

# Seattle Waterfront LID Assessment Hearing

## Seattle LID Public Comment Hearing

February 11, 2020



1325 Fourth Avenue • Suite 1840 • Seattle, Washington 98101

**206.287.9066**

[www.buellrealtime.com](http://www.buellrealtime.com)

Olympia | **360.534.9066** Spokane | **509.624.3261** National | **800.846.6989**

email: [info@buellrealtime.com](mailto:info@buellrealtime.com)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---

SEATTLE WATERFRONT LID ASSESSMENT HEARING  
BEFORE  
HEARING EXAMINER RYAN VANCIL

---

Taken at 700 Fifth Avenue  
Seattle, Washington

DATE TAKEN: February 11, 2020  
REPORTED BY: Anita W. Self, RPR, CCR 3032

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S

HEARING EXAMINER:

RYAN VANCIL

FOR THE CITY:

GABRIELLE E. THOMPSON  
K&L Gates  
925 Fourth Avenue, Suite 2900  
Seattle, Washington 98104  
206.370.8097  
gabrielle.thompson@klgates.com

FOR OBJECTOR JOE STUART:

JAN A. GRUEN  
Horner Law Group, P.C.  
800 S. Broadway, Suite 200  
Walnut Creek, California 94596  
925.943.6570  
jgruen@hornerlawgroup.com

OBJECTORS:

William Patton  
Joni Ostergaard  
Prashant Bhatia  
Duane Oord  
Joe Stuart  
Theodore Tanase

\* \* \* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## EXHIBIT INDEX

EXHIBITS FOR IDENTIFICATION	PAGE
1 Case No. CWF-171	9
2 Case No. CWF-171	10
3 Case No. CWF-171	13
4 Case No. CWF-171 (replaced)	15
4 Case No. CWF-171	26
5 Case No. CWF-171	33
6 Case No. CWF-171	40
7 Case No. CWF-171	43
8 Case No. CWF-171	44
1 Case No. CWF-388	64
1 Case No. CWF-357	65

\* \* \* \* \*

1 SEATTLE, WASHINGTON; FEBRUARY 11, 2020

2 10:26 A.M.

3 ---o0o---

4  
5 HEARING EXAMINER VANCIL: Good morning.

6 MS. THOMPSON: Good morning.

7 MR. PATTON: Good morning.

8 HEARING EXAMINER VANCIL: Call to order  
9 the Waterfront LID Assessment hearing, February 11,  
10 2020. We'll be hearing Case No. CWF-171 first this  
11 morning at 10:25. Later today, we'll also be hearing  
12 388, 357, 329 and 63 at various times on the calendar.

13 I wanted to just, as we're moving through  
14 procedure, we're sort of being somewhat responsive to  
15 the development of the case as it goes, and I did want  
16 to take an opportunity procedurally to address a  
17 matter with the City, and that is concerning the  
18 hearing examiner's decision is likely to try and  
19 respond to each of the objectors as they are raising  
20 their objections, and noting those -- depending on the  
21 scope of what presentation has been made, I'll be  
22 noting it in my decision in some manner or other.

23 How the City is going to be responding to  
24 those could well weigh into how much time the City is  
25 going to need to present its case, and I know you've

1 indicated that two days is what you're looking for.

2 One tool that the City and/or others may  
3 take advantage of in this is the opportunity to use  
4 declarations. So, for example, the City may not be  
5 needing to present oral testimony to respond to each  
6 of the objectors. It may be helpful to at least have  
7 something in the record in the form of a declaration  
8 from the appraiser, and I leave that to the discretion  
9 of the City how they want to manage that, so that  
10 there's something in the -- in the record, but perhaps  
11 not as much as you're intending to do.

12 Right now, we're looking at, for the City,  
13 April 27, 28, 29 and 30. The City indicated they  
14 needed two days. The extra two days are for  
15 cross-examination of the City's witness.

16 MS. THOMPSON: Thank you.

17 HEARING EXAMINER VANCIL: Any questions?

18 MR. PATTON: April 27?

19 HEARING EXAMINER VANCIL: 27, 28, 29 and  
20 30.

21 Any questions?

22 MS. THOMPSON: No, thank you.

23 HEARING EXAMINER VANCIL: Okay. All  
24 right.

25 With that, let's turn to our objector for

1 Case No. 171. Please state your name for the record.

2 MR. PATTON: My name is William Patton,  
3 and with me is my wife, Joni Ostergaard. We are both  
4 owners of a condominium within the local improvement  
5 district.

6 (Court reporter clarification.)

7 HEARING EXAMINER VANCIL: There is not a  
8 speaker, no.

9 MR. PATTON: So I'm talking to him, but  
10 maybe I should sit further away.

11 HEARING EXAMINER VANCIL: Yeah. Don't sit  
12 too far away. The microphone serves a purpose in that  
13 it actually records the hearing, and so that's the  
14 actual recording --

15 MR. PATTON: I'll try and speak --

16 HEARING EXAMINER VANCIL: -- for the  
17 matter.

18 MR. PATTON: -- louder for you.

19 HEARING EXAMINER VANCIL: And let me swear  
20 you in.

21 (Mr. Patton was sworn.)

22 HEARING EXAMINER VANCIL: Thank you.  
23 Please proceed.

24 MR. PATTON: Okay. Thank you.  
25 I'm just so -- following up on your

1 introduction about the scheduling, wanted to make sure  
2 that we reserve our right to cross-examine the City's  
3 appraiser as a witness, not just through declaration.  
4 But presumably, he -- he or she will appear.

5 HEARING EXAMINER VANCIL: My assumption at  
6 this time is that they will be there and that there  
7 will be a determination made at that time who's there  
8 to do the cross-examining, and we'll see how much time  
9 we need for that. I know that we have counsel and  
10 some objectors who want to do cross-examining. Some  
11 others are also in the process now of arranging for  
12 depositions. I'm not part of that, so I don't know  
13 how that's going.

14 But there's no need to put your finger on  
15 it now is essentially -- you know the dates. Whoever  
16 shows up that day is how we'll proceed with that.

17 MR. PATTON: All right. Thank you.

18 So first of all, I wanted to provide you  
19 with a copy -- I see you don't have one -- of our  
20 written submission.

21 HEARING EXAMINER VANCIL: If this is the  
22 same item that you have in your objection, I do have a  
23 copy of it.

24 MR. PATTON: Okay. It's the same --

25 HEARING EXAMINER VANCIL: Okay. Yeah, we



1 won't -- we won't enter them --

2 MS. THOMPSON: I have a copy already.

3 HEARING EXAMINER VANCIL: We won't enter a  
4 new exhibit then.

5 MS. THOMPSON: Thank you.

6 HEARING EXAMINER VANCIL: Thank you.

7 MR. PATTON: So today, I don't want to  
8 read our 13-page brief essentially to the City about  
9 why this local improvement district is really  
10 illegitimate and, in addition, there are details which  
11 were mistaken and wrong in applying their -- whatever  
12 methodology they seem to have to our particular unit,  
13 but go through the major points of the -- of the  
14 document, and provide you with some supplemental  
15 exhibits which will explain part of our argument here.

16 And first of all, I wanted to -- to  
17 comment on a statement you made on February 4th at the  
18 hearing within the City Council chambers that you were  
19 making a recommendation to the City Council, but you  
20 are not really at liberty to challenge the ordinance  
21 itself setting up the Local Improvement District. And  
22 I wanted to provide with you a -- just an excerpt from  
23 Washington Law Review article by Troutman.

24 HEARING EXAMINER VANCIL: Entered as  
25 Exhibit 1.

1 MR. PATTON: Well, our -- our submission  
2 has nine exhibits, so I'm not sure how you want to  
3 keep track of those.

4 HEARING EXAMINER VANCIL: We're entering  
5 them -- each item as it comes in gets a new exhibit  
6 number. This is identified as Exhibit 1. Thank you.

7 (Exhibit No. 1 was marked.)

8 MR. PATTON: Okay. So in Troutman's  
9 article, I didn't reproduce the whole article. I can  
10 for you if you wish. But it points out that the point  
11 of making an objection to whether a Local Improvement  
12 District is a special benefit or a general benefit,  
13 the appropriate time to do that is at the -- at the  
14 point of objection to the assessments.

15 So there's clearly the authority to object  
16 globally to the establishment of an LID in the first  
17 place, because it really is set up for the purpose of  
18 a public benefit and not for private gain or a special  
19 benefit to any of the properties within the LID.

20 So our contention is that, at this point,  
21 it is proper to make objections to the whole  
22 establishment of an LID because it's really set up for  
23 the purpose of public benefit and not private benefit.

24 Okay. Secondly, in terms of looking at  
25 the first reason why we object to the LID formation is

1 that it -- the purpose really is for a public benefit,  
2 not a private benefit at all. And the second exhibit  
3 I'd like to present is an excerpt from the Local Road  
4 and Improvement Districts Manual.

5 HEARING EXAMINER VANCIL: That will be  
6 marked as Exhibit 2.

7 (Exhibit No. 2 was marked.)

8 MR. PATTON: And this is a citation from a  
9 case, but it's included in the manual because it  
10 should be referenced by appraisers who are doing an  
11 appraisal in the state of Washington.

12 And the case is Rogers versus the City of  
13 Seattle where local businesses objected to an  
14 improvement district, really a business improvement  
15 area, because they felt it was in the public benefit,  
16 and the Court stated the basic principle that a local  
17 improvement is a public improvement, which, although  
18 it may incidentally benefit the public at -- at large,  
19 is made primarily for the accommodation and  
20 convenience of the inhabitants of a particular  
21 locality, and which is of such a nature as to confer a  
22 special benefit upon the real property adjoining or  
23 near the improvement.

24 On the other hand, if it's a primary -- if  
25 it's primary purpose and effect are to benefit the

1 public, it is not a local improvement, although it may  
2 incidentally benefit property in a particular  
3 locality.

4 So the basic just -- juxtaposition of a  
5 public versus a private is what is the basic purpose?  
6 And the purpose of this LID is pretty clear from the  
7 City's own documents; that it is to establish a park  
8 for all.

9 And there is nothing in the City documents  
10 setting up the -- the LID, either before it was  
11 established or as it was established, that the basic  
12 purpose is for the benefit of the -- the properties  
13 located within the Local Improvement District, but  
14 rather it is -- the basic purpose is to form a park  
15 and create a park for the benefit of all, a phrase  
16 continually cited by the mayor and the council and the  
17 director of the Office of the Waterfront.

18 There was nothing indeed in the City's  
19 formation documents that talks about the primary  
20 purpose being to benefit the properties within a  
21 certain area of the city. It is the purpose of this  
22 park, the City itself has said over and over again, is  
23 a -- to create a destination park, not only for all  
24 the residents of the city of Seattle, but all the  
25 people who may come here from around the country or

1 around the world to enjoy, and it -- only incidentally  
2 does it benefit the property in the area.

3 And in fact, in our submission, we -- we  
4 show an article from the AAA association quoting  
5 Marshall Foster as saying that the objective, the  
6 vision of Seattle in setting up this proposed park is  
7 to provide a destination for all, for everybody to  
8 come, not -- the purpose has never said for the  
9 purpose of the -- to benefit the property owners  
10 within this circumscribed district.

11 In fact, the very title of a Local  
12 Improvement District shows that -- the mistaken  
13 labeling and action to form a Local Improvement  
14 District that is local, that's supposed to be a local  
15 improvement. But as the City has said over and over  
16 again, it is a park that is meant for everyone, or for  
17 all, and beyond everyone in the city, everyone who  
18 might come or want to come to Seattle.

19 That is compared by the assessor in the --  
20 in the assessment or the appraisal, or as ABS called  
21 it, evaluation, the comparisons are with other parks  
22 that are, you know, around the country that are  
23 destination parks. They're not local parks at all.

24 And I should stop here to -- and I assume  
25 you have seen what property we own is a condominium on

1 the 12th floor of the Escala Condominium at 1920  
2 Fourth Avenue, quite a distance from the main part of  
3 the park along the waterfront.

4 Let me -- I have another exhibit I'd like  
5 to enter, which is printouts from the City's website  
6 and a photograph I took myself of the Triangle Park,  
7 which is located at Eighth and Western.

8 HEARING EXAMINER VANCIL: Will be marked  
9 as Exhibit 3.

10 (Exhibit No. 3 was marked.)

11 MR. PATTON: So the City describes this  
12 park, and the -- and the description of it, the  
13 history of it, and shows the schematics in a color  
14 format for how it should look, and then the photograph  
15 shows how it looks today upon finishing.

16 It is a, as it says, a triangle park in a  
17 small piece of property that used to be the Enterprise  
18 rental office. And part of it was funded by the City  
19 getting money from vacating an alley for the benefit  
20 of the Ninth and Lenora development, which you can see  
21 behind there. And so it closed the alley across that  
22 triangle and created a small park.

23 The total cost appeared to be about two  
24 and a half million dollars. None of that money was  
25 from a Local Improvement District, although this park

1 is an ideal -- an ideal example of what might be a  
2 Local Improvement -- appropriate for a Local  
3 Improvement District. That is, it's a small piece of  
4 property. It's sitting there as kind of a pocket park  
5 benefitting the surrounding buildings, and -- and the  
6 Amazon buildings that are throughout this area and  
7 maybe two -- one or two blocks away.

8 But it certainly isn't designed as park  
9 that anyone would come to Seattle to see. It is a  
10 park that visitors might enjoy walking by, or sitting  
11 on a bench and looking at -- up the street at the  
12 Amazon Spheres, but it's certainly not a destination  
13 park, and no one could possibly describe this as a  
14 park for all. But like all other city parks in the  
15 past, it has been funded with public money, not with a  
16 Local Improvement District.

17 So this is the type of park that, pursuant  
18 to the court's decision in the Rogers case, and cited  
19 in the -- in the manual would be potentially  
20 appropriate for a, quote, Local Improvement District,  
21 but not a Waterfront Park that is so expansive, and  
22 which the City itself has said the goal of which is to  
23 create a destination for visitors from outside  
24 Seattle.

25 So in contrast to the proposed Waterfront

1 Park, this could have been an example of where the  
2 City could have utilized properly a Local Improvement  
3 District, but the Waterfront Park is quite the  
4 opposite and is inappropriate for the use of a Local  
5 Improvement District.

6 And I wanted to briefly touch on the  
7 second argument we made, which is really a direct  
8 challenge to the legitimacy of the ordinance setting  
9 up the Local Improvement District. And in that  
10 regard, I wanted to give you a -- where is it here --  
11 another excerpt from -- this time from the case of  
12 Hasit versus Edgewood.

13 HEARING EXAMINER VANCIL: Marked as  
14 Exhibit 4.

15 (Exhibit No. 4 was marked.)

16 MR. PATTON: And in the Edgewood case, the  
17 Court pointed out that the current -- the process for  
18 a hearing examiner to make recommendations to a City,  
19 and then the -- what the subject matter of that  
20 objection -- of those objections could be, pointing  
21 out the fact that, in making an objection to an  
22 ordinance, it is perfectly acceptable for the objector  
23 to make arguments about the underlying validity of the  
24 ordinance, not just the fact that it's inappropriate  
25 to be a Local Improvement District, but that it may



1 have been enacted under circumstances which show it  
2 was arbitrary and capricious or otherwise unlawful.

