Seattle Waterfront LID Assessment Hearing

Seattle LID Public Comment Hearing

February 18, 2020

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SEATTLE WATERFRONT LID ASSESSMENT HEARING

BEFORE

HEARING EXAMINER RYAN VANCIL

Taken at 700 Fifth Avenue, Suite 4000

Seattle, Washington

DATE TAKEN: FEBRUARY 18, 2020

REPORTED BY: CARISA KITSELMAN, RPR, CCR 2018

A P P E A R A N C E S

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EXHIBIT INDEX

SEATTLE, WASHINGTON; FEBRUARY 18, 2020
8:59 A.M.

HEARING EXAMINER VANCIL: Good morning. I'll call to order this February 18, 2020, continuance of the Seattle Waterfront LID Assessment hearing.

Today's objections include Case Nos. 133, 134, 135, and 353. We'll take a break at approximately 10:00 a.m., and then at noon. And we're anticipating a 3:15 break as well.

Before we jump into those matters, I've got a couple procedural things I want to go over for the record.

And I also want to check in with the City. Last Thursday I asked you to confirm your dates for the hearing. If you could let me know if that's still the case if those dates work for you.

MS. THOMPSON: Yes, those dates are good for the City. Thank you.

HEARING EXAMINER VANCIL: Okay. And do you anticipate, then, is it still that the City anticipates putting on its case in chief for two days, and then we're reserving a couple for cross-examination?

MS. THOMPSON: That's correct.

MR. REUTER: And what are those dates?

HEARING EXAMINER VANCIL: So for the City, the City's case in chief will be April 27 and 28. And then cross-examination is being reserved for the 29th and the 30th.

Some other items that I need to just -- just for calendaring, we may be adding one day to the schedule, or a portion of a day. There were some objectors that contacted our office to be scheduled for a date prior to the 4th. They filed their objections in a timely manner. But we're not here on the 4th to get scheduled. And so we're reaching out to them to see if there's still a need for their time.

Those are individual objectors, is our understanding, at least one of them is maybe 40 minutes, another 30 minutes. And so we'll see how many, if any of those there are, and set up a date for that.

Right now we are looking at a calendar that still includes the 18th and 19th. We should go into the 20th a bit this week. Although I understand we had some efficiency gained with how the objectors had scheduled and so don't need the full day for the 20th.

MR. REUTER: I think that's right. And I want to talk about consolidation with you when I get a turn.

HEARING EXAMINER VANCIL: Okay. All right.

We'll get to that.

MR. REUTER: Okay.

HEARING EXAMINER VANCIL: And then we're on for the 25th and 26th as well. The 25th is indicated as only about an hour objection. Mr. Williger, who had originally scheduled for the 24th, 26th has withdrawn their need for that full day. So there's a single objector on at 9:00 a.m. on the 25th next week. But we're only in hearing all day the 24th and 26th.

We also have March 3rd through 5th. The 5th there will be an interruption at 1 p.m. for a pre-hearing -- already scheduled hearing. We have the March 11th and 12th. And dates for April are April 2, 8, and 13.

Mr. Lutz had requested a couple of dates. And I don't know if the parties have in their records yet whether the 8th and 13th were added from February -- when we originally scheduled on the 4th. But a couple more days were found for his schedule.

And then we'll round out with the City on the dates that we mentioned for them already.

Just a few other notes. The practice has developed through all of these objections that the record is not being left open except possibly for a succinct item wherein maybe it needs to be substituted or wasn't identified for the record.

I wanted to highlight that that also means for closing briefs. So if any party anticipates needing closing briefs or argument, they should bring those during their period.

MR. REUTER: You mean by Thursday morning?

HEARING EXAMINER VANCIL: For you, it would be Thursday morning. For the City, it's in April, yes. And for the people that have already gone two weeks ahead of you, they're already done. So they've been under the same rules as you are.

Material is all posted that -- everything has been posted to the clerk's site. We're still operating right now where -- remember I'm talking to the camera as well, not just you. So this is for everyone to get the same information that we've been practicing all along.

The material that we've got going so far is all posted to the clerk's site, that includes recordings from the hearings. I'm going to seek to have a link added to our website, and also the Waterfront LID site, which I think has been a resource all along so that materials from all the hearings can be more easily accessed.

And I will be posting an order sometime midweek this week when I have an opportunity, when I'm not in the hearing, to condense some of these scheduling items into an order and try to distribute that to the parties as best we can. With 400-plus objectors, not everyone's provided us with e-mails. And we do the best we can to get information out.

