Case No. CWF-0176, City Council Appeal, Waterfront LID No. 6751

February 16, 2021

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., Apt. 1209, Seattle WA, 9104 (PIN 9195900200), respectfully submit the following appeal of The Waterfront LID Assessment Roll Hearing Final Report for Local Improvement District No. 6751, filed by the Hearing Examiner on February 1, 2021.

1. Introduction

According to the Final Hearing Examiner's Report, although the original hearing date was set for February 4, appellants were given the opportunity to be scheduled on later dates in February, March, and April 2020. In our appeal we requested an opportunity to testify after return from an international trip on February 12. We never received notice of the opportunity to attend a later hearing date, so never had the opportunity to present our appeal in person.

We were able to participate in the presentation of the case and cross examination of city witnesses but were not invited to the pre-hearing deposition of Robert Macauley.

Our appeal included both common issues with other appellants as well as two specific and unique complaints: The "Before LID" appraisal of our property and the erroneous depiction of Alaskan Way in the "Before LID" condition. At no time did the city provide expert evidence refuting these complaints.

2. "Before LID" Appraisal Process

The Hearing examiner states in his final report "…the objection fails to support this argument (valuation process was flawed) with any expert appraisal or valuation evidence. Without such supporting evidence, the lay observations of the Objector are not sufficient to overcome the presumption in favor of the City's expert appraiser."

a. Following is a comparison of the view from our living room side-by-side with the view from our neighbor's living room, provided in the appeal. You will note that our view is entirely territorial while our neighbor's includes unobstructed views of the harbor, Puget Sound, Olympic Mountains, and the cityscape. An "expert appraiser" cannot apply the exact same per square foot valuation to these two properties in the same building without losing credibility. In fact, City Witness Mary Hamel stated that "An individual property's view amenity is very important when considering the value of a downtown high-rise residential condominium".

Unit 1209

Unit 1103

The City's "expert appraiser" valued these two very different views at the same per square foot value, demonstrating that either the appraiser was completely unfamiliar with the market value of Seattle views, or that a large error was made during his "parcel by parcel" appraisal process.

b. Under cross examination, the city's Appraiser stated that a normal appraisal process would include back and forth communication between the appraiser and property owners to catch any erroneous assumptions. Instead of querying the city as to why

there was no feedback from property owners after the Preliminary Study was published in May 2018, he assumed that his appraisals were validated. The city processes 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 during the appeals process, which was too late to change the appraisals in the Final Assessment Role. The Hearing Examiner disregarded any errors identified during the appeals process because it was not considered "expert" opinion.

c. The Hearing Examiner 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 and disregarded the testimony from the Appraiser that give and take with property owners during the appraisal process would be necessary to validate his assumptions.

Conclusion: "Before LID" appraisal for our parcel is flawed. Contrary to the Hearing Examiner Final Report, credible evidence of the error in the appraisal was provided in our appeal. To be consistent to other parcels in our building, a more appropriate appraisal for our property would be at $750/per sq. foot. Each unit in our building was assigned an identical "value lift" for the "After LID" condition. The overstated "Before LID" value inflated our assessment in proportion to other units in the building.

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

The Hearing Examiner states "…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 appaisal's (sic) special assessment for the property" and "…. The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit ".

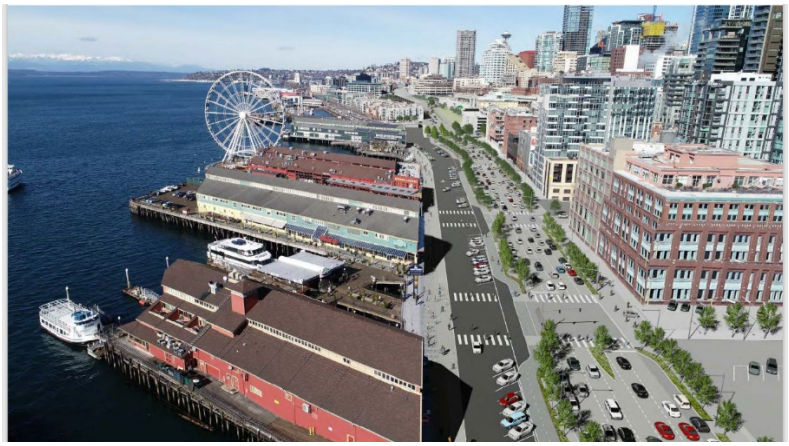
a. Supporting evidence was provided in the appeal but was never addressed directly by the Hearing Examiner. The HOA president's letter included a depiction provided by the city in July 2018 of the likely condition of Alaskan Way if no LID were adopted. At the time, Mr. Foster acknowledged during a meeting that there were no official renderings of the "pre-LID" configuration of Alaskan Way. His staff provided a rendering for the meeting indicating that, absent the LID projects, Alaskan Way would still be built with the same extensive green areas to handle the drainage and stormwater requirements.