3 So not only is it appropriate for us to  
4 make this argument here, which you indicated on the  
5 4th may not be appropriate to challenge the underlying  
6 ordinance, but it is appropriate for us to do that,  
7 and as well to preserve our rights on appeal to a  
8 court after the City Council decides what to do with  
9 your recommendation.

10 And in this respect, the -- the City  
11 really engaged in a quid pro quo subterfuge in  
12 enacting this ordinance. That is, it -- it  
13 essentially accepted the offer of a bribe from the  
14 Friends of the Waterfront, or -- or people in that  
15 association, who said, as the City recited in what we  
16 attached as Exhibit 2 to our submission, that is a  
17 resolution setting up the idea of a waterfront park  
18 and how to fund it, that there was a group of what  
19 they call philanthropy that would offer to fund up to  
20 100 -- \$110 million of the park, but only if the City  
21 agreed to establish a Local Improvement District to  
22 fund a -- a great portion of that expense.

23 So essentially, the City Council, in  
24 accepting that offer, abdicated their legislative  
25 responsibility because the -- the Council, instead of

1 saying, we will gladly accept a philanthropy gift in  
2 support of a city park, instead said, hence -- and the  
3 City would therefore thereafter say, we will figure  
4 out how to fund the rest of that obligation to build  
5 the park, the City instead agreed with the  
6 philanthropists that they would agree to a particular  
7 form of financing, and that particular form of  
8 financing was to create a Local Improvement District.

9 That is an agreement not to have all the  
10 citizens of Seattle pay for a park that is labeled as  
11 a park for all, but agreed to in exchange for an -- an  
12 offer of a gift to instead subject only certain  
13 properties to the payment for that other portion of  
14 the park.

15 In addition to a violation of Washington  
16 state law and the constitution, it is also likely a --  
17 a violation of federal law because it's like a civil  
18 rights violation. That is, you've got one group of  
19 people urging a government agency to act in the  
20 detriment of a particular subset of other people.

21 So we also allege that this is a violation  
22 of law -- of federal law, 42 USC 1983 of the civil  
23 rights statute, perhaps an odd application of the  
24 civil rights statute, but it's the same principle.

25 That is, you can't use a government agency as a means

1 to attack another group of people.

2 And essentially, what -- beyond all the  
3 formality of what the -- the City has said in its  
4 resolutions is, it appears that the motivation behind  
5 that is, say, okay, hey, you know, we -- we'll try and  
6 fund a waterfront park as long as you stick it to the  
7 people who are going to benefit from the -- the new  
8 waterfront exposure of view, which really is not --  
9 not the benefit caused by a potential park, but the  
10 benefit caused by the removal of the viaduct.

11 That's the main benefit that the property  
12 owners near the waterfront have experienced. And it  
13 may be seen as a -- an undeserved benefit that they  
14 happen to have property near what used to be a view of  
15 a roadway with lots of noise and dirt, and now there  
16 isn't a roadway there. But that's not the cost of --  
17 make those property owners pay for a park that's  
18 really for the benefit of all, when the real benefit  
19 just occurred as a matter of course from the removal  
20 of the viaduct.

21 There's -- you could see that the viaduct  
22 may have been used like the -- the way in which the  
23 Highline Park in New York City was created. It was  
24 created partially with a huge donation of residents  
25 and other philanthropy sources to build -- to make

1 what used to be an eyesore of an elevated train track  
2 in New York into a beautiful park, which has  
3 undoubtedly made the surrounding real estate more  
4 valuable.

5 But the purpose of the park, which is not  
6 supported by an LID in New York, was to create a  
7 viewpoint, an elevated viewpoint with beautiful  
8 walkways and plantings for the benefit of everybody in  
9 the city. In fact, the Highline has become one of the  
10 three major tourist attractions of New York City. And  
11 the same -- similar thing could have been done with  
12 the viaduct to make it a beautiful elevated walkway,  
13 except for the seismic liability, which is why it was  
14 torn down.

15 But the fact that it was torn down and  
16 created financial benefits for surrounding -- for  
17 immediately surrounding properties may stick in the  
18 craw of certain people, but it's not a reason to use  
19 the City of Seattle City Council and mayor to extract  
20 money from a small group of properties instead of the  
21 whole city as it should have been done.

22 Now, the -- the deficiencies in the  
23 attempt to make an evaluation or an appraisal of the  
24 value of the proposed park to various properties in  
25 the, quote, Local Improvement District boundaries,

1 those difficulties really arise from the basic problem  
2 of the fact that -- and -- and incorrectness of the  
3 fact that this is labeled as a, quote, local  
4 improvement as opposed to a major public improvement,  
5 which it is.

6           So trying to fit what is really described  
7 by the City itself as a destination park into the  
8 rubric and the requirements of a Local Improvement  
9 District really is difficult to accomplish, and -- and  
10 we believe impossible to accomplish because it goes  
11 against the basic and fundamental purpose of the  
12 proposed park in the first place.

13           And part of the problem here is that the  
14 City -- that the rush to create an assessment or an  
15 evaluation of the properties within the LID, or the  
16 Local Improvement District, really creates major  
17 problems for an appraiser trying to make an appraiser  
18 [sic], when the details of the appraisal really don't  
19 fit the normal Local Improvement District structure.

20           That is, in most Local Improvement  
21 Districts, either for creation of a sewer line  
22 adjacent to houses that were previously on septic  
23 systems, or a roadway which is -- wasn't paved or --  
24 correctly or made in the first place, is relatively  
25 straightforward, to make an appraisal of the special

1 benefit to the abutting property owners by looking at  
2 what the -- what the improvement costs and how much  
3 that increased the value of the adjoining properties,  
4 and if you're moving from septic system to a sewer  
5 system, it's pretty easy to see that that increases  
6 the value of a house which abuts the -- the new sewer  
7 system or, likewise, a major road improvement that  
8 always the people that adjoin -- the properties that  
9 adjoin the road to use it, where they couldn't before,  
10 even though a road can be used by anybody driving  
11 along.

12           So there -- there are ancillary benefits  
13 to the public at large, but the basic improvement is  
14 done for the adjoining property. And in those  
15 circumstances, you can make the -- the assessment and  
16 make the appraisal of the special benefit involved,  
17 because you will have the cost of the -- of the  
18 improvements right there. They're easily determined,  
19 and they're easily determined as to which property it  
20 affects and how much.

21           And I think Edgewood case that I handed  
22 you, the fundamental problem in that Local Improvement  
23 District was not the fact that they created a Local  
24 Improvement District for a new sewer line, but that  
25 they charged the property owners for more than the

1 benefit due to those properties, because the City  
2 wanted to make the -- the sewer line larger than it  
3 was necessary for serving the adjoining properties  
4 because they wanted to have enough capacity in the  
5 sewer line to serve later comers to the sewer line.  
6 But they attempt -- but the City attempted to charge  
7 those adjoining property owners for the whole cost,  
8 not just the special benefits to those particular  
9 properties.

10           And unlike that kind of circumstance,  
11 where you can separate what's a special benefit to the  
12 adjoining property owner versus what are you -- what  
13 are you doing to expand the sewer system for general  
14 future public benefit, with a park like this, a very  
15 expansive park that's really meant for the benefit of  
16 the entire city is really difficult for an appraiser  
17 to come in and figure out, well, what is the special  
18 benefit to individual property owners, because those  
19 special benefits, if there are any, are only really  
20 ancillary to the main purpose of the park.

21           And to try and do it before even the plans  
22 are finished for the park, it makes it even more  
23 difficult to fit that -- that round problem into a  
24 square peg -- or square peg into a round hole.

25           And one of the first problems the app- --

1 ABS evaluation problem it has in trying to do this is  
2 that it doesn't take into account what the main  
3 feature of the development of the Waterfront Park is;  
4 that is, the removal of the viaduct. Without the  
5 removal of the viaduct, most of the proposed  
6 enhancements that are the pieces of the park wouldn't  
7 occur because the viaduct was sitting right there in  
8 front of the viewscape or -- of the central  
9 waterfront.

10 But the ABS appraisal really makes no  
11 effort to identify the specific costs and the bene- --  
12 and particularly, the benefits of -- to the -- the  
13 surrounding properties or the properties within this  
14 supposed Local Improvement District of the removal of  
15 the viaduct.

16 And the removal of the viaduct is really  
17 the major benefit to all those properties, but it  
18 doesn't come as a consequence of the City's proposed  
19 Waterfront Park. It comes as a consequence of the  
20 State removing the viaduct and exchanging it for a  
21 tunnel through downtown Seattle.

22 But even though I can say just -- it's  
23 just obvious, but the appraiser makes no effort to  
24 say, okay, what -- what was the value of the  
25 property -- each of the properties within the Local



1 Improvement District before the removal of the  
2 viaduct, what is the value after the removal of the  
3 viaduct, and only after you make that specific  
4 economic calculation can you then make the calculation  
5 which they attempt to do by just saying, well, we're  
6 going to ignore the viaduct and say that we're not  
7 counting the viaduct, but we're saying that the -- the  
8 park improves the value of the property within the  
9 Local Improvement District.

10 But you can't do that without first  
11 figuring out whether any increased value you think  
12 comes -- the appraiser thinks comes from the -- the  
13 value of the park, whether that's really smothered by  
14 the effect of the removal of the viaduct, and that's  
15 really what's causing the increase, if there is any,  
16 in these property values.

17 Secondly, and beyond just ignoring the  
18 economic consequences of the removal of the viaduct,  
19 the appraiser really fails to separate out what is a  
20 general benefit from a special benefit; that is, there  
21 are certainly general benefits to a major destination  
22 park. Even if you try to shove it into the -- the  
23 construct of a Local Improvement District, there are  
24 general benefits to a park, especially a park of that  
25 magnitude. But the appraiser makes no effort to

1 figure out what that is, because you can only figure  
2 out the special benefit once you subtract the general  
3 benefit.

4 And in our submission, we provided a  
5 letter from 2018 from Anthony Gibbons, which makes  
6 that point, but he has since written another letter,  
7 dated January 30th, after the date of our submission,  
8 which emphasizes that point somewhat more.

9 And that is, not only did the -- did the  
10 ABS valuation fail to separate out the general benefit  
11 from the special benefit, but it also ignores the  
12 economic consequences to any of those properties from  
13 the removal of the viaduct.

14 And as a further exhibit, I'd like to give  
15 you that letter.

16 HEARING EXAMINER VANCIL: This will be  
17 marked Exhibit 4. The item marked -- previously  
18 marked Exhibit 4 I see is just a case, and I'll take  
19 that as a courtesy copy for my records. It doesn't  
20 need to be entered as an exhibit.

21 MR. PATTON: It's already in that case?

22 HEARING EXAMINER VANCIL: No. Typically,  
23 I don't enter code or case law as an exhibit.

24 MR. PATTON: Oh.

25 HEARING EXAMINER VANCIL: It's not a fact

1 item.

2 MR. PATTON: No, it isn't.

3 HEARING EXAMINER VANCIL: It's part of the  
4 law, so I just -- I wasn't sure what document you were  
5 handing forward to me when it came forward.

6 MR. PATTON: So this one --

7 HEARING EXAMINER VANCIL: But the Re-Solve  
8 January 30th, 2020, item will be marked Exhibit 4.

9 (Exhibit No. 4 was marked.)

10 MR. PATTON: So as in Mr. Gibbons'  
11 original letter that we submitted, he describes the  
12 failure, because the A -- ABS was attempting to make a  
13 preliminary valuation as long ago as 2018, and they  
14 really haven't changed the direction of what they did  
15 in their final evaluation, dated -- dated -- the  
16 report was dated November 18th, 2019, but the  
17 appraisal date is October 1st, 2019.

18 And so the same principles that  
19 Mr. Gibbons recited in the 2018 letter attached to our  
20 submission is now again repeated because the ABS  
21 didn't change its approach of failing to compare the  
22 before and after -- after the elimination of the  
23 viaduct -- and so failing to make a -- a basic  
24 calculation, as you'll see on page 3 of Exhibit 4, and  
25 as the appraisal, which we quoted in our paper to you,

1 the appraisal makes no attempt to assess general  
2 benefit and does not offset the apparent measure of  
3 special benefits with general benefits and, therefore,  
4 the appraisal ignores the basic equation, total  
5 benefit minus general benefit equals the special  
6 benefit.

7           There -- there really is no calculation in  
8 the ABS evaluation study of any total benefit; that  
9 is, the -- the figure that they come up with, where it  
10 is impossible to determine from their -- their  
11 statements, reports, as there is no methodology  
12 described.

13           On page 8 of the transmittal letter, which  
14 is attached to -- as an exhibit to our submission,  
15 there is a calculation of total estimated special  
16 benefit of \$447,908,000, but there is no calculation  
17 of a general -- of a total benefit, much less a  
18 general benefit which should be sub- -- subtracted  
19 from that total benefit.

20           Do you have that?

21           HEARING EXAMINER VANCIL: No. You didn't  
22 give me guidance to where that's at. You just  
23 referenced -- I assume it's in the packet somewhere --

24           MR. PATTON: Yes.

25           HEARING EXAMINER VANCIL: -- which you'd

1 indicated. But where that is, you'd have to give me  
2 some guidance to get there.

3 Which exhibit is it in?

4 MR. PATTON: It is Exhibit 6 --

5 HEARING EXAMINER VANCIL: Okay.

6 MR. PATTON: -- in our submittal.

7 HEARING EXAMINER VANCIL: Exhibit 6 to the  
8 objection?

9 MR. PATTON: Yes. And it's the cover page  
10 and the transmittal letter in summary from the ABS  
11 valuation that -- so --

12 HEARING EXAMINER VANCIL: Which page?

13 MR. PATTON: It is on page 8 at the  
14 bottom. You see all those dollar numbers?

15 HEARING EXAMINER VANCIL: Yes. Okay.

16 MR. PATTON: It's the next to the last  
17 page --

18 HEARING EXAMINER VANCIL: Okay.

19 MR. PATTON: -- at the bottom, there's the  
20 calculation of the total estimated special benefit  
21 \$447,908,000. But nowhere is there a calculation of  
22 the total benefit or the general benefit, which would  
23 be subtracted from the total benefit to get a derived  
24 special benefit number.

25 The reason we attached this transmittal

1 letter to our submission is because the -- the report  
2 comes in various pieces, which -- and it's hard to  
3 keep track of -- at least it was hard for me to keep  
4 track of the totality of those submissions. That is,  
5 this transmittal letter came separately from the ABS  
6 valuation itself. And within the ABS valuation itself  
7 there's a whole list -- there's a whole list of  
8 properties individually described in spreadsheets,  
9 which wasn't actually available on the transmittal  
10 date of October 8th -- of November 18th, but only came  
11 later. And, in fact, the whole series was not  
12 available on the website until January.

13 But there are these pieces of it that are  
14 important to keep coordinated so that you can  
15 understand not only what they attempted to say, but  
16 the dates at which they attempted to say it.

17 And now, there's an appendix to -- an  
18 addendum to the study, which is essentially  
19 descriptive of the various pieces of the proposed  
20 park, but it's not necessarily part of their  
21 valuation.