We're used to, once the hearing started, that we're all here. Obviously that's not the case with this ongoing hearing.

All right. I think that covers the procedural dates and items that I wanted to get addressed.

Let's start with our first objector.

Please state your name.

MR. REUTER: Thank you. Todd Reuter from Foster Garvey. You mentioned --

HEARING EXAMINER VANCIL: Can you spell that for the record too, please.

MR. REUTER: My last name is spelled R-E-U-T-E-R.

HEARING EXAMINER VANCIL: Thank you.

MR. REUTER: Foster Garvey.

You mentioned, I think, three case numbers. I have a suggestion. And that is that all my -- all my cases be included in what we present today. Specifically I have with me two people, Peter Shorett and John Gordon. They are from Kidder Mathews, and they provided appraisal review and a restricted appraisal.

Particularly with regard to Mr. Shorett, but also part of Mr. Gordon's testimony pertains to all the cases. So I would suggest for efficiencies sake, we have the appraisal review presented only once. But that would be for more than just the cases you listed.

Does that make sense?

HEARING EXAMINER VANCIL: Yes, yes. I understand that you have also not just got today but also tomorrow for some additional case numbers. And then into the 20th, as I mentioned.

MR. REUTER: Yes.

HEARING EXAMINER VANCIL: I didn't intend to list all of your numbers for today.

MR. REUTER: Okay.

HEARING EXAMINER VANCIL: What you have allotted essentially is the two-and-a-half-day period. And you don't have to use it all, obviously. We're looking for as much efficiency as possible.

Clearly to present a good argument for the examiner, being clear and concise and getting it out once is going to be better for argument's sake and for the record.

And so if you choose to consolidate into one, that's going to be much easier than simply bringing the same expert up for each case and doing it individually. It's been the practice for some others, I expect it to be the same practice for others that have collections like you do of a lot of clients.

And so there's no need to treat individual case numbers separately. This is a consolidated hearing with hundreds of objectors. So there's no reason why you would have to be singling yours out.

MR. REUTER: Okay. And so to preview that, Mr. Shorett will give the appraisal review today that will pertain to each of my matters, which are Cases 133, 134, 135, 136, 333, 168, 218, 219, 220, and 353.

And then Mr. Gordon will provide some testimony about the restricted appraisal that pertains to all, what I would call common testimony. But then he'll also testify about each -- each of the properties in which he's been retained. That's the plan.

HEARING EXAMINER VANCIL: If there's any -- I would suggest if there's anything that's either singled out for a particular area, highlight that. Or if there is common information that you're identifying through your witness that maybe applies to seven out of eight or so, just highlight that.

MR. REUTER: Okay. I appreciate that.

HEARING EXAMINER VANCIL: I appreciate you identifying those case numbers. That's how we'll just kind of keep track of them as we go.

MR. REUTER: That sounds good. I think we'll make it clear.

HEARING EXAMINER VANCIL: Okay.

MR. REUTER: So I would like to begin by making some general points. And then I'm going to move into a discussion of what I think are the relevant legal issues.

HEARING EXAMINER VANCIL: And, Mr. Reuter, one thing I want to ask you, are you -- many of our objectors have been representing themselves, have been giving fact testimony. Will you be providing any fact testimony yourself? Or are you simply here in a representative capacity?

MR. REUTER: Well, I did walk the waterfront. But, no, I don't intend to -- I'm not a fact witness.

HEARING EXAMINER VANCIL: Okay. I won't be swearing you in then.

MR. REUTER: I'm not a property owner.

HEARING EXAMINER VANCIL: All right.

MR. REUTER: Okay. So the first thing I want to talk about is the -- what I believe to be the premature nature of the proceeding.

Our understanding of this is that the design drawings, the design process, is nowhere close to being ready. Some -- there's some statements in the ABS valuation study about 30 percent design review.

It appears from what we're finding, and what I'm learning, that that really isn't anywhere close. And there's much of this that -- that's very far from being design ready.

We also don't have the plans and specifications about the project. And there's this big SEPA issue out there that much -- much of the SEPA process has not been completed. So the general point is we, the property owners, are trying to object to what is essentially a moving target, and we're being assessed on an unknown project.

There's slides and there's been slides. But it appears that the process is too early to be pinning down what's really going to happen and what it's really going to cost.

