September 22, 2020

Notice of Appeal of Final Waterfront LID Assessment Recommendation.
Final Waterfront LID No. 6751

Hearing Examiner Case No. CWF-0176
Parcel Owners: Anton and Karen Gielen
King County Parcel No. 9195900200
Address: 1009 Western Ave, Apt. 1209, Seattle WA 98104

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

> SMC 20.04.090.C
> Any finding, recommendation, or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

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

> SMC 20.04.110 - Appeal to City Council.
> In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also designate by name or title and by sub number the items or exhibits in the record to which reference will be made in argument or comment before the City Council or committee. Preparation of a written verbatim transcript of all or any designated part of the hearing shall be at the appellant's initiative and expense, but shall not be required unless within five (5) working days after the filing of a notice of

appeal the City Council or designated committee thereof so notifies the appellant, who in no event shall be required to pay the cost of any portion of a verbatim transcript not pertinent to appellant's own appeal.
Because the City has not provided "metered index numbers", therefore our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Instead page numbers of attached exhibits are referenced.

We request and demand an appeal hearing with the City Council. Our original appeal is included as Exhibit 0176-1. Our Final Argument is included as Exhibit 0176-2.

We appeal from the following portions of the Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner:

1) Decision, Page 49: "Objectors claim that their unit was overvalued due to the City appraisal, because the property view has less value than determined by the City. Objector provides no appraisal evidence to indicate that the City's calculation or reliance on King County Assessor's view data are inaccurate. Recommendation: denial"

   From our initial appeal: "In the case of our property, Valbridge assigned our property a post-viaduct value resulting in an increase of 33.3% over the King County Assessor's valuation. As you can see in the Exhibit A table, other units in the building with west facing views were assessed at an average of 9.9% increase after the demolition of the viaduct. Each of these properties have unobstructed Waterfront and Alaskan Way views from their major living areas while our unit has an obstructed water view which did not include the Viaduct and will not include the Alaskan Way "Promenade" planned by the City. Exhibit B includes a comparison of the unobstructed waterfront view of Apt. no. 1103 to our unit."

   The Hearing Examiner's conclusion does not agree with the testimony presented during cross examination of Mr. Macaulay. He clearly stated that a view amenity has a direct effect on market value both in the before and after condition of the property. From the hearing transcript from 6/25/20 page 155 lines 19-25 and page 156 line 1:

19 Q. So did you apply a premium to both the –to the
20 view amenity?
21 A. The properties in a particular condo unit that
22 had a view amenity would have – would have a higher
23 market value, both in the before and after.
24 and –and, therefore, if—if they had a
25 higher overall benefit amount, then proportionally pay a
1 higher –a higher assessment amount.

Conclusion: The city failed to rebut the evidence we provided in our appeal, demonstrating the vast inferiority in the view from our 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 for the pre-LID condition.

2) Decision, Page 49: The Hearing Examiner failed to address the lack of special benefit for our property relative to other properties outside the LID boundaries as described in our final argument. 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 were not constructed. The Council should invalidate the special assessment made against our property.

3) Decision, Page 49: “In addition to these issues, the objection argues that the subject property would receive no special benefit. To support this argument Objector included a letter from the property HOA president to challenge the City appraisal’s special assessment for the property. The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit or that the City appraisal valuation process was flawed. Recommendation: denial.”

   The Hearing Examiner completely dismissed our claim that there is no special benefit to properties adjacent to the Promenade as described by the letter from our HOA president included in the Appeal. The Examiner ignored the testimony provided in our Final Argument demonstrating that the actual “before” condition of the Promenade will be identical to the “after” in terms of green planted spaces. In his testimony during cross examination, Marshall Foster indicated that the existing contract for replacement of the streetscape of Alaskan Way includes the elements that are necessary for the LID landscaping, which is inseparable from the contract.

   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. In his testimony during cross examination

Karen and Anton Gielen