22 So in line with Mr. Gibbons' first letter  
23 and second letter, the appraisers have failed to take  
24 account of the tremendous effect of the elimination of  
25 the viaduct versus the value, if any, of the proposed

1 park to individual properties, and have failed to  
2 account, as he -- as Mr. Gibbons points out, the  
3 requirement to really identify and calculate the total  
4 benefits of a proposed improvement and subtract from  
5 that the general benefits in order to get the totality  
6 of any special benefits that might be -- that might be  
7 allocated to the properties.

8           And that, again, is the fundamental  
9 problem of the ABS valuation as they attempted to go  
10 through and make individual valuations or appraisals  
11 of property in that, the point of this park is to  
12 create a park for all, and to try and figure out what,  
13 if anything, that has to do with the value of a  
14 particular piece of property is a huge and really  
15 impossible undertaking for an appraiser, which is  
16 faced with a problem of trying to figure out an  
17 appraisal for something that isn't even designed yet,  
18 much less built, and for such a large geographic area  
19 where there are 6,238 properties.

20           So, essentially, the appraiser admits that  
21 they gave up and are really doing a mass allocation,  
22 which is really upside down from what an appraisal for  
23 a Local Improvement District should be. That is, it  
24 should be an individual appraisal of the -- the before  
25 and after benefit of the -- of the property, as

1 opposed to just trying to say, there's some percentage  
2 allocation that's kind of -- kind of right for  
3 individual properties.

4 And one can understand the -- the  
5 difficulty that someone is faced with if the City asks  
6 an appraiser to go appraise the increase in value of  
7 6,238 properties, but that's what the City asked the  
8 appraiser to do, and, inevitably, the appraiser failed  
9 to do that.

10 And if you'll look again at the -- at  
11 Exhibit 6 of our submittal on page 3.

12 HEARING EXAMINER VANCIL: This is  
13 Exhibit 6 of your objection?

14 MR. PATTON: Yes. This is what we've  
15 called the cover sheet and the transmittal letter of  
16 the ABS valuation. It notes that the -- there are --  
17 there are 6,238 individual tax parcels in the Local  
18 Improvement District area and -- of which 5,187 tax  
19 parcels are in 49, plus or minus, condo projects of  
20 which ours is one.

21 So there -- the appraiser attempted to  
22 make some special benefit determination derived from  
23 enhanced relative location provided by LID  
24 improvements and other factors, but really nowhere  
25 does the appraiser set out exactly what the



1 methodology is for figuring out that total special  
2 benefit of \$447 million, or how any particular piece  
3 of property is appraised.

4 In fact, on the next -- on page 7, there's  
5 a chart showing that the appraiser essentially used  
6 percentages to figure out what might be the increase  
7 in value, as opposed to looking at any individual  
8 piece of property as is required in an appraisal of an  
9 LID, and figuring out what the specific special  
10 benefit to that specific piece of property is.

11 It's an AB -- the ABS explanation on  
12 page 2 of that Exhibit 6 to our original objection  
13 says that there is supporting documentation retained  
14 in the appraiser's files, but those files were not  
15 available, at least until February 5th when they  
16 appeared on the Waterfront LID website.

17 And I looked for any fundamental backup  
18 data that would apply to our particular condominium  
19 unit in the Escala condominiums, and there was a  
20 folder labeled Escala in those documents. That's the  
21 only reference I could find to Escala properties in  
22 the backup data provided by ABS. And I reproduce it  
23 for you. It is somewhat awkward to look at  
24 because it's -- because it's a big spreadsheet, it  
25 won't print on one page, so you have to unfurl it like

1 this.

2 HEARING EXAMINER VANCIL: That's marked as  
3 Exhibit 5.

4 (Exhibit No. 5 was marked.)

5 MR. PATTON: And I certainly need my  
6 glasses to read it even in this expanded form, but you  
7 see that there are -- the addresses are all 1920  
8 Fourth Avenue and various condominium units described  
9 below in the -- the -- apparently -- it looks as if  
10 this is information from realtors and listing  
11 agreements may be from the MLS system trying to figure  
12 out what -- what the sold prices were of various  
13 condominium units.

14 As you can see, these are all -- all three  
15 pages, they are limited to units in the Escala  
16 development, which is 1920 Fourth Avenue. But the  
17 peculiar part about this data is that, if you look at  
18 the top, and it's -- it's chronological in the latest  
19 first at the top, the latest sale noted here is  
20 August 31st of 2016. Whatever relevance this data has  
21 to market values in -- as of October 1st, 2019, I  
22 have -- I fail to find any.

23 And in fact, even within the data that's  
24 provided by ABS in this file folder labeled Escala,  
25 the latest sale is located -- is stated as

1 August 31st, 2016.

2 Joni and I purchased our condominium unit  
3 on June 14th, 2016, and it is not listed here. So not  
4 only is -- does the date end in August of 2016, it  
5 doesn't even include our condominium unit, which is  
6 1208, which was officially recorded with the County on  
7 June 14th, 2016.

8 So not only is this totally out of date,  
9 but it's inaccurate. And if it purports to contain  
10 all the sales within the condominium development -- in  
11 fact, if you look backwards, you can see that way over  
12 on -- kind of fourth -- the third page Scotch-taped  
13 together, starting in about 2012, all of the units are  
14 owned by Virginia -- Fourth and Virginia Owners LLC.  
15 That's because the -- the condo was built in 2009, and  
16 right at the wrong time when the -- during the  
17 recession, the Great Recession of 2007, 2008, and most  
18 of those units remained unsold for a long time.

19 So whatever data ABS intended to rely on,  
20 the data for the Escala Condominium building, at any  
21 rate, is totally useless for making any determination  
22 about what a value change would mean to any of the  
23 condominium units in that building for a project  
24 that's not even designed yet, much less built.

25 And in -- in looking at the -- just the

1 kind of percentage methodology that appears to be the  
2 methodology for ABS in making kind of gross  
3 allocations of the cost that they -- that the City --  
4 that the City told them to allocate, ABS makes no real  
5 attempt to differentiate between different elements of  
6 this park.

7           The park is designed with a multitude of  
8 elements, and some of which are really artificial,  
9 like Pine-Pike Street extension's really artificial  
10 with the design to incorporate within the, quote,  
11 Local Improvement District, buildings that -- that are  
12 far away from the waterfront.

13           And there's no attempt to say, well, I  
14 suppose, from what element is the -- the benefit  
15 derived, and how far away from that element does the  
16 benefit accrue to any property nearby, or even if it's  
17 not adjoining it, most of the properties are not  
18 adjoining to any of these improvements, as ours is  
19 not.

20           That is, it -- and we provided a  
21 photograph in the original objection that we submitted  
22 of the closest proposed part of the park development,  
23 which is the Pine Street development, showing that you  
24 can't even see any of the proposed improvements from  
25 our condo building. In fact, even condos that have a

1 water view in our building can't see any of the  
2 waterfront improvements either.

3 But there's no attempt to differentiate  
4 between, okay, this -- this building is, you know, two  
5 blocks away from street planters, which is essentially  
6 what the Pine-Pike Street improvements are, or this  
7 building is right next to the waterfront overlook, and  
8 those are quite different in terms of the -- the  
9 expected increase, if there is any, in the value of  
10 the properties from a park development.

11 But there's no attempt to make that kind  
12 of individual assessment, other than kind of a -- a  
13 gross percentage change one way or the other depending  
14 on where the property may be located.

15 And in -- okay. I may take a little more  
16 than the five minutes that are left, if that's okay  
17 with you.

18 HEARING EXAMINER VANCIL: Let's see where  
19 we're at when we --

20 MR. PATTON: Okay.

21 So if you look at point 9 and the reasons  
22 that we object to the -- the assessment, it's  
23 basically that the ABS valuation assumes that the  
24 property values are only increasing in Seattle. And  
25 that's -- that's demonstrated on Exhibit 6, which

1 we -- that's the ABS transmittal letter, on page 7 --

2 HEARING EXAMINER VANCIL: Again, just for  
3 the record, we're referring to Exhibit 6 to the  
4 objection?

5 MR. PATTON: Yes, that's correct.

6 And at the bottom of page 7, it says:

7 Although it is recognized that this new supply of  
8 condos, et cetera, will be competing with existing  
9 space, the currently strong demand will be enhanced by  
10 the subject LID project, and is expected to shorten  
11 the absorption period.

12 So throughout the ABS valuation, there is  
13 the assumption that property is all increasing in  
14 value in Seattle and that the park is actually going  
15 to -- is just going to add to that increase.

16 First of all, as we'll say in a few  
17 minutes, in section 10 of our objection, we have  
18 pointed out that's inaccurate. But even if it were  
19 inacc- -- accurate, the ABS valuation fails to take  
20 account of what the -- of course I've talked about in  
21 terms of ignoring overall market trends and trying to  
22 distinguish what any particular improvement may mean  
23 for a particular piece of property when all properties  
24 are increasing in value, because how do you -- how do  
25 you differentiate that.

1           And that was the circumstance in the  
2 Bellevue Square case where the Supreme Court said, you  
3 can't -- there's no evidence that shows any  
4 differentiation between a general property increase  
5 and any increase that might have been caused by the  
6 Fourth Avenue improvements in Bellevue.

7           So the attempt to assess a particular  
8 property when all properties are increasing without  
9 making a very clear distinction about whether that's  
10 just due to general increase of property values, or  
11 really has anything to do with the improvement,  
12 just -- there's no discussion of that problem, and  
13 really appraisers ought to take account of what courts  
14 have said about the importance of specifically looking  
15 at economic conditions when taking -- trying to take  
16 account of those valuations.

17           Now, in -- moving on to Section 10 and the  
18 particular issues with our -- the valuation of our  
19 particular property, the fundamental mistake, which  
20 really disqualifies all of the ABS valuations for the  
21 entire, quote, Local Improvement District, is the fact  
22 that the ABS valuation states that the date of the  
23 valuation is October 1st, 2019.

24           But when you look at what they stated for  
25 our own particular property, they have failed, as they

1 do generally, to acknowledge the fact that the  
2 assessed values for -- by the assessor, and just  
3 generally market values for properties have  
4 decreased -- not increased, but decreased in 2019.

5 And even if they had acknowledged that,  
6 they would then have to specifically figure out  
7 whether any benefit of the proposed park made any  
8 difference, or perhaps caused the decrease in value --  
9 in property values in central Seattle over the last  
10 year, but they don't even acknowledge that. That --  
11 that is, essentially, what they've done is rely on  
12 2018 data.

13 And trying to figure out how -- how ABS  
14 came up with the particular valuation of our unit, it  
15 was a struggle because there's no description of how  
16 they did that. So to try and look at that, I -- I  
17 looked at the specific spreadsheets that finally came  
18 out, and actually, the spreadsheets are dated  
19 December 4th, 2019, not October 1st, 2019, staring at  
20 these numbers to figure out how in the world they came  
21 up with a -- a value. And I'm used to looking at  
22 these spreadsheets in their form that gets printed off  
23 a computer, but I had -- I went to FedEx and had this  
24 blown up, so it's a little easier for you to see.

25 HEARING EXAMINER VANCIL: This will be



1 marked as Exhibit 6.

2 (Exhibit No. 6 was marked.)

3 HEARING EXAMINER VANCIL: And how are we  
4 doing on time, Mr. Patton?

5 MR. PATTON: I have about ten minutes  
6 more. Is that okay?

7 HEARING EXAMINER VANCIL: Is there a way  
8 you can summarize?

9 MR. PATTON: Well, it's summarized in our  
10 submission, but if you -- so I'll try and do it within  
11 five to ten minutes. How's that?

12 So if you look at the -- ours is the  
13 second line across, Ostergaard, Joni H. and William --  
14 not enough room on the assessor's web to have my full  
15 name.

16 So the special benefit is noted as \$9,341.  
17 And the -- if you look at the total assessment,  
18 because they figured that would be 40 percent of the  
19 value, 3,660, and they show a market value with the  
20 LI -- without the LID and then with the LID, and those  
21 are very specific numbers. One -- \$1,245,425 without  
22 the LID; \$1,254,766 with the LID.

23 And I've stared at this for a long time  
24 trying to figure out where that came from. It  
25 actually comes from a derived number from the

1 assessor's office, which is an exhibit to our original  
2 submission. It's Exhibit 8. And you can see the four  
3 cards that we've received since we owned the property  
4 of the assessor's valuation.

5 And in the 2018 assessment, the buildings  
6 are valued at \$1,254,000. That's in the lower right  
7 half of the card in the middle line for buildings, the  
8 new value is \$1,254,000.

9 Well, that's pretty close to \$1,254,766 as  
10 market value without, so I've said, okay, well, they  
11 must have used that number to derive whatever these  
12 silly and specific numbers are, so I divided --  
13 figured -- tried to figure out what percentage of  
14 \$1,254,000 was the special benefit of 9,341. And if  
15 you divide 9,341 by 1,254,000, you get .74 percent.

16 And the way that ABS apparently fiddled  
17 with the numbers in order to look like they were doing  
18 something precise was, you take \$9,341 and subtract  
19 it, or -- you then figure out what 75 -- what  
20 70.75 percent, if you divide that into 9,341, would  
21 result in, and it results in \$1,245 -- \$1,245,425.

22 So they -- they plunked that as the market  
23 value without, and then just added what they -- the  
24 \$9,341 to that number to get the supposed aftermarket  
25 value of \$1,254,766. That math is described on

1 Exhibit 9 to our original submission.

2 So this is really a derived number trying  
3 to look like it's precise, and it's -- it's derived  
4 from trying to take from -- looking at the King County  
5 assessor's values, but the values for 2018, whereas  
6 the purported date of the valuation is October 1st,  
7 2019.

8 And on that date, there were certainly  
9 revised assessment numbers from the assessor, because  
10 we got one, which was mailed on August 1st, and it  
11 shows in the parallel column for buildings a decrease  
12 to \$1,049,800.

13 So ABS has just taken -- decided to use  
14 the electronic data from the assessor's office, but  
15 they used it for the wrong year. And if they had used  
16 the correct number and used this artificial division  
17 and assumption of exact numbers by -- by dividing by  
18 .74 percent and then adding that to get .75 percent  
19 number, you would get obviously a lower, quote,  
20 special benefit and a lower assessment taking  
21 40 percent of that. And that math is also done  
22 specifically on Exhibit 9 to our submission, so you  
23 can see that.

24 And if you did that, the assessment would  
25 not be three-hundred sixty-five thousand eight and

1 eighty-nine cents [sic], but 3,043.88, even using the  
2 artificial allocation construct, which ABS used.

3 And here's an exhibit showing what you get  
4 on the website if you looked at our assessment from  
5 the assessors. I gave you two.

6 HEARING EXAMINER VANCIL: Marked as  
7 Exhibit 7.

8 (Exhibit No. 7 was marked.)

9 HEARING EXAMINER VANCIL: All right. So  
10 was that --

11 MR. PATTON: So two more minutes.

12 The -- the assessors claims [sic] that  
13 they're looking at a limitation on the amount charged  
14 within the Local Improvement District of \$175,500,000,  
15 but the City -- and the total costs as stated by the  
16 City in Exhibit C to its -- to its formation ordinance  
17 is \$346 million. So if you look at the amount that  
18 the LID is -- is asked to pay for this park, it's more  
19 than half of the park, even though it's a park that's  
20 built for the general public benefit and, in fact, the  
21 national benefit.