Second thing is -- and the hearing examiner touched on this.

There is going to be more discovery in this matter. There will be depositions and production of documents by the City. There may be some motion practice to come. That, combined with what I'm identifying as a premature process makes me want to leave our hearing open because this case is evolving as time goes forward.

So I'm -- I'm just registering that. I think because it's -- because we're too early in this game and because there's so much happening, for instance, there may be depositions after my hearings are closed. And then that evidence could then be presented by the City in their case when the door is already shut on my case. So I think my case, in fairness, should be left opened in the event that there's more discovery about the case before the project changes.

HEARING EXAMINER VANCIL: Do you have a specific request in that regard?

MR. REUTER: I would like to leave my hearings open.

HEARING EXAMINER VANCIL: Just wide open or something specific? As I stated at the beginning, no one is being left, just we can put in whatever we want.

MR. REUTER: Okay.

HEARING EXAMINER VANCIL: I do have a number of individuals and representatives saying, I need it left open for X or Y. And generally those requests are being accommodated.

MR. REUTER: X would be deposition testimony. Y would be documents produced by the City in the future, meaning --

HEARING EXAMINER VANCIL: Do you have any live requests with the City for your cases now that you're expecting a response?

MR. REUTER: You know, this has all been done by e-mail. I don't think anybody is using request for production documents. I'm not sure there's any deposition notices. Maybe those -- I haven't served any deposition notices. So I'm not sure how to answer your question about what a live request is.

HEARING EXAMINER VANCIL: Well, have you generated any requests to the City that have yet to be responded to or that they give you a date that they say we'll be back to you by February 7th, for example.

There are parties that made those types of requests, so when they asked to leave the record open, they'd come to me and say, We requested documents by the 7th. We just got them. We need to review those. Again, I know the bounds of the universe, what they're requesting.

MR. REUTER: No, I have not. But I have been a party to the phone calls and e-mail between Mr. Phillips, for instance, and the Perkins Group. That's what you're referring to.

HEARING EXAMINER VANCIL: No. I'm talking about each objector, specific requests that they've --

MR. REUTER: I haven't -- I haven't sent

e-mails to the City asking for documents myself.

HEARING EXAMINER VANCIL: So you don't have any live requests with the City?

MR. REUTER: No. But I consider myself to be a party to the request in the group.

HEARING EXAMINER VANCIL: Okay. Is there anything else that you're asking that the hearing be left open for?

MR. REUTER: No.

HEARING EXAMINER VANCIL: I'm going to address your request at the end of your period when you've done your presentation for three days. At that time, you can identify more clearly what you're asking for, that would be helpful.

MR. REUTER: Okay. I'm now going to talk about what I think are the pertinent legal issues. And then I will be calling Mr. Shorett to testify.

We've all heard people refer back to the promotion of this project using the waterfront for all moniker. And I believe that was the purpose for this project.

And my point is that the purpose of the project shouldn't change now since the LID has been formed. It should be a waterfront for all. And that means it should be paid for by all.

Our main overall objection here is that this is the wrong way to raise money. This is not an appropriate LID. Might be a great project, but it's a wrong funding mechanism. If it's waterfront for all, it should be funded by all.

The next point is the -- the key legal issues that our presentation will focus on, the Heavens case has been mentioned, of course, 100 times already. But the gist of that case, the key rule, is still the rule.

And that is -- and I'm quoting here, All such assessments have one common element. They are for the construction of local improvements that are appurtenant to specific land and bring a benefit substantially more intense than is yielded to the rest of the municipality.

The benefit to the land must be actual physical and material, not merely speculative or conjectural.

And, of course, if we present evidence that the -- there is -- that that standard is not met, then the burden shifts to the City to prove that we're wrong.

So let's unpack what I've just read from Heavens. The first is that the improvements must be appurtenant to specific land. So I'm a lawyer. Many of us here are lawyers. So what do we do when we're wondering what a word means. We look at Black's Law Dictionary.

Black's defines -- this will be, I guess, my Exhibit No. 1.

HEARING EXAMINER VANCIL: All right. I'll allow this as Exhibit 1. Typically, cases, code, that type of thing don't need to be entered as exhibits. They're not fact. The law speaks for itself.

MR. REUTER: Well, okay.

HEARING EXAMINER VANCIL: But if you think perhaps on appeal that a judge can't find this page in Black's, maybe we can keep it in there.