b. When the Final Study was issued in late 2019, the "before LID" description indicated that Green Stormwater Infrastructure (GSI) would be employed. GSI has extremely specific requirements to satisfy Both National and Washington State requirements.

i. Section 502 of the Clean Water Act defines green infrastructure as "...the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspirate stormwater and reduce flows to sewer systems or to surface waters. When rain falls in natural, undeveloped areas, the water is absorbed and filtered by soil and plants. Stormwater runoff is cleaner and less of a problem. Green infrastructure uses vegetation, soils, and other elements and practices to restore some of the natural processes required to manage water and create healthier urban environments. At the city or county scale, green infrastructure is a patchwork of natural areas that provides habitat, flood protection, cleaner air, and cleaner water. At the neighborhood or site scale, stormwater management systems that mimic nature soak up and store water.

ii. In their paper "Expanding the Benefits of Seattle's Green Stormwater Infrastructure Examining Values Previously Unmeasured from Past and Potential Future Efforts in Seattle, Washington JANUARY 2017 EPA 832-R-16-011" Pam Emerson and Tracy Tackett (Seattle Public Utilities) claim that Green Stormwater Infrastructure (GSI) provides the types of urban greening that can contribute to improved mental health. This reinforces that Seattle's use of GSI results in an increase of vegetation as compared to a traditional stormwater approach.

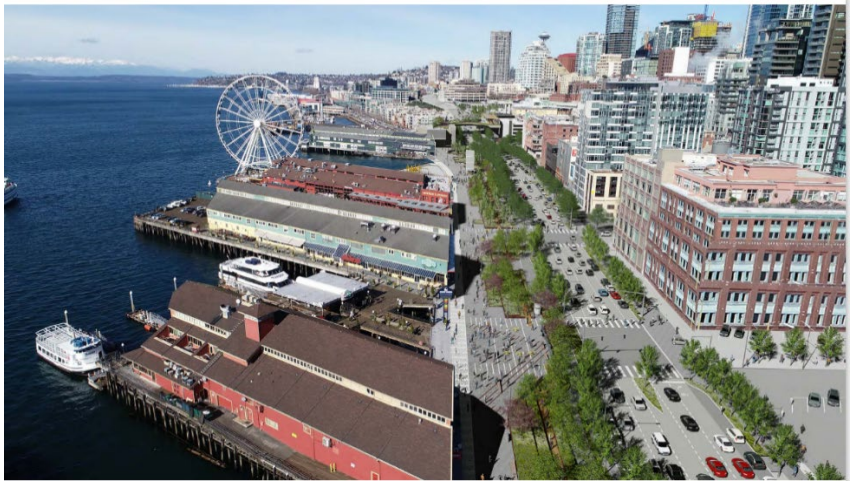
c. The following illustration is taken from Addendum A to the Final LID Study, depicting the "before LID" condition of Alaskan Way looking north from Spring Street. As you will note, there are only narrow strips of permeable green space, which provide none of the factors necessary to enable Green Stormwater Infrastructure to be applied or to obtain the benefits of "urban greening" noted in the Emerson/Tackett paper. This is the condition the Expert Appraiser used to develop his estimation of the property benefit the LID project would provide to adjacent property.



i. The city's appraiser (Mr. 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.

ii. In his first day of testimony under questioning by city attorney 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.

d. The next picture is the "after LID" view of the same area. In this case significant green areas are included which will enable the elements of Green Stormwater Infrastructure to function. In fact, the "after LID" rendering is actually what will exist if the LID is not implemented, with the exception of street furniture, art and kiosks.



Conclusion: The difference between the actual "Before LID" redevelopment of Alaskan Way to meet GSI code requirements would be virtually indistinguishable from the "After LID" depiction in the Final Study. The only difference will be inclusion of street furniture, art and kiosks, a benefit so small as to be effectively impossible to calculate. There is no special benefit provided by the Alaskan Way portion of the LID.

Karen N. Gielen
February 16, 2021

Anton P. Gielen
February 16. 2021