22 But the -- the City really engages in a  
23 subterfuge further in its literature talking about the  
24 park when it uses a pie chart showing that the cost of  
25 the park is excess of \$346 million. For example, this

1 is July -- a July 2018 brochure about it, showing a  
2 pie chart where the Local Improvement District then of  
3 \$200 million is a small portion of the -- of the  
4 cost --

5 HEARING EXAMINER VANCIL: We'll take that  
6 and mark it as Exhibit 8. And if we can wrap up in  
7 one minute, that would be great.

8 (Exhibit No. 8 was marked.)

9 MR. PATTON: Saying, well, you shouldn't  
10 be bothered by this because you -- you LID people are  
11 paying only a -- a small portion of the park, when  
12 actually, this is quite a misleading pie chart because  
13 it doesn't state the -- the City Council's statement  
14 of what the cost of the park is, which is  
15 \$346 million.

16 And in this brochure as you'll note, once  
17 again, it demonstrates that the City is not looking at  
18 this as a -- a -- an improvement to benefit local  
19 property, because there's nothing in this brochure  
20 that talks about local property. Instead, on the back  
21 of this brochure, it says -- as is stated over and  
22 over again -- Seattle's waterfront for all.

23 Therefore, the LID is, in terms of the  
24 enactment of it, is incorrect as an approach to a  
25 Local Improvement District. It's not a local

1 improvement. It's an improvement for all. It's a  
2 destination park.

3 And within the attempt to make an  
4 appraisal, the appraisers have used outdated data, if  
5 any data. They've used an allocation methodology  
6 instead of an appraisal methodology. They've used the  
7 wrong year for appraising the value of our particular  
8 property, and done math which looks like it's precise,  
9 but it's not. So we encourage --

10 HEARING EXAMINER VANCIL: Thank you, Mr.  
11 Patton.

12 MR. PATTON: We encourage you to recommend  
13 to the Council that they abandon this attempt to  
14 invalidly identify a, quote, Local Improvement  
15 District.

16 HEARING EXAMINER VANCIL: Thank you,  
17 Mr. Patton.

18 I have a question for you. You've -- it  
19 looks like you gave me the same case twice, Hasit. I  
20 don't know if you intended to give me a different case  
21 instead of Hasit.

22 MR. PATTON: Oh, no. I -- I probably gave  
23 you my copy.

24 HEARING EXAMINER VANCIL: Okay. That's  
25 fine. I just -- you had made reference to a Bellevue

1 case as well and I -- Bellevue Square case, and I  
2 didn't know if you intended to --

3 MR. PATTON: I didn't give you a --

4 HEARING EXAMINER VANCIL: This is the only  
5 one.

6 MR. PATTON: Yeah.

7 HEARING EXAMINER VANCIL: Okay. I  
8 understood that you had cited this concern about the  
9 scope of review by the hearing examiner, as stated in  
10 the February 4 opening of hearing.

11 Just for the record, I was quoting  
12 directly from your Exhibit 2 Local and Road  
13 Improvement Districts Manual, so they're the ones that  
14 were setting what can be reviewed and not.

15 I'm looking to the case that you've  
16 identified. I understand there is a -- there is a  
17 question as to the validity of the LID, and certainly  
18 its scope between general and special. And I don't  
19 think that that issue is completely off the table for  
20 me, if that was intended as -- as -- if that was --  
21 came across as my -- my comments.

22 Question, though. I want to make sure  
23 that I'm understanding the scope of what you are  
24 arguing my review is within based on the case. The  
25 case certainly goes at the -- questioning the decision

1 of the Council, but it does seem to indicate clearly  
2 that the Court is limited to nullification or  
3 modification only on those parcel assessments before  
4 it.

5 Is there something more in here that  
6 you're arguing that goes out to the legitimacy of the  
7 ordinance itself that I can apply? Or --

8 MR. PATTON: Well, yes. It --

9 HEARING EXAMINER VANCIL: And where is  
10 that?

11 MR. PATTON: Well, it's in the excerpt  
12 from the Hasit case. That is the -- the application  
13 is -- we cited that there is a case challenging this  
14 ordinance based basically on the open Public Meetings  
15 Act deficiencies, and that challenge presumably would  
16 undo the whole ordinance for everybody.

17 Now, as an objection, the courts may -- as  
18 an objector, the courts may decide that the entire  
19 Local Improvement District ordinance should be  
20 nullified because of its deficiencies, but the result  
21 would possibly only pertain to our particular unit.

22 HEARING EXAMINER VANCIL: Okay.

23 MR. PATTON: But that doesn't mean that  
24 the Court wouldn't consider, nor should you -- doesn't  
25 mean that you shouldn't consider the invalidity of the



1 ordinance itself. I mean, you're just -- your  
2 recommendation to the City Council may affect only  
3 ours, because maybe we're the only people making that  
4 argument. But it doesn't mean that you can't consider  
5 those issues.

6 HEARING EXAMINER VANCIL: Understood. All  
7 right. Thank you.

8 MS. THOMPSON: Mr. Hearing Examiner, I  
9 have just a couple questions --

10 HEARING EXAMINER VANCIL: Yes, please.

11 MS. THOMPSON: -- for Mr. Patton.

12 CROSS-EXAMINATION

13 BY MS. THOMPSON:

14 **Q. Mr. Patton, you are not a certified real**  
15 **estate appraiser?**

16 A. I am not.

17 **Q. And you have not received any formal training**  
18 **appraising real estate?**

19 A. I have not.

20 MS. THOMPSON: Thank you very much.

21 HEARING EXAMINER VANCIL: Anything further  
22 on rebuttal?

23 MR. PATTON: No.

24 HEARING EXAMINER VANCIL: All right.

25 Thank you.

1 We will adjourn and continue the hearing.

2 We re-adjourn at 1:15 for Case No. 388. Thank you.

3 (A break was taken from

4 11:40 a.m. to 1:27 p.m.)

5 HEARING EXAMINER VANCIL: Good afternoon.

6 We continue the Waterfront LID Assessment hearing.

7 We're hearing now from Case No. 388.

8 Please state your name and spell it for

9 the record.

10 MR. BHATIA: I'm here on behalf of the

11 Cirrus Trust. My name is Prashant Bhatia. The first

12 name is spelled P-R-A-S-H-A-N-T, and the last name is

13 B as in boy, H-A-T-I-A.

14 HEARING EXAMINER VANCIL: Please proceed.

15 MR. BHATIA: Okay.

16 I'm here to appeal the LID assessment on

17 tax parcel 2538830580. I submitted documents earlier

18 prior to the hearing appeal deadline date, so I'm just

19 going to read part of those documents, and only part

20 of it and my letter in the interest of speed, and then

21 I have some updated valuation information on new sales

22 data since the -- since last week that was recorded by

23 the City.

24 So I'm the owner of this, via trust, of

25 the condominium stated above. I have lived in it

1 since it was purchased new in January 2009. And along  
2 with many of my neighbors, I have a strong objection  
3 to the entirety of this specific tax assessment.

4 One of the reasons is that the funding is  
5 highly speculative, and the delivery of these  
6 purported special benefits are highly speculative.

7 This is in reference to my letter.

8 The City has stated that the Waterfront  
9 LID projects -- projects will cost approximately  
10 346.57 million, yet the LID assessments will be capped  
11 at 160 million. Therefore, at least an additional  
12 186.57 million will be required to complete the  
13 remainder of the promised Waterfront LID projects.

14 While the City believes it will somehow  
15 obtain these additional resources from, quote-unquote,  
16 City, State and philanthropic funds, these funds have  
17 not been secured or allocated. In other words, given  
18 that over half of the funds for the Waterfront LID  
19 projects are unsecured, the City's actual ability to  
20 -- to complete the Waterfront LID projects is highly  
21 uncertain.

22 Furthermore, if there are any cost  
23 overruns, which are not uncommon with the City's  
24 projects, these will only increase the risk even  
25 further with regards to the completion of the

1 Waterfront LID projects.

2           Given that there is such uncertainty  
3 around the full funding and completion of the  
4 Waterfront LID projects, it's clear that the purported  
5 special benefits to the assessed property owners are  
6 highly speculative.

7           Based on the funding facts, effective --  
8 affected property owners have no reason to be  
9 confident that the City has a way to deliver its  
10 promised special benefits.

11           Furthermore, if the City were to fail to  
12 find adequate funding to fully complete all of the  
13 Waterfront LID projects on time, and as currently  
14 designed and analyzed by its assessor, then it would  
15 have collected \$160 million in tax assessments with --  
16 without delivering the projects as legally required  
17 to.

18           This failure could open the City to legal  
19 action from disgruntled property owners, which is an  
20 outcome that should be avoided at all costs in the  
21 interests of the City, taxpayers and property owners.

22           Even if I were not an assessed property  
23 owner, I would be alarmed if the City were to take on  
24 such a large legal obligation without reasonable risk  
25 mitigation, i.e., securing all funding first.

1 I believe that most City voters would far  
2 prefer that the City Council spend money on actual  
3 pressing needs to improve our city rather than  
4 fighting legal battles resulting from the City's  
5 foolhardy decision to take on massive LID commitments  
6 without a reasonable plan for delivering them.

7 In summary, the City should not be  
8 permitted to assess property owners on a promise of  
9 delivering special benefits based on plans that are  
10 still highly speculative. Instead, the City should  
11 not take on the legal obligation to complete these  
12 Waterfront LID projects without first securing all  
13 necessary funding.

14 I also have issues with the valuation of  
15 the property, which I'll get to in a minute, but I'm  
16 going to go on to point 4, the lack of special  
17 benefit.

18 My understanding of the legal definition  
19 of special benefits comes from the Washington Practice  
20 Instructions.

21 Special benefits are those that add value  
22 to the remaining property as distinguished from those  
23 arriving incidentally and enjoyed by the public  
24 generally.

25 Given this definition, it's worth

1 considering that my building is physically remote from  
2 the central waterfront, both horizontally and  
3 vertically from the central waterfront, as we are more  
4 than city -- three city blocks, 1240 feet from my  
5 building lobby entry to the promenade on the west side  
6 of Alaskan Way.

7 The building entrance is also a hundred --  
8 the building entrance is also 116 vertical feet above  
9 Alaskan Way. The waterfront is clearly not convenient  
10 for residents to take their dogs for a walk or go for  
11 a stroll.

12 The value of my home from a location  
13 perspective comes from proximity to convenient  
14 shopping, services and employment offices in the  
15 downtown core. Additional value for the west-facing  
16 condominiums in our building comes from the views of  
17 Elliott Bay, but clearly not from the proximity to the  
18 waterfront.

19 The City has repeatedly touted relevant  
20 projects as a waterfront for all. The design goals  
21 were clearly not to create a local improvement for  
22 property owners with some proximity, i.e., special  
23 benefits to the multiyear construction and resulting  
24 project.

25 The waterfront and all the project

1 includes, including the LID projects, are meant to  
2 create and enhance a regional, national, international  
3 tourist destination.

4           As outlined in the Anthony Gibbons letter,  
5 which I've attached, there's a general lack of clarity  
6 distinguishing general and special benefits and major  
7 discrepancies and flaws in the methodology used by the  
8 City's appraiser for this initiative. As an example,  
9 the estimated value lift applied by Valbridge --  
10 applied by Valbridge is less than four percent, which  
11 is within the margin of error for any appraisal, and  
12 thus, by definition, speculation.

13           I've also provided video and -- as well as  
14 screenshots showing Alaskan Way with -- without LID  
15 improvements and with LID improvements, and there's no  
16 clear difference that would justify any increased  
17 value to my building or neighboring residential  
18 buildings.

19           The post-LID view is essentially that of a  
20 wide waterfront boulevard with some grass medians. It  
21 has not been explained how this outcome will increase  
22 our property values and confer special benefits.

23           In general, the LID improvements do not  
24 add anything significant to the central waterfront,  
25 which already will have a promenade, viewpoints,

1 stairways, elevators, and landscaping, as well as  
2 connecting streets and bridges even without the LID.  
3 Therefore, there's no substantive case for a special  
4 benefit conferred on residents in my building.

5           Next, my unit on the 18th floor has the  
6 bulk of its view on the east side of the building with  
7 a skyline view -- I've attached a photo -- which will  
8 be lost when the proposed 46- tower -- -story tower  
9 directly east of this building across Second Avenue is  
10 built.

11           The loss of the skyline view and the loss  
12 of most of my sunlight will certainly reduce the  
13 current market value of our home. I'll also note that  
14 the proposed tower will not have a LID assessment on  
15 the tower improvement as it will not start  
16 construction until the fall of 2020, and it will take  
17 three years to build. These types of omissions are  
18 patently unfair.

19           Next, not only would the proposed LID  
20 projects, assuming the City can even find the funding  
21 to deliver them, and deliver them on time, fail to  
22 deliver special benefits, some of these projects would  
23 damage my property values.

24           For example, the proposed changes to Pike  
25 and Pine Streets between First and Second Avenues



1 would restrict vehicular access to and from our  
2 parking garage, which is in the alley between First  
3 and Second Avenues and between Pike and Pine Streets.

4 This \$23.4 million of budget spending  
5 would also make it more difficult for my building to  
6 receive packages and services. In 2019, my building  
7 alone had 15,474 packages delivered, and over 500  
8 service vehicle calls.

9 Similarly, four years of a construction,  
10 limited to four only if the City quickly acquires the  
11 remaining funding and the projects are on time, both  
12 unlikely, will cause additional inconveniences to  
13 residents of my building and further depress values in  
14 the process.

15 Next, the City's inability to maintain a  
16 safe and attractive atmosphere in my neighborhood does  
17 not indicate that there will be any increase in my  
18 property value due to the LID assessments as the City  
19 will now have additional challenges to maintaining  
20 such an atmosphere.

21 The City's inability to prevent frequent  
22 violent crimes near my building -- as was reported  
23 nationally, nine people were shot in a mass shooting  
24 just one block away just last month -- this inability  
25 may extend to the new waterfront and adjacent areas.

1 These large urban park areas are known to be difficult  
2 to police -- e.g., Westlake Park, Freeway Park -- and  
3 combined with the increasing news coverage of violence  
4 in various areas of downtown Seattle, the waterfront  
5 and LID projects may depress water -- property values  
6 even further than they have been over the last several  
7 months as residents and visitors alike continue to  
8 feel unsafe in downtown Seattle, even our own  
9 courthouse.

10 Similarly, I'm going to show a photo.

11 This is a Sunday morning directly across the street  
12 from my building. There's a tent set up there on a  
13 Sunday morning. Again, I don't understand how the  
14 City's going to maintain a safe atmosphere.

15 Similarly, please see the recent photo attached of a  
16 homeless person's tent directly across the street from  
17 my building.

18 Widespread media coverage and knowledge of  
19 the City's failings in this area, along with an actual  
20 unsafe atmosphere downtown, will further scare away  
21 potential buyers and devalue my property, especially  
22 as the LID improvements may exacerbate those  
23 challenges.

24 In general, the City's determination to  
25 ram this LID through by taking so many shortcuts shows

1 a surprising lack of understanding of property values  
2 and general versus special benefits by the City's  
3 appraiser, even after the City spent millions of  
4 dollars and several years having the studies prepared.

5 I strongly object to the City's  
6 speculation that there will be any special benefits to  
7 my property and suggest that they may, in fact,  
8 depress property values for years to come.