MR. REUTER: Let's put it in the record.

HEARING EXAMINER VANCIL: Okay. We'll do it as Exhibit 1.

(Exhibit No. 1 marked.)

MR. REUTER: Appurtenant is defined in Black's, quote, annexed to a more important thing. Webster's -- and I would like to also mark this.

HEARING EXAMINER VANCIL: Marked as Exhibit 2.

(Exhibit No. 2 marked.)

MR. REUTER: Appurtenant is defined by Webster's as a legal accompany -- constituting a legal accompaniment. So these two definitions form what should be the basis of our thought as to whether these improvements, the proposed improvements, are appurtenant.

Do they run with the land? That's what we -- we're used to hearing appurtenant used in terms of an easement. Do these improvements transfer to title? If my client sells its hotel, does the new owner get these same things?

So we -- we're going to be asking the hearing examiner and -- and ultimately, the City counsel, and perhaps the courts, are trees on Alaskan Way in any way appurtenant to a hotel on 4th or 5th or 6th?

Is an extra staircase going down to the waterfront somehow appurtenant to an office building on 9th and Stewart?

Appurtenant doesn't necessarily have to be on the property, a physical thing like a sewer pipe. I know the case law on the subject. But it has no meaning at all if you say a staircase or a bike lane on the waterfront on Alaskan Way is appurtenant to a property on 6th and University.

Appurtenant in that world has no meaning at all. Appurtenant to specific land would have no meaning at all.

The next part of the Heavens standard says the benefit must be substantially more intense for this -- for the assessed property than for the rest of the municipality.

So -- so how could it be that the overlooked walk, which is really the only substantial part of this project as far as I can tell, would be substantially more intense of a benefit for the Westlake Center, for instance, versus property a few blocks away or versus someone like me who comes to town and walks -- walks down the staircase.

If there's a new staircase there, I can use it just as well as somebody downtown -- a downtown property owner can use it. The benefits proposed are not any more intense for them, than for the people who, for instance, with the Edgewater.

There's property right across the street, across the street that isn't in the LID. There's no -- there's no more intense benefit for them than the people across the street or the people that have hotels up by the Seattle Center.

There's also been several references to the jury instructions. Another great place lawyers look for the law. The pattern jury instruction, 150.07.01, says what benefits may be offset. This is law approved by the Supreme Court as to what a special benefit is.

Special benefits are, quote, "Those that add value to the remaining property as distinguished from those arising incidentally and enjoyed by the public generally. Benefits may be special even though owners receive -- other owners receive similar benefits."

So what this tells us is that if -- if a benefit arises only incidentally, it's not a special benefit. If it's enjoyed by the public generally, it's not a special benefit.

So Mr. Shorett is going to talk about this in more detail. But I submit to you that there is only incidental benefit by these proposed improvements. And there's only benefit to the public generally.

Promoting the economy, economic development raising -- water raises all boats, that stuff, that's not actual. It's not special. Improvements several blocks away are not appurtenant, nor are they material or actual.

Mr. Shorett is going to testify his focus will be on the appraisal review and, in particular, the absence of special benefits and he's going to talk about the market capacity of what is actually happening with -- happening with the properties for which they've been retained -- the actual financials, the actual market capacity in the hotel industry and in the LID area.

He's going to go through his appraisal review. He'll talk about the before and after standard. A point I ask you to concentrate on is causation.

Is there any evidence -- if we -- if we assume the proposed improvements actually provide a value lift, is there any evidence of causation.

So there's a lot of things going on in Seattle. There is no credible way that the proponent here, the City or the LID, the waterfront, can establish that the LID improvements are causing a rise in value. There's too many other factors involved.

So we'll challenge on causation.

Mr. Shorett will talk about special versus general benefits. And particularly review the ABS Valbridge method of measurement.

He'll state the obvious, that the LID boundaries are so big as to be meaningless. In other words, they lose their -- the idea loses it's credibility when it gets to be so large that it encompasses the entire downtown.

He'll then talk about the failures in the methodology that lead to essentially an inequitable analysis. He'll tell you about this match and para analysis that appraisers are supposed to do, but that were not done in ABS's mass appraisal.

He'll talk about anecdotal, which is what ABS presents is really anecdotal apples to our oranges that what they are presenting is a formula, not a calculation.

And he's done the calculations. Our witnesses have looked at the data and not done it by -- by a mass approach that's really anecdotal.

