planting beds along each side of the street and was used to compare to the after LID condition to calculate special benefits. In his first day of testimony under questioning by Mr. Filipini Mr. Macaulay stated the following: "Extraordinary assumptions are something that if they're found to be false could alter the opinion of market value." A correct "Before LID" rendering of Alaskan Way would be significantly different than that used by the appraiser, making it an extraordinary assumption proved false.

c. The written description indicates that the before condition would include Green Stormwater Infrastructure (GSI) to code. This would result in a very different depiction of the before lid condition than that provided in Addenum A. In fact, with the exception of street furniture and variety of plantings, the before and after would be almost identical. They would each include roughly the same green footprint, bicycle lanes, continuous sidewalks and expansive views of the waterfront.

Conclusion: The difference between the actual "Before LID" redevelopment of Alaskan Way to meet GSI code requirements would not result in a 2.7% special benefit as currently assigned to Waterfront Place. The actual difference (adding street furniture and such) would be so small as to be effectively impossible to calculate. The Hearing Officer should recommend that the special assessment made against our property be vitiated.

4. **<u>Dis-amenities for residential condominiums</u>**

Dis-amenities for residential condominiums adjacent to the Promenade were not considered when developing "After LID" appraisals or were discarded by the appraiser based on faulty logic, therefore over-valuing the Waterfront Place Residential Condominium special benefit calculation.

a. Mr. Macaulay testified that residents along Western Ave. would see no dis-amenity due to proximity to the Promenade because they already contend with congestion in the before situation. In fact, Western Ave. is a lightly traveled street with little foot traffic or activity. Placing a destination tourist facility one street over will significantly increase both the vehicle and pedestrian activity on Western, impacting parking, privacy and noise. Since Western will not be part of the official "park", it will be managed like any other street. As Marshall Foster testified on June 26, page 69) about how a normal transportation corridor is managed by the city that is different

from a park. “That -- as part of that, you know, the Promenade, essentially, becomes a park space. Today the Promenade is a transportation corridor. If we do not have those things in place, the Promenade essentially is -- it's like any other sidewalk in the city, and it doesn't have that dedicated team in terms of addressing some of the issues that people have been concerned about.” In addition, with the park closed to disruptive users, this activity would likely spill over to Western Ave. and the side streets emanating from Alaskan Way, where no enforcement would be applied.

b. Mr. Macaulay dismissed consideration of parking loss for developing the special benefit for Residential Condominiums. On Page 153 of his June 26 testimony, he discussed the loss of 100+ parking spots along the Waterfront. His testimony stated: “ they're primarily applied to the commercial properties. We felt that the market would be reacting more towards them than the commercial properties given the location of the parking lots.” He acknowledged that no study was done for residential properties. When challenged by the fact that residential properties were also adjacent to the Waterfront, he reverted to his “parcel-by-parcel” appraisal approach to dismiss the issue.

Conclusion: Dis-amenities would more than offset any minimal special benefit conferred by the addition of street furniture resulting from the LID improvements. The Hearing Officer should recommend that the special assessment made against our property should be vitiated.

Karen N. Gielen
July 7, 2020

Anton P. Gielen
July 7, 2020