9 Then just jumping to the end of the  
10 letter. Overall, I do believe that even with the --  
11 without the LID projects, many of the new waterfront  
12 projects have the potential to provide very attractive  
13 public spaces to domestic and international travelers,  
14 particularly during warmer weather and the longer days  
15 of summer.

16 However, the proposed LID improvements  
17 will enhance a regional attraction, the Waterfront  
18 Park that will benefit from its location next to the  
19 most popular tourist destination in Seattle, and the  
20 33rd most popular destination in the world, Pike Place  
21 Market.

22 The LID improvements will not confer  
23 special benefits specific to me or my immediate  
24 neighbors' properties.

25 So that's my letter, and then I -- I'll

1 just take us through quickly, there's some update  
2 valuation information on a sale -- including a sale  
3 that closed since the last hearing.

4 HEARING EXAMINER VANCIL: Note for the  
5 record that the objector's referenced several  
6 documents and some photos, like a tent. Those are all  
7 attachments to the original objection for the  
8 Case No. 388.

9 MR. BHATIA: Okay.

10 So -- let me know when I can start.

11 HEARING EXAMINER VANCIL: Yep.

12 MR. BHATIA: Okay. Okay.

13 So I'll just go to page 2. So the  
14 asserted market value, it's excessive, and it's not  
15 supported by the evidence. And I'll show -- sorry.

16 MR. EDLUND-CHO: No, I was just --

17 MR. BHATIA: Oh, okay.

18 I'll show the comparable sales in a  
19 minute, but it's -- they prove that the City's  
20 overestimated the value of the property by more than  
21 30 percent. And even the special benefit percent  
22 change for the 1521 Second Avenue building ranged  
23 2.7 percent, something I've disputed in other parts of  
24 the argument.

25 And the overestimation of the market value

1 by more than 30 percent means that there's an  
2 overassessment of more than 30 percent.

3 I can -- actually, I'm gonna jump to -- in  
4 the first page after the appendix.

5 MR. EDLUND-CHO: Do you have a number?

6 MR. BHATIA: It's -- it's our LID

7 assessor's data.

8 So this is from the supplementary  
9 materials that were released recently after the last  
10 hearing, and this is the LID assessor's data looking  
11 specifically at the 02 stack, because our valuation in  
12 that building's -- the floor plans and finishes are  
13 identical up to about 29 or so, at least, and the only  
14 difference is the height and the view, and all of that  
15 is a city view with no view of the waterfront.

16 So if you look at their methodol- -- well,  
17 if you look at their assessment and then you look at a  
18 simple floor rise methodology based using actual  
19 sales, so you can see 1002 was sold in June of 2019,  
20 and then the other sales data -- he used listing  
21 prices because he didn't have sales data at the time  
22 he did this, but even if you look at the floor rise  
23 using his listing prices, the pre-LID value of 1802  
24 should be about 1.66 million. His pre-LID valuation  
25 using his data is 1.9 million. So I don't -- I don't

1 understand his justification. I don't think he's  
2 provided any for how he's getting there.

3 If we go to the next page in that  
4 appendix, this is including the latest sales data of  
5 last week, using the same floor rise methodology. So  
6 now we have actual selling prices not only for 1002,  
7 but for 2702 and 2902.

8 One of the things you'll notice is that  
9 2702 was sold in October. Two floors higher was just  
10 sold a couple weeks ago, it just recorded now, and it  
11 sold for the same price as 2702, which shows clearly  
12 that values seem to be declining, actually, as the LID  
13 advances and other issues occur.

14 So if you look -- if you use 2902 and 1002  
15 as your benchmarks to calculate the floor rise, it's  
16 about a little over \$30,000, or under one --  
17 thirty-one. That would give a valuation, a pre-LID  
18 value of 1802 at 1.463889. That seems to be a much  
19 more reasonable methodology based on actual sales data  
20 in that building, using the most recent data.

21 And so, even if I was in agreement with  
22 the 2.7 percent, that would give a post-LID valuation  
23 of 1.503414, so about \$400,000 lower than the  
24 assessor's.

25 The next page is just a summary, so I

1 think that is already captured.

2 Let's go to the -- I think it's -- there's  
3 the 1521 Second Avenue building, that's just a picture  
4 of the building. It's on page 4, I think.

5 This is a floor plan, so you -- so the  
6 right side that has the curve, that's all east-facing  
7 east into the city, and that's where the 46-tower  
8 story [sic] is going to start construction in the  
9 fall. So there's no view of the Waterfront LID  
10 improvements from there.

11 The next page is just the comparable data  
12 we just reviewed.

13 Next page is the excise tax affidavits.

14 Next page, market value.

15 Next page just discusses how the higher  
16 floors command higher values. We can skip through  
17 that.

18 I think there is an error I need to  
19 correct of the proposed 15 -- sorry. No. That is  
20 correct. So if you -- at his special assessment  
21 percentage, I think it was 39.18 percent, that means  
22 the final assessment, even if we agreed to 2.7 percent  
23 special benefits, shouldn't be more than \$15,485.90,  
24 if you use the recent sales date.

25 Furthermore, there are no special benefits

1 to this property. If we look at some of the LID  
2 improvements, the promenade park, it's a large roadway  
3 with landscaping that's quite far from the unit.

4 Pier 58, that's an event space that's  
5 clearly a general benefit.

6 The overlook walk, there are already  
7 several access points to the waterfront, and, at best,  
8 I'd say it would benefit the throngs of tourists  
9 visiting the market.

10 Pioneer Square, that's really quite far  
11 from the unit, so I -- I don't see how that would be  
12 any special benefit, or even a general benefit to --  
13 to anyone in our area.

14 And then the Alaskan Way LID improvements,  
15 those are quite far from the unit, and they're really  
16 minimal -- of minimal benefit. I don't see how they  
17 would provide a special benefit either.

18 And then finally on the last page, just a  
19 continuation of that, there are no special benefits to  
20 this property. The City's poor park management has  
21 made parks more of a safety hazard than a nuisance.  
22 The Compton research from Texas A&M on certain types  
23 of parks like this one, there's -- it shows that  
24 there's a negative benefit to nearby properties if  
25 parks are not well-managed.



1           And then even if the park is better  
2           policed, there's this likelihood of negative behavior  
3           being pushed into areas just off -- parked near this  
4           building. You know, we'd see more things, we're  
5           afraid, like this tent on the street, or other types  
6           of negative behavior.

7           The property value has decreased as this  
8           LID process has been advancing, and the unit has no  
9           significant view of the park area. I think that would  
10          be it from me.

11          HEARING EXAMINER VANCIL: Okay. Thank  
12          you.

13          The PowerPoint will be admitted as  
14          Exhibit 1.

15                   (Exhibit No. 1 was marked.)

16          HEARING EXAMINER VANCIL: And I don't know  
17          that I admitted all of the exhibits from the last case  
18          that we had today, 171. All exhibits submitted as  
19          part of 171 are admitted.

20                  Were you here for 357, Case 357?

21          MR. OORD: 357? Yes.

22          HEARING EXAMINER VANCIL: All right.

23          MR. BHATIA: Am I finished or --

24          HEARING EXAMINER VANCIL: That's up to  
25          you.

1 MR. BHATIA: Oh, yes. Yes. I'm done  
2 unless anyone has questions for me.

3 HEARING EXAMINER VANCIL: No, thank you.

4 MR. BHATIA: Thank you. Thank you for  
5 your time.

6 HEARING EXAMINER VANCIL: Thank you.

7 Ready for the next objector.

8 MR. OORD: Good afternoon.

9 HEARING EXAMINER VANCIL: Good afternoon.  
10 Please state your name and spell it.

11 MR. OORD: My name is Duane Oord. I'm  
12 representing Linda Ann Campbell, Case No. CWF-0357.  
13 Do you need an authorization from her?

14 HEARING EXAMINER VANCIL: That would  
15 probably be good to introduce into the record.

16 And can you spell your last name?

17 MR. OORD: Yeah, O-O-R-D. Duane is  
18 D-U-A-N-E. It's right there.

19 HEARING EXAMINER VANCIL: The  
20 representative form will be marked and admitted as  
21 Exhibit 1.

22 (Exhibit No. 1 was marked.)

23 (Mr. Oord was sworn.)

24 HEARING EXAMINER VANCIL: Thank you.  
25 Please proceed.

1 MR. PATTON: Okay. Okay.

2 Well, this is the first time I've ever  
3 been at one of these guys, so bear with me.

4 What I've done here, since I'm not a  
5 public speaker, I've written out what I -- I want to  
6 get across.

7 I know the other day when you -- on the  
8 4th at your hearing, I believe I remember hearing you  
9 say you only rule on law and precedence, if I recall  
10 right.

11 HEARING EXAMINER VANCIL: That's a  
12 reasonable interpretation of part of what I said, yes.

13 MR. PATTON: Just that -- yeah, in two or  
14 three words.

15 Anyway, there is a couple clarifications I  
16 had as it relates to this notice of appeal hearing,  
17 that letter that we received. And that's probably  
18 half of my -- my -- my questioning.

19 The notice of appeal hearing, CWF-0357, a  
20 scheduled hearing for Tuesday, February 11th, 2:00 to  
21 3:00 p.m., to Linda Campbell, she received my US mail.

22 The appellant's -- and it states: The  
23 appellant's failure to appear on time will result in  
24 forfeiture of the appeal.

25 This statement conflicts with the

1 statement in box -- in the bottom of the 2020 LID  
2 Assessment Roll hearing -- hearing registration form  
3 provided me at the February 4th, 2'20 LID hearing  
4 assessment hearing.

5 The hearing registration form acknowledges  
6 the Office of the City Clerk has received written  
7 objection and has assigned the case number in the top  
8 corner of -- and which was CWF-0357. For property  
9 owners or representatives who intend to speak at the  
10 Waterfront LID Assessment Roll hearing, the hearing  
11 registration form acknowledges their intent to present  
12 written objection at the hearing. Persons who filed  
13 written objections may but are not required to speak  
14 at the hearing and present their written objection.  
15 Nowhere does the form state appellant's failure to  
16 appear on time will result in the forfeiture of  
17 appeal. Maybe you can clarify that.

18 HEARING EXAMINER VANCIL: I'm not going to  
19 spend a lot of time clarifying things for you.

20 MR. OORD: Okay.

21 HEARING EXAMINER VANCIL: This is your  
22 opportunity --

23 MR. OORD: Okay.

24 HEARING EXAMINER VANCIL: -- to present  
25 your objection.

1 MR. OORD: Okay.

2 But it's on record.

3 HEARING EXAMINER VANCIL: I will  
4 highlight --

5 MR. OORD: Okay.

6 HEARING EXAMINER VANCIL: -- that there's  
7 no requirement for anybody to testify.

8 MR. OORD: Right.

9 HEARING EXAMINER VANCIL: The notice --  
10 the second notice, which is not the official notice of  
11 the hearing, the official notice was issued in  
12 December for the hearing that was on February 4th.

13 MR. OORD: Okay.

14 HEARING EXAMINER VANCIL: As a result of  
15 the hearing on February 4th, there was a continuance  
16 to specific dates for individuals who expressed that  
17 they desired the opportunity to speak.

18 MR. OORD: Okay.

19 HEARING EXAMINER VANCIL: If they chose  
20 not to, their objection's still in the record. It's  
21 still legitimate.

22 MR. OORD: Okay.

23 HEARING EXAMINER VANCIL: If someone  
24 indicates that they want to speak, but they fail to  
25 show up, we're not just going to keep this going on

1 for them forever. That's what that notice was saying.

2 MR. OORD: Oh, okay.

3 HEARING EXAMINER VANCIL: We're not --

4 MR. OORD: You're not gonna wait --

5 HEARING EXAMINER VANCIL: We're not here  
6 open.

7 MR. OORD: I'm out.

8 HEARING EXAMINER VANCIL: You miss -- if  
9 she missed today --

10 MR. OORD: Okay.

11 HEARING EXAMINER VANCIL: -- then she  
12 simply -- her objection would still be here, but the  
13 opportunity to orally object would not be recognized.

14 MR. OORD: Okay. Okay.

15 So we'll continue. I want to confirm  
16 Linda Campbell's submitted written objection and  
17 appeal along with attachments or evidence supporting  
18 her appeal to the City of Seattle Clerk -- City Clerk  
19 on February 3, 2020, which you should have in your  
20 documents.

21 We now submit this question to the hearing  
22 examiner. How will Linda Ann Campbell personally  
23 receive a special benefit of 21,221 with the proposed  
24 costs assessment of her -- to her of 8,315 from the  
25 proposed park and street that the City wants to build?

1           A little background. Linda dia- -- Linda  
2 was diagnosed with Stage 4 neuroendocrine pancreatic  
3 cancer that metastasized to her liver. She's on a  
4 prescribed oral chemotherapy regimen she takes daily.

5           She acquired the condo on which the  
6 proposed special assessment, not for the city park or  
7 the street to be built, but to be close to her medical  
8 care providers and the hospital, the latter of which  
9 she's been admitted to on numerous occasions for  
10 infections or viruses contracted because of her poor  
11 immune system, and its inability to fight them of  
12 treatment of the cancer itself.

13           There are many factors that can be argued  
14 why the residents in the condominium complex where her  
15 condo is located and why the proposed assessment is  
16 wrong and should not be upheld. I know you've heard  
17 many, many arguments at the February 4th LID  
18 Assessment hearing, so I won't burden you with that.  
19 You've already heard a lot of stuff.

20           You may or may not be aware of Seattle  
21 Transportation Department's inability to manage  
22 construction public projects on budget and on time.  
23 They always have excuses, but in the end, these costs  
24 result in higher amounts that the taxpayers must  
25 absorb, both directly and indirectly.

1 I ask rhetorically, how does the City of  
2 Seattle propose to deal with delays and cost overruns  
3 not included in the original budget. One only has to  
4 drive the streets of downtown Seattle to experience  
5 how well SDOT manages potholes in the street.

6 You are likely aware of the recent  
7 shootings and deaths that occurred in downtown  
8 Seattle. This was five blocks from subject condo.  
9 Earlier that day, there was another shooting in which  
10 the sheriff was involved of a drug dealer, and that  
11 was a block away. And months ago, there was a murder  
12 three blocks away in a parking lot after they came out  
13 of a night club, a double shooting and they shot each  
14 other.

15 Did the City's LID, or for the matter --  
16 for that matter, the County assessor take these into  
17 consideration in establishing the property's value and  
18 resulting assessment? Now, I know the County assessor  
19 isn't involved. He just does his own assessment for  
20 tax purposes. But whoever's in charge of the LID, you  
21 know, has that been considered? And again,  
22 rhetorically, we believe the answer to that -- we all  
23 know the answer to that.

24 Lastly, I want to mention the appraisal  
25 that was performed to value the properties identified



1 in the LID assessment areas. Even commercial banks  
2 and credit unions, when making loans to people, are  
3 required by regulation to obtain written appraisal  
4 review by an appraiser possessing the proper  
5 credentials to assess the methodology and valuation  
6 conclusions the persons performing the appraisal  
7 arrived at.