But ultimately, I think there's just the commonsense aspect of this. There are so many tiny changes here like a dozen more trees or 16 extra trees down on Yesler or a few more shrubs on Pine and 5th when there's already shrubs there. Many of these things already exist. The areas are already nice.

The incremental six more of these or better lighting instead of the existing pretty fancy-looking lighting, is that really substantial and intense? It doesn't seem that way.

Again, the LID is the wrong vehicle to raise the money, because it's not a targeted -- it's not targeted to benefit these people under the legal standards.

At the end of this, we will -- it will probably be Mr. Gordon, our -- our request here is that the assessments be zero, but Mr. Gordon will have -- will present appraisal testimony of these specific properties that shows the ABS valuations are way too high.

So even if you -- and I mean twice -- twice too high, some of them.

So even if you said, Okay, there will be a .9 percent value left, it's not on 100 or 150. It's more on 75. And so we'll present that as well.

And then I'll also have some client representatives come testify. That will be our case. So first, I would like to call Mr. Shorett.

Should he sit here?

HEARING EXAMINER VANCIL: Right here.

MR. REUTER: With his back to the camera?

HEARING EXAMINER VANCIL: Yeah.

Please state your name and spell it.

THE WITNESS: Peter K. Shorett, S-H-O-R-E-T-T.

* * * * * *

PETER K. SHORETT, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

HEARING EXAMINER VANCIL: Thank you.

DIRECT EXAMINATION

BY MR. REUTER:

Q. Good morning, Mr. Shorett. What do you do, what's your job?

A. I am a commercial real estate appraiser and consultant for Kidder Mathews. And I also -- and the president and lead -- the management responsibilities of the valuation group at Kidder Mathews.

Q. How long have you been in the appraisal

business?

A. Since 1980.

Q. Okay. Can you tell us a little bit more about your background, what's your designations and affiliations are. Essentially, why we should all be persuaded by what you have to say.

A. Well, absolutely. Sure.

So I've been with Kidder Mathews since 1995. I started in the business in 1980 with, as I mentioned with a firm called Shorett and Riely, which is my father's firm and his partner Keith Riely.

I received my MAI designation, that's Member of Appraisal Institute, I believe was in 1986. And then I pursued the CCIM designation, which is a commercial brokerage designation. I did that once I became part of Kidder Mathews.

I received my state licensing somewhere along the line in there. I've since been awarded the counselor of real estate designation, that's a by invitation group of high-end real estate consulting professionals, probably 2,000 around the world.

I am also a FRICS, which means I'm a Fellow of the Royal Institute of Chartered Surveyors -- which means -- it's a European designation for appraisal, and I've done appraisals in Europe and European countries.

I have been involved in property types, valuation and consultation of property types ranging from tidelands to office buildings to industrial buildings, the Space Needle.

I've been practicing for quite some time, and my client base consists of property owners. I do legal work, agencies. I do work with the City of Seattle. I contract with them. A number of other different types of...

Q. Okay. The law firms you've done work for would include K&L Gates?

A. I think so. I would have to go check my database. I'm not -- my memory isn't quite good enough to remember everybody, but yes, I think we've done work for K&L Gates. I'd say that plurally, because if it wasn't me, it would be somebody at our company, yes.

Q. Okay. So that sounds good.

Let's dive into it.

What did you do for this LID assessment?

A. If I can, I would like to back up a little bit because it is important to understand what an LID is. And what I mean by that is, I just think it's good to put this out there.

I have been involved in the appraisals of properties for the formation of an LID. Not that many of them, but a couple of them. And I also personally tried to create one for my neighborhood to get the power lines underground, and I, unfortunately, failed. I needed that 60 percent that you need to get to have the majority to do that.

So just the point being I'm familiar with the LID process. I understand it. I understand what the mass appraisal concept is. And what I mean by that is stepping back, as State certified appraisers and members of the Appraisal Institute, we follow a code of conduct and appraisal standards called the Uniform Standards of Professional Appraisal Practice.

And in those standards are -- or in that document are standards for preparing appraisals, appraisal reviews, mass appraisals, that's Standard 6, and the like.

And I'm bringing this out in the context of when one does do a review of someone's work, which is what I'm doing and I'm about to testify on, is there are certain standards for that as well. Standard three of use path. And it basically identifies the obligations and the responsibilities of the professional for critiquing someone else's work.

