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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0414

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON LOT B LLC’S
OBJECTION TO WATERFRONT LID NO.
6751 PROPOSED FINAL ASSESSMENT
FOR PARCEL NO. 0660000740

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32 LOT B LLC (“Taxpayer”) files this amended appeal pursuant to RCW 35.44.070,
33
34 Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle
35
36 Resolution 31979, the notice of the Seattle Office of the City Clerk dated December 30,
37
38 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing
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40 Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
41
42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
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1 **I. LOT B LLC / Appellant**

2 The taxpayer filing this amended appeal is:

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5 LOT B LLC
6 217 Pine St., Suite 200
7 Seattle, WA 98101
8 Zahoor Ahmed
9 206-624-8909
10 ahmed@rchco.com
11

12 **II. LOT B LLC's Representatives**

13 LOT B LLC'S representatives in this matter are:

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26 **III. Statement of LOT B LLC's Interest and Incorporation of Prior Arguments**

27 LOT B LLC is the taxpayer for the property that is subject to the proposed final
28 assessment described in Section IV.
29

30
31 LOT B LLC is amending its appeal as authorized in City of Seattle Resolution 31979
32 to include additional arguments relevant to the revised Final Recommendations of the
33 Hearing Examiner issued on February 1, 2021. On February 4, 2020, LOT B LLC timely
34 filed an objection to the assessment, which was based on the Final Study. LOT B LLC
35 further timely filed an appeal of the Hearing Examiner's 2020 recommendations to the City
36 Council. LOT B LLC maintains and incorporates all objections and arguments raised in its
37 appeal filed with the City Clerk on September 22, 2020. This amendment is a supplement is
38 to be read together with LOT B LLC's appeal filed on September 22, 2020. LOT B LLC
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1 incorporates by reference all filings, evidence, and pleadings filed by any party before the
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3 Hearing Examiner as authorized by the Hearing Examiner, including without limitation all
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5 records pertaining to the November 2020 through February 2021 remand hearing ordered by
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7 Council.
8

9 **IV. Amended Arguments on Appeal**

10 LOT B LLC supplements its appeal of the Hearing Examiner's recommendation to
11
12 deny LOT B LLC's objection to the City of Seattle's Waterfront Local Improvement District
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14 No. 6751 proposed final assessment dated December 30, 2019 against the following
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16 property:
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19 King County Parcel No. 066000-0740
20 Site Address: 815 Howell St., Seattle, Washington
21 Proposed Final LID Assessment for Parcel: \$73,666
22

23 To avoid repetition, LOT B LLC incorporates the evidence and arguments raised
24
25 before the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
26
27 amended appeal.
28

29 **A. The Anticipated Special Benefits to LOT B LLC's Property should be**
30 **Discounted to Present Value and Assessments Adjusted as Appropriate**
31

32 On remand, the City's appraiser acknowledged that special benefits to parcels can be
33
34 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
35
36 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
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38 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
39
40 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
41
42 the theatre parcel is too remoted to support a current assessment. *Id.* The Examiner
43
44 accepted that recommendation. The City's appraiser further acknowledged that benefit
45
46 reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined
47

1 by discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
2 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
3 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
4 calculations to present value because the general benefits are not anticipated from the LID
5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
6 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
7 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
8 benefit calculation, and related assessments, to account for the delay between the assessment
9 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
10 standard appraisal practice, and renders the other proposed Waterfront LID special
11 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
12 “fundamentally wrong methods.”
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24 All special benefit taxes assessed by a municipality must be based on “actual,
25 physical and material [special benefits that are] not merely speculative or conjectural.”
26 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
28 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
29 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
30 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
31 discount benefits the City estimated would accrue to the properties from improvements to be
32 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
33 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
34 property while treating all or most others (including Taxpayer’s) differently, and
35 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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1 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
2 for some properties because the benefit are too distant, while assessing other properties as
3 though distant benefits have already been secured. As Taxpayer identified in its September
4 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
7 reject the improper calculation of the benefit or remand and require the appraiser to discount
8 the benefits to net present value.
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17 **B. In Light of Covid's Continuing Impact on LOT B LLC and other**
18 **Downtown Property Owners and other Material Changes Since October**
19 **2019, the LID Should be Cancelled, or at Least Assessments**
20 **Recalculated, to take Into Account Property Value Reductions**
21

22 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
23 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
24 other relevant developments since October 2019." When Washington's first COVID
25 restrictions were imposed in March and April 2020, there was an assumption that they
26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
27 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
28 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
29 gotten much worse. The City has already imposed higher minimum wages and taxes on
30 businesses to try to fund recovery. The West Seattle Bridge and other bridges are in
31 immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park
32 hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several
33 years from completion, as a best case. In current circumstances, a downtown tax to fund
34 new, non-essential park improvements against financially strapped taxpayers, and likely
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1 passed through to financially strapped tenants and customers would be unfair to taxpayers
2 and a misallocation of city resources. COVID threw everyone for a loop. But as the City
3 rethinks its budget priorities for the next few years, and its potentially funding sources,
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5 Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and
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7 property owners) have a chance to recover, and that any assessment take into account the
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9 changed circumstances since this appeal process started on February 4, 2020 to avoid
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11 unnecessarily and perhaps permanently killing downtown properties and businesses in the
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13 name of bettering them.
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17 **V. Relief Requested**

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19 Particularly in light of the Committee's decision not to take further comment, LOT B
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21 LLC respectfully request that each Committee member carefully review the record
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23 transmitted to Council before voting on our appeal.
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26 LOT B LLC respectfully reiterates its request from the September 22, 2020 appeal
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28 that the City Council:

29 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
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31 assessment dated December 30, 2019; or

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33 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751
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35 proposed final assessment to \$0 (zero), or such amount as Taxpayer establishes at the
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37 hearing in this matter; or

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39 3. Grant the Examiner's recommended remand but with instructions to
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41 recalculate and reduce Taxpayer's assessment using recognized appraisal techniques
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43 consistent with USPAP and

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45 a. Excluding any property value increase attributable to viaduct removal
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47 and other planned WSDOT Improvements;

- 1 b. Taking into account the effects of the COVID-19 pandemic on the
2 value of Taxpayer's property and other relevant developments since October
3 2019;
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5
6 c. Accounting for and excluding (1) any special benefits from existing
7 or planned improvements that already provide similar benefits to Taxpayer's
8 property, and (2) any special detriments from construction and other
9 anticipated LID-related disamenities;
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11 d. Accounting for and including only those actual benefits anticipated to
12 accrue to Taxpayer's property based on its location relative to Pier 58,
13 Overlook Walk, and the Promenade, and specific elements of the LID
14 Improvements;
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16 e. Discounting anticipated special benefits to present value, based on
17 reliable estimates regarding when special benefits will start accruing
18 following completion of the LID Improvements; and
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20 f. Accounting for such other issues specific to Taxpayer's property
21 relevant to calculation of such assessment; and
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23 4. Grant such further relief as the City Council deems just and proper.
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2 DATED: February 16, 2021
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