8           The present minimum appraisal -- appraisal  
9 review threshold for real estate that have loans of  
10 \$400,000 above is -- is the \$400,000 threshold. You  
11 know, the appraisal on this property is a million  
12 two-ish, let's say. That's the assessment. We've  
13 provided you with appraisals and so forth I won't get  
14 into right now that have a lower value.

15           While the City may have engaged with  
16 Gibbons and Riley PLC to provide a letter of opinion  
17 of the Valbridge mass appraisal, within the first  
18 paragraph of that letter, it states: This is not an  
19 appraisal review.

20           I close by asking the examiner, do the  
21 right thing. Do not approve or recommend to the  
22 Seattle City Council the proposed LID assessments be  
23 imposed. If the City wants to build a park and a  
24 street as proposed -- as proposed, send it to the  
25 taxpayers for a vote. All properties will bear --

1 owners will bear the cost.

2 We respectfully thank you for giving us  
3 the time to express our thoughts. We know it's not an  
4 easy task.

5 HEARING EXAMINER VANCIL: Anything else,  
6 Mr. Oord?

7 MR. OORD: No.

8 HEARING EXAMINER VANCIL: All right.  
9 Thank you very much. Sorry to hear of Ms. Campbell's  
10 illness. I don't believe we had any -- just the one  
11 exhibit that's already been admitted.

12 MR. OORD: Yeah. Thank you. Thank you.

13 HEARING EXAMINER VANCIL: Thank you.

14 Our next objector is not scheduled to  
15 appear until 3:00 p.m. I believe that will be by  
16 telephonic representative, so there's no likelihood  
17 that they're going to show up early. We will  
18 reconvene at that time.

19 (A break was taken from  
20 1:56 to 3:10 p.m.)

21 HEARING EXAMINER VANCIL: All right.

22 We return to the record for the continued  
23 Waterfront LID Assessment hearing. Hearing from Case  
24 No. CWF-30 -- 0329.

25 May I ask who I have present?

1 MR. STUART: Joe Stuart.

2 HEARING EXAMINER VANCIL: And are you the  
3 objector for 0329?

4 MR. STUART: Yes.

5 HEARING EXAMINER VANCIL: Okay.

6 And who do I have on the line?

7 MS. GRUEN (by phone): This is Jan Gruen.

8 I am counsel for owner, and I will be voicing my  
9 objections today.

10 HEARING EXAMINER VANCIL: Please spell  
11 your last name.

12 MS. GRUEN: G-R-U-E-N.

13 HEARING EXAMINER VANCIL: All right.

14 Ms. Gruen, I've received it looks like a  
15 missive from you, dated February 11, 2020, concerning  
16 a request for continuance, which there was an email  
17 request for continuance sent Friday, February 7, 2020,  
18 at 4:30 -- or 4:23.

19 MS. GRUEN: That is correct.

20 HEARING EXAMINER VANCIL: Did you have  
21 additional statements you wanted for the record on  
22 that?

23 MS. GRUEN: You know, I have to -- I have  
24 to indicate to you that we're not familiar with this  
25 process and we're attending from California. I am

1 putting these comments on the record because my client  
2 has not had sufficient time to retain local counsel.  
3 He's not had -- they've not had sufficient time to  
4 obtain the documents that were relied upon in support  
5 of the final assessment, nor have they been able to  
6 hire an appraiser who would need to review and  
7 critically assess the actual assessment.

8           You know, I've looked at this for the last  
9 approximately one week. That's all the -- all the  
10 notice we've had. We've not been able to obtain any  
11 of the documentation that we would need in order to  
12 understand more fully.

13           I feel -- I feel compelled to state for  
14 the record that the process is violating my client's  
15 due rights and rights to fundamental fairness. The  
16 rules seem to be selectively applied. I noticed that  
17 we can have a hearing continued for good cause shown,  
18 and we've -- I believe we've met that and then some in  
19 terms of the burden under the circumstances.

20           My client is a nonprofit. Its tenant is a  
21 501(3) doing critical research on behalf of children  
22 in the city of Seattle for Children's Hospital.

23           In reviewing the overall assessment, I  
24 note that a number of the entities and individuals  
25 have not been allocated an actual assessment. Those

1 all appear to us to be nonprofits in one form or  
2 another.

3 We believe that we should not be given an  
4 assessment of any kind. There's literally no benefit  
5 whatsoever to this project as it relates to our  
6 client. There is -- it's -- it's over almost a mile  
7 from the waterfront.

8 HEARING EXAMINER VANCIL: Okay.  
9 Ms. Gruen, let's stay focused on the request for  
10 continuance first.

11 MS. GRUEN: Okay.

12 HEARING EXAMINER VANCIL: You're starting  
13 to head into your subject matter argument, which I'll  
14 provide you time for, but let me address the  
15 continuance first.

16 Is there anything else you wanted to --

17 MS. GRUEN: Okay.

18 HEARING EXAMINER VANCIL: -- provide for  
19 the record for that?

20 MS. GRUEN: Only that, you know, we can  
21 only gain access to the records that the -- the tax  
22 assessor has relied upon by virtue of a public records  
23 request, that the actual rules provide five days or  
24 more for the City to even respond with when we may be  
25 able to get those documents.

1           The -- the shortened time and a demand for  
2 money coupled with an inability to have counsel  
3 coupled with an inability to assess what the numbers  
4 are here I think mandate a continuance of this matter.  
5 At a minimum, as I understand it, you are able to  
6 extend the record and allow for additional evidence to  
7 be submitted. But to me, a motion for a continuance  
8 ought to be granted in this situation.

9           HEARING EXAMINER VANCIL: Anything  
10 further?

11           MS. GRUEN: No.

12           HEARING EXAMINER VANCIL: Anything from  
13 the City?

14           MS. THOMPSON: Our position is that proper  
15 notice was given pursuant to the law, and that notice  
16 was well in advance of a week ago. So I'm not sure  
17 exactly what the reference to a week is referring to,  
18 but our position is that advance notice was provided,  
19 and the documents that are underlying the City's  
20 expert's report have since been made public, and  
21 they've been posted online for some time now.

22           HEARING EXAMINER VANCIL: Thank you.

23           So I'll proceed with this, and I can ask  
24 if you -- since I know you're not here, Ms. Gruen,  
25 it's a little hard to read you from -- and for the

1 room, but let me try to wade through what you've  
2 presented here in writing and then what I've heard  
3 today.

4 I think there is some confusion about this  
5 process, clearly. The -- and I -- recognizing that  
6 you're just being brought in at a very late date by  
7 your client, the official notice for this hearing was  
8 sent out December 30th, and the hearing was set to  
9 begin February 4th. The -- your client filed a timely  
10 objection on February 3rd along with approximately 400  
11 other objectors.

12 And on that first date of hearing, the  
13 opportunity was provided to begin presenting  
14 objections, and many objectors did, and so the hearing  
15 initiated on that date. So the hearing isn't starting  
16 today. It started on the 4th.

17 Your client, on the 4th, was given an  
18 opportunity to have more time to present than was  
19 available on that date. The first day or two day of  
20 the hearing, there were many people who wanted to  
21 object for maybe five or ten minutes. They were pro  
22 se. And there were others who said, we need more time  
23 than that. They were given an opportunity to sign up  
24 for a continued hearing date specific to their case,  
25 and your client requested that and was given the time

1 they requested, and that's how this date was set.

2 And so recognizing you were just retained,  
3 the opportunity to have retained counsel to access the  
4 records initiated back in December, or more  
5 reasonably, let's say the first week of January after  
6 that -- that notice was received.

7 There are hundreds of objectors who have  
8 either handled this on their own and/or retained  
9 counsel and/or appraisers. And so I recognize that  
10 you wouldn't know that because you're just being  
11 brought in, but that is something that your -- your  
12 client was aware of. And no -- you know, disrespect  
13 to counsel, your client did sit on their rights to  
14 retain counsel and bring them in in a timely manner.

15 At this time, there are a small handful of  
16 individuals still trying to get their cases together  
17 and confused about the process that have requested  
18 time for testimony, and at this point, given the  
19 extreme opportunity, frankly, that we're giving in  
20 this hearing to give objectors time to testify, we  
21 have times scheduled through the end of April at this  
22 point. The hearing examiner is not adding any  
23 additional time for oral testimony. There's been  
24 expansive opportunity for that.

25 However, noting that you're just coming on



1 board, that you do believe you have a case, we do want  
2 objectors to have an opportunity to present their  
3 case, at least to the best of their ability, even if  
4 they don't understand the process entirely.

5 I certainly would be willing to leave the  
6 record open for you to submit materials via  
7 declaration or, you know, whatever materials you  
8 choose to support your case with. A declar- -- I just  
9 noticed today -- I noted today for the record that  
10 declarations are an admissible form in this hearing,  
11 speaking to the parties present at that time. So that  
12 would be a means for you to, if you choose to take  
13 advantage, to do that.

14 If we're going to do that, I will not do  
15 it and just leave it open because this is not an  
16 opportunity I'm providing to everybody and their --  
17 and their case numbers. Once they conclude, I want  
18 them concluded so that this isn't just an ongoing  
19 paper mill for individuals to file.

20 So what I will need for purposes of  
21 Case No. 329 is a firm date when you believe you would  
22 be able to submit materials. Is that something you  
23 can provide me today, or do you need time to think  
24 about it?

25 MS. GRUEN: Well, I have been in contact

1 with local counsel, and my understanding is that  
2 they've been given until mid-April as reserved further  
3 hearing dates, and also they have time in March.

4 To me, it seems as though we may very well  
5 be retaining them, and I would like -- I would like  
6 the opportunity to at least fall within the same  
7 category --

8 HEARING EXAMINER VANCIL: Okay.

9 MS. GRUEN: -- in terms of timing.

10 HEARING EXAMINER VANCIL: Right.

11 So that actually presents you another  
12 opportunity, Ms. Gruen. If you are retaining local  
13 counsel, there are two representatives -- two or  
14 three, I should say, there was a gentleman from  
15 Spokane who's going to go in a couple weeks. There  
16 has been time allocated to these various counsel. One  
17 has --

18 MS. GRUEN: Yeah.

19 HEARING EXAMINER VANCIL: -- 29 clients,  
20 another one has 5 or 6. Some of them are acquiring  
21 new clients still. What I'm asking them to do is to  
22 continue with their case within the time that they've  
23 been allotted. We have -- and the reason for that is  
24 I have one representative who he has about -- he was  
25 given about three days. He had about a dozen clients,

1 and he could do it within that, so we're expecting  
2 about two hours or so oral testimony. And that  
3 doesn't preclude submitting other items to the record.

4 Some of the others were actually given a  
5 little bit more time. It's -- it's -- there's not a  
6 set science to how much time a party needs to -- to  
7 present their objection.

8 But in the hearing examiner's opinion,  
9 ample time has been set aside to add another -- add  
10 another objector in their -- in their presentation,  
11 because there is a lot of overlap.

12 And so I wouldn't preclude you -- there's  
13 no preclusion from those counsel to add essentially  
14 this case number to their list within the time they're  
15 allotted. That's one way to proceed. And/or I can  
16 leave the record open for you to proceed how you want.

17 But if you're going to proceed with  
18 counsel and still do oral testimony, then I won't  
19 leave the record open on this case. I'll assume that  
20 we're going to get a notice of appearance from local  
21 counsel, and that they'll be lumping it into their set  
22 of cases to be presented on the times that they've  
23 been allotted.

24 MS. GRUEN: I -- I -- I would request  
25 actually that -- that both things take place. I -- I

1 have not got a firm commitment yet on retaining local  
2 counsel, and I don't want to be precluded from the  
3 opportunity to add to the record in the event that  
4 either local counsel declines or there's a conflict --

5 HEARING EXAMINER VANCIL: Right.

6 MS. GRUEN: -- or for some reason or  
7 another, we're not able.

8 HEARING EXAMINER VANCIL: Understood. And  
9 I wouldn't want that to -- to tie your hands today  
10 either.

11 Do you have a sense of how long it will  
12 take you to retain or work that out with local  
13 counsel?

14 MS. GRUEN: I -- I think it will take  
15 approximately two weeks. If the issue here is -- the  
16 issue here is that this particular assessment -- I  
17 mean, maybe -- maybe the thing to do is to have -- is  
18 to go through my other arguments, but I do -- I do  
19 want to leave the record open for the time being.

20 Just -- if there has to be some sort of a  
21 hard and fast closure date, if so, I would request  
22 that it be left open through the end of April.

23 HEARING EXAMINER VANCIL: There -- there  
24 will need to be a, as you put it, hard and fast  
25 closure date, but what I'm trying to do is work with

1 you in the situation where you have obviously today  
2 not full answers on what's going to work best for you  
3 and your client.

4 MS. GRUEN: Right.

5 HEARING EXAMINER VANCIL: If you have a  
6 situation -- I mean, if you need two weeks to work out  
7 with local counsel whether they're going to take your  
8 case or not, that's fine. But if they're not going to  
9 take your case, then, yes, I do need a hard date when  
10 you're going to submit materials, so that that's not  
11 just left open.

12 However -- however, if -- if you are  
13 retaining local counsel, I also don't want an open  
14 door for this -- this case for things to be coming in  
15 from some other source except local counsel. I'd like  
16 a single representative that things are coming  
17 through. If they need that time at the end of the  
18 oral presentation to submit materials, they can  
19 address that at that time.

20 So I'd like to tighten this up enough that  
21 you have time to work things out with local counsel,  
22 but at the same time, we have some definitive date if  
23 you don't end up doing that that you'd be submitting  
24 things outside the record.

25 MS. GRUEN: So I guess, against that

1 backdrop, I would request that we have two weeks from  
2 today's date within which to determine whether we'll  
3 be retaining local counsel, and that the record will  
4 be left open through that time and until April 11 --  
5 sorry -- April 30th if we choose not to retain local  
6 counsel. So in other words, we'll either fall in with  
7 the deadline of local counsel, or we will be extended  
8 out to April 30th of this year to submit  
9 documentation.

10 HEARING EXAMINER VANCIL: Okay. I  
11 appreciate your efficiency trying to have them both  
12 addressed at the same time.

13 We have -- today is the -- is  
14 February 11th. It's my understanding that counsel for  
15 this matter, 329, will determine whether local  
16 representation will be adequate.

17 I would ask that you provide -- have that  
18 completed by notice of appearance by February 25th.  
19 If, for some reason, more time is needed, you can  
20 submit that in -- in writing.

21 And if you do not or are not able to  
22 secure local representation, and, again, you will need  
23 to -- so you'll need to -- if local representation is  
24 secured, you'll need a notice of appearance. If --  
25 I'll still need something in the record to just tie

1 this up from you that confirms we are not getting  
2 local representation, so I know which direction you're  
3 going with the case --

4 MS. GRUEN: Okay.

5 HEARING EXAMINER VANCIL: -- with the file  
6 still being open for you. Okay? So give me some type  
7 of notice by February 25th as to which --

8 MS. GRUEN: Okay. And may I do that by  
9 email?

10 HEARING EXAMINER VANCIL: Yes. You can  
11 email that to my legal assistant, Mr. Galen  
12 Edlund-Cho, who you've had some correspondence with.