And I think -- I would like to be clear on a couple of points. One you made earlier about my testimony being specific to the review. The reviews that we actually performed -- and I say "we," plural, and my wife always gives me a hard time, why "we," who all is involved.

I didn't do all this work myself, although I was primarily in charge of this. John, Gordon, who sits over here, provided significant appraisal assistance in these reviews. The senior analyst Jesse Baker, who has great hospitality expertise provided -- provided assistance in this as well.

But what I did do and signed and authored are individual appraisal reviews of each property that we're working on. I believe there's five hotel properties.

The properties that Mr. Reuter is representing that are not hotel properties, I did not do appraisal reviews for those. The --

Q. And so the ones that you did work on, just for the record, are the Monaco Case 133, the Vintage 134, the Edgewater 136, the Thompson Hotel and Sequel Apartments 168, and the Hilton 353?

A. That's correct.

Q. Okay.

A. And I -- I -- I bring that up because the -- the process grew. And I can explain that. But what we -- what I knew is that a review of the benefit study was going to involve a couple of -- two probably distinct components.

The first is actually the study itself. How it's prepared. The methodology, the rationale, et cetera.

And then the other part is the impact that it has on the value of each of the five properties we just referenced.

So I have prepared -- and you -- Mr. Hearing Examiner has the copies of each of these reports. And I just lay that distinction out because the report consists of the front end, I guess I'll call it, describing the property that is being reviewed.

And then a comment about the appropriateness of the special benefit study itself which references what I'll call Exhibit 1 as an attachment to each review. And then inside of each of those individual reviews are basic comments specific to each property.

And I'm making that distinction because Exhibit 1 relates to all five properties. It not only relates to these five properties; it relates to other properties that I have prepared appraiser reviews for that you will be hearing testimony later for.

Not you, Mr. Reuter, but Mr. Hearing Examiner will be hearing other testimony about that.

So you asked me the question about what I did --

Q. Yes.

A. -- to do the appraisal review. And I'm sorry. But it's important that you understand that we're following appraisal standards and that we're doing this correctly. And that there are five separate reports.

I would like to also kind of begin a little bit too, about you asked what did I do. I was initially contacted by Mr. Macauley back in 2017, 2018. He was looking for some assistance on the benefit study. And I initially had agreed to assist him.

But shortly thereafter I thought, you know, that isn't really the direction I want to go. I sent him a certified letter apologizing that I'm going to have to terminate the assignment. I did no work for him. I met with him once. I think it's fair that everybody knows that.

It's also fair that you all know that I know Mr. Macauley. I mentioned the firm that I worked with, Shorett Riely, SOB, son of boss. My father Larry Shorett was an appraiser. I'm proud of that. He's a great man that did a great job.

Bob Macauley is also the son of an appraiser and our dads knew each other. So I knew Bob Macauley. I think it's just important to get -- in our world, as it is probably in many others, it's a small world of the real estate professionals.

But I mention that because shortly thereafter I began working for a couple of significant clients advising them on the LID, and the impacts of the property. And they're substantial, significant clients. The property holdings, property owners.

And I was actually engaged to attend -- I presume some of you have heard that Jack McCullough was basically organizing a group of property owners to understand the impacts of the LID to their property.

And I was fortunate enough to be able to attend those meetings. And so I've been very familiar in following this project for quite some time.

I had the -- the benefit of reviewing the initial feasibility study, if you will, that was prepared by Mr. Macauley in 2017. I reviewed -- and when I say review, that was not under standard three of the technical. I perused the reports. And then I looked at the 2018 report as well.

And then, basically, again, attended the meetings, and then -- then the final assessment role came out the end of last year. And the benefit study came in. And the addendum and all of the other supporting documents.

Also, and I think it's fair to say, you know, we had some other clients that we were all working with. Not that Mr. Reuter's representing. But, you know, I've been active and following this and understanding. And I pay particular attention.

One of the reasons I pay particular attention is I live on Bainbridge Island. I ride the ferry to work. And I come and walk the waterfront. I don't need to get into too much detail. I go back a long ways on the waterfront as a high school kid working down at Pier 55 at Fisheries Supply, an old marine store. I mean, I know the waterfront.

It's just -- I'm a boater. I love water. It was my nature to follow this. And then I had an interest and understanding in trying to track the events that were occurring. So I can probably answer your question now.

Q. Okay. So what I would like to do is go through the appraisal review.

So -- so would you -- do you have one there in front of you?