13 MS. GRUEN: Yes, I have.

14 HEARING EXAMINER VANCIL: All right.

15 Now, let's turn to the open record. Right  
16 now today, the City was -- I indicated the City would  
17 have until -- they're -- they're going to start their  
18 presentation, assuming we stick with this schedule,  
19 and I think we -- we -- I haven't heard otherwise,  
20 this is where we're likely to go with the City  
21 presentation, was the 27th and 28th of April, with  
22 some other dates left for cross.

23 So the City's going to need an opportunity  
24 to respond to what you submit, so I need to take more  
25 time than the full month. I need you to have

1 something in earlier than the full month of -- of  
2 April in order to have them have an opportunity, but I  
3 can give -- obviously, I can give you much more time  
4 than needing to argue today.

5 In order to give the City adequate time to  
6 respond, they have, obviously, quite a load of  
7 objectors to respond to.

8 City, do you -- I don't know how you're  
9 managing your case and preparing with your expert.

10 MS. THOMPSON: Sure. I would say that, if  
11 we could have the materials by, like, Monday,  
12 April 13th, that would be sufficient time for us to  
13 review anything.

14 HEARING EXAMINER VANCIL: That's about  
15 what I was thinking.

16 MS. THOMPSON: Okay.

17 HEARING EXAMINER VANCIL: So if you can  
18 get it a couple weeks before?

19 MS. THOMPSON: Sure. Thank you.

20 HEARING EXAMINER VANCIL: All right.

21 So Ms. Gruen, let's set a deadline of  
22 April 13th now. Again, if you do not go with local  
23 counsel, all right --

24 MS. GRUEN: Okay.

25 HEARING EXAMINER VANCIL: -- so if we --



1 if on the -- if, on February 25th, we hear from you  
2 that we're not -- we don't have the opportunity to go  
3 through local counsel, we'd like to record kept open  
4 for our case, 329, we will do that, and you can submit  
5 what you intend to, again by declaration or other  
6 documentation, through April 13th, the record will be  
7 left open --

8 MS. GRUEN: Okay.

9 HEARING EXAMINER VANCIL: -- for this case  
10 number only, and I emphasize that not just for present  
11 counsel, but for those who are following this and  
12 paying attention to the record, this is -- this is a  
13 limited opportunity to leave the record open for this  
14 case number only. Any other party who is an objector  
15 needing the case record left open needs to have that  
16 arranged by -- with the hearing examiner's office  
17 during their own presentation time, and it will not be  
18 accepted by -- in writing.

19 I think that addresses everything today.  
20 I'm not going to make you put anything on today,  
21 because you're going to get adequate time to do that  
22 later or -- and we're really at the end of the time  
23 that we had allocated for this matter as well.

24 Is there anything else we need to address  
25 to make sure that we -- you have a clear path forward

1 for your -- your matter, Ms. Gruen?

2 MS. GRUEN: No, I -- I think that that

3 does it.

4 I guess the question to me is, at the end  
5 of this, you will be approving these assessments, and  
6 then the next step would be the filing of a lawsuit  
7 if -- if that was deemed appropriate; is that correct?

8 HEARING EXAMINER VANCIL: No. The hearing  
9 examiner will, at the end of the hearing, which, as  
10 you hear today, has continuance dates through -- you  
11 know, it started on the February 4th and is continuing  
12 through the end of April, will then draft a  
13 recommendation to the City Council. And the City  
14 Council makes the final decision based on the  
15 recommendation.

16 The recommendation can -- is ranging. It  
17 can be anything from reverse the whole thing to  
18 modifying specific assessments to simply support the  
19 whole thing, somewhere in that range.

20 And that's a recommendation. There will  
21 be information in the recommendation on how to appeal  
22 that. The City of Seattle does allow recommendations  
23 from the hearing examiner to be appealed if -- if it's  
24 a recommendation to the Council. And information on  
25 that would be included in the recommendation.

1 MS. GRUEN: Okay.

2 HEARING EXAMINER VANCIL: And that'll --  
3 that's the process we have. So does that answer your  
4 question?

5 MR. PATTON: I guess -- yes, it does.

6 Under those circumstances, I -- and in  
7 light of the fact that you will be making a  
8 recommendation to the City Council at the end of this  
9 hearing, I would -- I would like an opportunity to  
10 make just a few statements about why there should be  
11 no assessment here.

12 HEARING EXAMINER VANCIL: You want to do  
13 that now? Is that what you're asking?

14 MS. GRUEN: Well, I -- I mean, I don't  
15 have the benefit -- I mean, if you're going to be  
16 making a recommendation now --

17 HEARING EXAMINER VANCIL: I'm not -- no,  
18 no, no, I'm not -- I'm not making my recommendation  
19 until at the end of the hearing. I'm taking all of  
20 the evidence in from all of the objectors --

21 MS. GRUEN: I see.

22 HEARING EXAMINER VANCIL: -- for the next  
23 two and a half months --

24 MS. GRUEN: Okay.

25 HEARING EXAMINER VANCIL: -- then the

1 City --

2 MS. GRUEN: All right.

3 HEARING EXAMINER VANCIL: -- and it will  
4 be a single written recommendation. So I'm not making  
5 any type of decision today. I mean, that's what  
6 we've -- we've preserved here really with your  
7 opportunity to appear through local counsel or --

8 MS. GRUEN: Yes, I understand.

9 HEARING EXAMINER VANCIL: -- or submitting  
10 more materials, is you -- you still get a chance to  
11 get your case on. Nothing's foregone with that.

12 MS. GRUEN: Okay. I appreciate that.

13 HEARING EXAMINER VANCIL: All right.  
14 Anything else? City, anything from you?

15 MS. GRUEN: No. Thank you very much.

16 HEARING EXAMINER VANCIL: City.

17 MS. THOMPSON: No, thank you.

18 HEARING EXAMINER VANCIL: Okay.

19 Let me check where we're at on our  
20 schedule. We have our next objector scheduled for  
21 4:00 p.m. We'll adjourn until that time. Thank you.

22 MS. GRUEN: Thank you.

23 (A break was taken from  
24 3:30 to 4:15 p.m.)

25 MR. TANASE: Can my wife sit here or no?

1 HEARING EXAMINER VANCIL: Please.

2 We're continuing the Waterfront LID

3 Assessment hearing, February 11th. This will be Case

4 No. 63.

5 MR. TANASE: Good afternoon.

6 HEARING EXAMINER VANCIL: Good afternoon.

7 Please state your name for the record.

8 MR. PATTON: My name is Ted Tanase and my

9 wife is Priscilla Tanase, and we are --

10 HEARING EXAMINER VANCIL: And can you

11 spell your name, please?

12 MR. PATTON: Sure. Tanase is T-A-N-A-S-E.

13 HEARING EXAMINER VANCIL: Thank you.

14 MR. PATTON: Thank you. And we are the

15 owners --

16 HEARING EXAMINER VANCIL: And you do you

17 swear or affirm --

18 MR. PATTON: Sorry.

19 (Mr. Tanase was sworn.)

20 HEARING EXAMINER VANCIL: Okay. Please

21 proceed with your presentation.

22 MR. PATTON: Okay. Thank you.

23 We're the owners of Unit 2403 at 1521

24 Second Avenue, and we've been the owners there since

25 2013.

1           And I want to tell you a little bit first  
2 of this my background because it's going to lead into  
3 this presentation.

4           So I've been in management in the  
5 aerospace industry, CEO of a lumber and building  
6 material company, and CEO of a company in healthcare.

7 And as the CEO of these companies, many times I've  
8 gone and asked for money, and many times I've been  
9 asked for money.

10           So the way I looked at this is the way I  
11 would have if I was still the CEO of these companies,  
12 which I'm no longer because I'm now retired. So I  
13 take a look at investments, whether I'm making the  
14 investment, or if I'm deciding to make -- to ask for  
15 an investment in terms of return on investment. And  
16 for the investor, which is me or us, Priscilla and I,  
17 in this particular case, I look at the return on  
18 investment.

19           So as an example, if some company has come  
20 to me and said, I want you -- Priscilla and Ted, I  
21 want you to invest \$100,000 in my company, and we're  
22 going to build a house, and this particular house will  
23 have shake roof, it will have vinyl windows, it will  
24 have hardwood flooring, it will have Kohler plumbing  
25 utensils, plumbing items, and that's what I want you

1 to invest in our company, because we're going to build  
2 this house, and then we're going to sell this house,  
3 and you will make 2.7 percent from this, and I'll  
4 guarantee it will be within three years.

5           So for me as an investor, I've been told  
6 \$100,000 is my investment, that's fixed, so for me, I  
7 need to know, do I have -- how comfortable am I with  
8 the two and a half percent? How sure am I that I will  
9 get that? And with that will determine the return on  
10 investment for me.

11           But as I was mentioning to you, I've also  
12 been on the other side where I've gone out and asked  
13 for money. And in this particular case, I also think  
14 of return on investment. Because I say, in this case,  
15 if I know my return, then I have to really think about  
16 the investment.

17           So on the face of things, if you say on  
18 this LID procedure, this LID process, I'm going to  
19 impose a tax and the tax will pay for my entire  
20 investment, now my investment is zero, and the return  
21 on investment will be -- if I make any money at all on  
22 this, it will be infinite. So on the face of things,  
23 this type of a return on investment sounds like very  
24 good for the company that's asking for it ought to  
25 see.

1           What I'm going to be showing is what I  
2 really feel is the return and what I really feel the  
3 investment is for the City, and at the end, I'm going  
4 to be asking for our unit to have the assessment be  
5 zero. So that's my -- that will be my request.

6           I -- I'm in 1521, and so a lot of the  
7 things I'm saying pertains to 1521, but I don't think  
8 I can speak for them here, so I'm speaking for the two  
9 of us.

10           So being an engineer, when I take a look  
11 at some things, I take a look at the mathematics or  
12 statistics, and I take a look at things like sample  
13 size. So in this particular case, I'm looking at the  
14 estimated value increase, or perhaps even decrease  
15 from the LID.

16           And one of the ways you take a look at  
17 this is through sample size. There is a correlation  
18 between sample size and the confidence of that, or the  
19 margin of error. So the smaller the sample size, the  
20 less confidence that I would have in the higher margin  
21 of error.

22           In mathematical statistics, you take a  
23 look at one, two and three distributions off of a  
24 curve, and if you're one distribution, you're  
25 sixty-seven percent sure, you're sixty-seven percent



1 confident of that value. If you go two, it's  
2 ninety-five percent. And if you go three, it's  
3 ninety-nine percent.

4 Many times people say, I want to be at two  
5 standard deviations, or I want to be at  
6 ninety-five percent confidence of this value. And so  
7 just from a math point of view, when I take a look at  
8 the 2.7 percent that the City is talking to us about,  
9 I know that from math, I have to have a sample size of  
10 385 parks or neighborhoods.

11 Or looking at it the other way, I think  
12 what I saw was a roughly five park neighborhoods to  
13 determine the 2.7 percent. With five parks or  
14 neighborhoods, I am -- or the math says that anybody  
15 would be 95 percent confident that that value could  
16 increase, or it could actually decrease. So there  
17 could be a decrease in the value of our condo.

18 There's another part of estimating value  
19 increase to decrease, and that's relevancy. And  
20 having been in the aerospace industry, and with a lot  
21 of the issues about the 737 Max going on right now, if  
22 you said these two are airplanes, you'd be absolutely  
23 right. You could say these are two airplanes. If you  
24 say that the performance of the jet plane is the  
25 same -- 737 Max is the same as this Cessna 173, you'd

1 be wrong. So relevancy is a huge part of determining  
2 whether or not you have confidence that there will be  
3 an increase or decrease in value.

4 So Mayor Durkin has said that the LID  
5 is -- is a park for all, and in one of her talks, she  
6 talked about, we should think about Stanley Park. So  
7 what I've shown is Stanley Park in the picture, and  
8 the little square piece that says LID is roughly the  
9 size of the LID as compared to Stanley Park.

10 So the park for all and Stanley Park are  
11 both parks, but like the 737 and the Cessna 130, if  
12 you say they're both parks, that's true, but in terms  
13 of relevancy, it really isn't. Because the LID is  
14 roughly 36 acres, the overlook walk is roughly one  
15 acre, the Pier 58 is roughly one acre.

16 So in terms of sample size and in terms of  
17 relevancy, I, as the CEO of the company who's been  
18 asked to invest, I would say, you know, I don't have  
19 any confidence yet that I'll get any return from this  
20 at all. In fact, it might be a decrease in value.

21 So another piece is the special benefits,  
22 and I need to say that I really had no time, and I  
23 haven't received a study of the City's special benefit  
24 study. I just haven't gotten it. So my no special  
25 benefits slides from here on are based on my review

1 without that study, so -- and I was giving -- gonna  
2 give this talk on February 4th at that point where I  
3 said the hearing should be postponed until I've had  
4 enough time to study, but I think you ruled on that to  
5 say you have to get past that. I didn't want to  
6 change my slides, though.

7           So there was another -- Marshall Foster, I  
8 believe, who said, let's take a look at the  
9 Embarcadero because it's a park to park, the  
10 Embarcadero to the LID park, park for all, and,  
11 interestingly, the Embarcadero has been studied.

12           And a quote from the study: While the  
13 project is considered to have completely revitalized  
14 the waterfront area, there are no special benefits  
15 associated with the project beyond a one- or two-block  
16 radius east of the expressway, Embarca- --  
17 Embarcadero. Our home is beyond the one to two  
18 blocks, so based on that study, there -- there is no  
19 special benefit for us.

20           The Parks Council in New York City did  
21 some studies, and they said that congestion, street  
22 parking, litter, vandalism actually result in a  
23 decrease in value of the surrounding properties.

24           I believe it was the City had HR&A -- I  
25 forget who that is exactly -- but HR&A did a study and

1 said, with this park for all, there will be an  
2 additional 1.5 million people in the area.  
3 1.5 million people will add to congestion.

4 The 1.5 million people will produce,  
5 according to the study, \$65 million for businesses.  
6 That's -- that's -- that's wonderful. I have no issue  
7 with that at all. But it will be a decrease in value  
8 to the -- to the homeowners.

9 We're all unfortunately familiar with  
10 Third and Pine, which is about a block away from us.  
11 There was also a picture taken just the other day of a  
12 tent right outside our front door. And that same  
13 Parks Council in New York said, not only congestion,  
14 but they said litter and vandalism also result in a  
15 decrease in value to the surrounding properties.

16 The LID budget is \$347 million. The LID  
17 assessment, including financing, I believe, which is  
18 what -- what we're contributing to, or being asked to  
19 contribute to, is \$176 million. Donations -- and I'm  
20 not sure if that's a correct name exactly, but  
21 basically, they're looking for donations of  
22 \$102 million, so it leaves a shortage of \$69 million.

23 And I put a plus there because things like  
24 overrun possibilities, and real costs, because I think  
25 the budget was first made up many years ago with a

1 very small increase, not having completed the  
2 environmental impact work, these could add to the 69  
3 million.

4 So, again, I'm the CEO of a company who's  
5 been asked to invest, and I'm looking at this, and I  
6 say, well, wait a minute, how much of an issue could  
7 this be. And I'm saying it could go up as high as  
8 maybe \$690 million.

9 I could also look at this as the CEO of  
10 the company going out asking for the money, and  
11 earlier you may remember, I said, if I get all the  
12 money from taxes, my investment is zero. If I can get  
13 \$65 million in additional business, the taxes from  
14 that, I have some revenue, so the return on my  
15 investment is infinite. I have no cost.

16 So from the company asking for the money,  
17 I also have to look at, what's the variable here? The  
18 variable here is the "I," the investment. Am I sure  
19 that I'm going to collect all the money that I need  
20 from taxes so that the return on investment is  
21 excellent.

22 So now, as I look at as the company who's  
23 asking for the money, I'm saying, wow, I'm starting  
24 out with a \$69 million hole. So I know I have to pay  
25 the other 69 million. That's assuming the donations

1 come in. I'll just assume they will. But could it be  
2 as high as 690 million?

3 The Seattle Times in April of 2018 said a  
4 quote: Bike lines that voters were told would cost  
5 about \$860,000 per mile were actually clocking in at  
6 an eye-watering 12 million per mile. That's 14 times  
7 overrun.

8 Some of those dollar amounts estimated for  
9 what projects would cost were clearly insufficient  
10 even at the time. So I think, again, about the budget  
11 that was first put together, I don't remember, five,  
12 ten years ago, do we know that that budget is correct  
13 even at this time.

14 I was -- originally, I thought I might be  
15 talking on February 4th, so I said two days ago, but  
16 this was actually February 2nd, the Seattle Times ran  
17 another article that said, quote [as read]: The  
18 initial contract for the downtown streetcar line  
19 totaled 1.85 million. Today, the cost has grown to  
20 14.3 million, 7.7 times the overrun so far. And the  
21 line has yet to be built, and the contract is among  
22 several now under scrutiny by federal investigators.

23 So it's clear to me that overruns are  
24 going to happen. The overruns will result in reduced  
25 funds for crime, homelessness, vandalism, all

1 resulting in a decrease in value to our home.

2 I want to talk a little bit about special  
3 benefits and general benefits. And the picture that  
4 you see is pre-LID looking down on the street, and the  
5 picture to the right is post-LID. And primarily --  
6 and I'm oversimplifying a little bit -- but primarily,  
7 just on these street views on all the streets, what  
8 you'll see is some more trees, maybe some more shrubs,  
9 you can't see it, per se, but it's a concrete with  
10 knobs on -- on the walk rather than smooth concrete.  
11 So it's trees, shrubs, concrete. Those, to me, are  
12 general benefits. I -- I see no special benefit from  
13 this whatsoever to have more trees than less, with  
14 some people even saying, if you put in that many  
15 trees, you're going to kill the trees because that's  
16 overcrowding. So that -- what I don't show here is  
17 the overlook walk and Pier 58.

18 One of the things that I read and found  
19 out was that the SEPA -- sorry, I forget what that  
20 stands for -- but the environmental work was not  
21 completed. I really think -- think that the LID  
22 should be halted until it is complete.

23 Some of the things that I have found,  
24 CH2M Hill and others have an environmental rule of  
25 thumb for ground projects, not water projects, but for

1 ground projects, and just as a rule of thumb, they say  
2 you should think about four percent times the base  
3 construction cost, or four percent times the 347  
4 million means that, in order to comply with SEPA, it  
5 will cost an additional \$13.8 million. That adds to  
6 the 69 million.

7           They also go on to say that environmental  
8 issues or costs increase when something is over the  
9 water. They didn't have a value, but they said it's  
10 greater than the four percent.

11           So Pier 58 is scheduled to have  
12 49,000 square feet built over the water, so, again,  
13 from my point of view, I could say that the  
14 environmental issues will create more than a  
15 \$13.8 million issue. That adds to that investment.

16           A lot of people in the construction area  
17 that I've talked with -- in fact, a hundred percent,  
18 but I've only talked to about five or six -- said that  
19 the environmental impact study will result in changed  
20 plans, because they'll do a study, they'll see  
21 something that says, uh-oh, this is really way beyond  
22 what we can possibly handle, so they'll change the  
23 plan.

24           But in this particular case, the LID  
25 projects can't be changed. So let me jump back again



1 to the original ROI where I said, I was asked by this  
2 company to put in some money, and what they're going  
3 to deliver was a house with -- with shake roofs, with  
4 vinyl sliding windows, hardwood floor, et cetera. If  
5 the LID goes through, the company has to produce that.  
6 They don't have a choice to say, you know what, I  
7 think we won't do these things any longer.

8           So as the CEO of a company asking for the  
9 money, I'm saying to my staff, you're saying that I  
10 can't make any changes, even including something that  
11 comes up under the environmental, and they're saying,  
12 that's correct. Whoa.

13           The SEPA issue, from my understanding, is  
14 one of the three items that's -- there's a trial  
15 coming up in May. Another part of that trial is -- is  
16 the taxation without representation where the City  
17 councilmembers voted for the LID tax in districts that  
18 they don't represent.

19           And then finally, some disqualification,  
20 there were seven City councilmembers who spoke to the  
21 mayor's office and others during the quiet period when  
22 no discussion was allowed, and I think the remedy for  
23 that is that the seven are disqualified from voting,  
24 but this is all part of a trial. So I was thinking  
25 maybe you might want to wait until May of 2020 to see

1 what happens at the trial because it might stop  
2 everything anyway.

3           This quiet period is a personal issue with  
4 me, because I had called the council to talk to them  
5 about, you know, I think I've got a better way to  
6 finance this that would be better for, not only me,  
7 but for the City as well. And I was told they can't  
8 talk to us because it's a quiet period, so I didn't  
9 have a chance to talk to the council at that point.  
10 But then I hear that seven councilmembers went out and  
11 talked to the mayor's office and others, so it's  
12 just -- I can tell you, it's a personal -- I won't say  
13 what else, but I'm not happy with that at all. But  
14 what my purpose was, that I was going to propose an  
15 alternate or more appropriate funding.

16           So let me say again, if I'm the CEO of the  
17 company, and one of my staff members comes to me and  
18 says, I want to build this house the way I built it,  
19 and I'm going to tax people, I'm going to collect the  
20 money -- I can get an investment for this, but we have  
21 to build this house exactly the way it is. We can't  
22 change it, and we have to get it done in one year  
23 because that's part of the deal.

24           We have another staff member who comes up  
25 to me and says, you know what, we can get the project

1 done just the way the first person said, and I can do  
2 it in a way where, if I need to change a plan because  
3 of SEPA, or if I run into some issue, I can change the  
4 plans slightly, I can give you, the company, I can  
5 give you the flexibility to make those changes. But  
6 it's -- but I can't do it if I collect through this  
7 LID tax.

8           So I'm going to tell you now what I would  
9 do if I was the CEO and I wanted that project to go  
10 ahead. I would take a look at getting some funding  
11 through naming rights. T-Mobile paid \$87.5 million to  
12 get the Mariners park turned into T-Mobile Park. I  
13 think there's a good chance that you could get Amazon  
14 Park, Boeing Park, Google Park, Toyota Park or  
15 whatever, and you should be able to get \$87.5 million.  
16 Who wouldn't want to have their name associated with a  
17 park for all that's supposed to be a fantastic park.  
18 And, in fact, if they wouldn't do it, I think  
19 that's -- tells you something else, which means nobody  
20 out there feels this park is -- they want their name  
21 attached to it. So I think that you can pick up  
22 \$87 million from naming rights.

23           I read there was 14,000 visitors per day  
24 from cruise ships during the summer months. If you  
25 take the 14,000 per day times 30 days per month times

1 four months, and you charge just for those times \$10  
2 per passenger landing fees, you'd make \$16.8 million  
3 per year, and over 20 years, that's about the budget,  
4 the entire budget from that.

5 This one is a little bit tongue in cheek,  
6 but I've got to say it. After someone was murdered  
7 outside of our building, about a block away, a few  
8 days later, Chief Best said, you know what, we've  
9 hired 180 new officers, but we're still 20 people  
10 short, but you know what, we're doing a great job,  
11 major crime is down with that few less -- with 20 less  
12 police officers.

13 So I say, great, we don't need them. 20  
14 times \$86,000, which is the fully loaded officer cost,  
15 I believe, means \$1.7 million a year, so you could  
16 pick up \$1.7 million in over the 20 years that the  
17 City has talked about, and it's whatever that is,  
18 30 -- 24 -- whatever, 17 times 2 times 20.

19 New building fees. Right now, existing  
20 buildings are being hit for the LID tax, but new  
21 buildings are -- don't have to pay anything. At last  
22 count that I saw, there was 213 buildings that are in  
23 the predevelopment or under construction stage in  
24 downtown Seattle, with roughly 15 percent happening to  
25 be in the LID area. So if you have 213 buildings

1 times 15 percent, and if the building is worth 200  
2 million, you multiply that by the 2.7 percent that  
3 we're saying our -- the value of our condo will go up,  
4 and the 40 percent we're charging, comes out to  
5 \$69 million, which, just coincidentally, is the amount  
6 that the City is currently saying we're short.

7 Commercial parking fees. If you increase  
8 the commercial parking fees by 3 percent, you're  
9 currently collecting \$45 million, you would collect  
10 \$1.5 million per year. And, again, over the 20 years,  
11 that's \$30 million.

12 Sunday parking fees. I don't -- I don't  
13 know that if -- if there's Monday through Saturday  
14 fees, if you add a seventh day, we might say you could  
15 pick up one-sixth more in fees, I don't know, but it  
16 just seemed like Sunday fees may not be as much as the  
17 other days. So I've said, if you did Sunday parking  
18 fees, you could get one-tenth, not one-sixth, but  
19 one-tenth of the commercial parking fees, so you could  
20 pick up \$4.5 million per year, again, over the  
21 20 years, whatever that comes out, 9 or 10 million.

22 There's also new businesses that are going  
23 to be happening in -- in the LID area. I don't  
24 know -- I couldn't find anything about what businesses  
25 could be, but you could pick up something there.

1 But my point here is that, you can --  
2 there -- every one of these, or all of them certainly  
3 put together, you could come up with alternate funding  
4 that will do the LID project without the LID tax.

5 Having said all that, there was one thing  
6 I wanted to mention also, which was that our -- we  
7 feel our assessment is too high, so we went and had --  
8 and I have this for -- what do you call evidence?

9 MR. EDLUND-CHO: Exhibits?

10 MR. PATTON: So I'll turn this in in a  
11 second. But we had Compass Washington do a  
12 comparative market analysis on January 29th, and the  
13 analysis was based on actual sales comps as contrasted  
14 to the LID estimated value, and what it showed was  
15 that the LID estimated value for Priscilla and me was  
16 high by \$383,000. And the 383,000 times the 2.7 times  
17 the 40 percent is a little over \$4,000. So if you  
18 forget everything else I've said, I think that there  
19 should be a reduction in the assessment of \$4,136.40.

20 So in summary, when I take a look at the  
21 return on investment for us as the investors, I can  
22 conclude that the return is -- is actually zero or  
23 negative, and there's -- probably you can't do this,  
24 but if I'm being forced to pay this, it seems like, if  
25 somehow my value based on this LID, if we could figure

1 it out, is negative, then the City should give us  
2 money back. But -- I don't think you can do that, but  
3 it seems like you should be able.

4 The ROI for Seattle as the City, the group  
5 that's asking for the money, you do get additional  
6 revenues and the tax benefits from that. This one  
7 study said \$65 million more, so you do get a return.  
8 But your investment is already \$69 million short, and  
9 I think we can certainly see SEPA, overrun, history,  
10 et cetera, it could be as high as 690 million.

11 And so if I'm the company, if I'm the  
12 City, I would say, I can't take 69 -- I can't take  
13 \$690 million from other funds when you've got  
14 homeless, vandalism, you've got other issues, I can't  
15 take \$690 million and put it into this project and  
16 finish it the way I said it would be done, because I  
17 have no choice, I have to finish it the way I said it.

18 So from a math or statistics point of  
19 view, when we took a look at it, the LID could result  
20 in an increase or a decrease in the value of our home.

21 From the Embarcadero study, since our home  
22 is outside of any of the LID positive effects, our  
23 assessment should be zero.

24 From the Parks Council study in New York,  
25 congestion, vandalism, litter decreases the value of

1 our home, and since funds, because of a 69 to  
2 \$690 million overruns, are going to take funds from  
3 vandalism, litter, et cetera, I think there will be a  
4 decrease to the value of our home, and so our  
5 assessment should be zero.

6 The overruns, SEPA's not completed, I  
7 think -- I would guess that anybody, or everybody  
8 would say that after you -- after the City has  
9 completed SEPA, there will be additional costs, which  
10 will, again, lead to additional or less funds for  
11 police or vandalism protection or whatever. And so  
12 based on that, again, there's a decrease to the value  
13 of our home, so I think our assessment should be zero.

14 The trial is in May. We've talked about  
15 that a little bit.

16 So in terms of financing, I think the best  
17 for us, as well as for the City, is to cancel the LID  
18 tax, continue with the LID project, because I tell  
19 you, I, for one, I like the fact that we could have a  
20 million and a half more visitors. I like -- I'm a  
21 business person. I like the fact that it's going to  
22 help -- be helpful for visitors.

23 So I'm not against the project. I just  
24 think that there's a much better way of doing it that  
25 would be protective of us as well as the City.



1           And then lastly, if everything else  
2 doesn't happen, doesn't work well, I'm requesting that  
3 our assessment be reduced by \$4,136.40.

4           And that concludes my presentation.

5           HEARING EXAMINER VANCIL: Thank you.

6           Did you have anything you were  
7 introducing?

8           MR. PATTON: This is -- this is a hard  
9 copy of the presentation.

10          HEARING EXAMINER VANCIL: Okay. That will  
11 be marked as Exhibit 1 for Case No. 63.

12                   (Exhibit No. 1 was marked.)

13          MR. PATTON: And this is the comparative  
14 market analysis that was done.

15          HEARING EXAMINER VANCIL: That will be  
16 marked as Exhibit 2. Both exhibits will be admitted.

17          Anything further?

18          MR. PATTON: Nothing. Thank you.

19          HEARING EXAMINER VANCIL: Okay.

20          MS. THOMPSON: I have just a few follow-up  
21 questions.

22          MR. PATTON: Oh, sure.

23          HEARING EXAMINER VANCIL:

24 Cross-examination.

25          MR. PATTON: Oh, okay.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CROSS-EXAMINATION**

**BY MS. THOMPSON:**

**Q. Mr. Tanase, you started with some of your background as a CEO. You are not a certified real estate appraiser, are you?**

A. I am not.

**Q. And --**

A. That's the reason I went to Compass to get the appraisal.

**Q. Thank you.**

**And you have not received any formal training in appraising or valuing real estate?**

A. I have not.

MS. THOMPSON: Okay. Thank you.

MR. PATTON: Okay.

HEARING EXAMINER VANCIL: Thank you.

We will adjourn. We will return for the continued hearing again tomorrow at 9:00 a.m. with Case No. 89. Thank you.

(Hearing adjourned at 4:48 p.m.)

-o0o-

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

STATE OF WASHINGTON     )  
                                  ) ss.  
COUNTY OF KING         )

I, ANITA W. SELF, a Certified Shorthand  
Reporter in and for the State of Washington, do  
hereby certify that the foregoing transcript is true  
and accurate to the best of my knowledge, skill and  
ability.

IN WITNESS WHEREOF, I have hereunto set my hand  
and seal this 25th day of February 2020.

\_\_\_\_\_

ANITA W. SELF, RPR, CCR #3032