A. I do.

Q. Which one do you have?

A. I happened to grab the Hilton.

Q. Okay. Tell us -- tell us what -- I would like you to kind of give us an overview of what's in this to

the extent that you haven't already. And so we can understand --

HEARING EXAMINER VANCIL: Mr. Reuter, can I ask you to pause for a moment.

You aligned hotels with case numbers and now you're referring to the hotel. I want to make sure I'm tracking you. If you can do that again, I would appreciate it.

MR. REUTER: The Hilton is 353. But, again, this testimony is --

HEARING EXAMINER VANCIL: I understand that part. But I still want to track each case. You may refer to a specific file that I need to pull something out of that, that type of thing.

MR. REUTER: Okay.

HEARING EXAMINER VANCIL: Let's go through each of the numbers again, 133, and which hotel?

MR. REUTER: The Monaco.

HEARING EXAMINER VANCIL: 134.

MR. REUTER: Vintage.

HEARING EXAMINER VANCIL: 135.

MR. REUTER: Westlake Center.

HEARING EXAMINER VANCIL: So not a hotel?

MR. REUTER: Correct.

HEARING EXAMINER VANCIL: 136.

MR. REUTER: The Edgewater Hotel.

333 is the Pioneer Square Hotel.

168 is the Thompson Hotel and the Sequel Apartments.

HEARING EXAMINER VANCIL: And that's all the hotels, right?

MR. REUTER: And the Hilton. And then there's three additional.

HEARING EXAMINER VANCIL: The Hilton is 353?

MR. REUTER: Yes.

HEARING EXAMINER VANCIL: Those are the ones that were covered by your witness that there was an appraisal review done for.

MR. REUTER: There was not an appraisal review for the Westlake Center or the Pioneer Square.

HEARING EXAMINER VANCIL: I'm sorry. For the hotels. So the Pioneer Square hotel was left out of the other hotels.

MR. REUTER: Mr. Shorett didn't do an appraisal review for the Pioneer Square Hotel or the Westlake Center. The ones he did a review on --

HEARING EXAMINER VANCIL: Are the other hotels. He listed all of the hotels.

MR. REUTER: Yes.

HEARING EXAMINER VANCIL: All right. Thank you.

MR. REUTER: Square?

BY MR. REUTER:

Q. Okay. So can you give us an overview just of the structure and then we'll dive into Exhibit 1.

A. Sure. Again, I would -- what I think is important to understand is in an appraisal report, there is the process, and then there's the reporting.

And what you really -- the appraiser review ends up being a byproduct of that's the work that's done to do the review and the critique of the report.

I say that because what you need -- what one needs to understand when doing a review is what are you reviewing for? And every appraisal assignment has what's called a scope of work. And that could be a mass appraisal, and it could be a review. So maybe that's exactly what we're talking about here, or it could be the specific appraisal itself.

So rather than focus on looking at the document, what I would like to share with you is just the concept of the process of performing a review.

And that is to -- and this applies to most every appraisal review that's done. And that is to identify what the scope of work is. For a typical -- a normal appraisal, I say "normal" for financing for whatever it is, whether you're valuing the entirety of a property, it's pretty clear. You're valuing the fee simple interest in a property.

For the special benefit study itself focuses on something that's a little bit unique. It's the value of the property immediately before and immediately after an improvement.

So it's a little bit different than a straight-up -- straight or tactical appraisal review, if you will. So what I'm trying to convey is that that is what the scope of the appraisal is.

And in order to understand that, or to analyze that, you need to understand what is the project? What is the condition of the property before, immediately before? And what is the condition of the property immediately after?

So that -- in fairness to the public, up until January, the public had really no idea what the condition of the property looked like before. And I know this having gone to the hearings, have been told by City representatives of the waterfront, that you can reference the EIS, that's what it will look like. There's some documents that we'll put in there that show some before and after scenarios.

But short of that, there would have been no formal drawings or exhibits prepared that were made available to the property owners.

Short of the descriptions contained in the benefit studies in the two, the preliminary, and then the final.

I bring that up because what it ends up being, now that I have access, I've treaded the entirety of the addendum, which is a great document that shows what the project will look like before and after, what the LID project is. Because it puts it in perspective of what actually the condition would look like before and after.

And I want to be clear on the before and after. I think it's really important that the hearing examiner understands this. And that is that -- probably does. But I think it's important to get it on the record.

Following the demolition of the Alaska Way Viaduct, there are obligations by the City and various agencies, I can't state them, I'm not a transportation expert, to restore the waterfront to a condition that is satisfactory to public agencies, meaning the improvements need to be consistent with -- and conform with current city infrastructure codes for transportation.

It needs to have Alaska Way improved, the actual asphalt, whatever traffic signals need to be there, sidewalks, pedestrian trails. These are all actually shown -- we'll get to this as part of my testimony -- in the -- in the addendum.

So as of January, the public now knows, okay, this is what it's going to look like. We had an idea and we were -- so putting all of this together, this came together. We were fortunate that we had the resources to -- to employ to get this done because this information came pretty quickly in order to get our appeal filed on February 4th, I think.

And so, again, I think it's really important to understand that that's the key issue is what would -- what are the values of these 6,238 properties immediately before and immediately after this -- this project.

So that effectively is the scope of the assignment.

Q. How does the "before" incorporate the -- the changes to the -- the City was already obligated to do because of the removal of the viaduct? How does the "before" -- is it before the -- the removal of the viaduct? Or is the "before" assuming that those obligated changes have already been made?

A. It's -- the "before" assumes that those obligated changes have already been made. In other words, because the viaduct was removed, there's now an obligation to restore the waterfront streets.

Q. So regardless of the LID?

A. That's right. That's right.

Q. Yeah.

A. So these are numbers just for reference. Total project cost, $724 million. That's off the waterfront website. Of these, 346 -- these numbers I heard different ones, 346, about half of that amount is for the LID improvements. Okay. LID improvements. And then the other half are the costs to restore the roads, sidewalks, and landscaping.

It's not really clear how much of those LID improvements -- it's not 100 percent clear exactly what the dollar amount would have been if they did not have the LID improvements, if you understand. But at least and by reference or inference it would be at least $370 million dollars.

In other words, the City through whatever funding sources, WSDOT, federal, whoever it's going to come from, was obligated, no matter what, to restore the waterfront to a certain level.

Q. So if we were trying to understand the "before," it wouldn't be what's out there if we walked around today because -- because the required changes haven't been made yet. Right?

A. That's correct.

Q. Okay. So -- so the "before" isn't what it is today. The "before" is after they've made additional improvements down there, and then the "after" is after those of -- after that stage until these LID improvements have been made?

A. Right. And -- you know, I'm not -- I'm not trying to be critical of agencies for not -- you know, providing certain information.

The waterfront project is going forward regardless of this -- well, I shouldn't say regardless -- is going forward. And that has been the impetus of this. That's where all the study has been. There's not been a real empirical study, to the best of my knowledge, other than what's shown on the addendum that shows what it would have looked like after how long it was taking to construct. That's what I'm trying to get.

The timeline to construct, had they done nothing and had they not done the LID improvements may not be that much different than if they do the LID improvements.

So, again, I don't want to belabor this. But having walked on the ferry for the past 20-some years, we've had the seawall construction and all of that activity that's been going on.

And then you have the Alaska Way Viaduct removal that's been going on. And now you have this -- my whole point is that it is not like it is today. I mean, the "after" condition without the LID improvements would be far superior to what you see today.

Q. Okay. So we're looking through your appraisal review.

A. Sure. Yes.

Q. There is a letter, we're looking at the Hilton version. There's a cover letter --

A. Yes.

Q. -- to the client. There's then a summary.

What's the purpose of the summary?

A. These are basically the -- the minimum reporting requirements to provide a credible document that somebody could look at and -- and rely on. And in particular, we identify the users, it's important to identify the users, of which you are one, and the hearing examiner is another, and the city council members are another, and Mr. Macauley is another, that is able to use this and rely on it.

It basically identifies dates of value, the purpose, and the like. And it identifies what the scope is in fairly simple terms.

Q. And then there's a conclusion page?

A. Yes.

Q. Conclusion would be where someone would go to look at for the high-level summary of your conclusions?

A. That's right, yes.

Q. Okay. And then there are pages that follow in this one looks like 7, 8, and 9, 10, 11. What are those pages?

A. Well, let's go back to -- let's look at page 7. The first, I'm only going to --

HEARING EXAMINER VANCIL: Before you proceed, if I can ask you to pause for just a moment.

Are you intending to introduce a copy? Or are you assuming that I have a copy in the file?

MR. REUTER: I'm assuming you have a copy.

HEARING EXAMINER VANCIL: Okay.

MR. REUTER: It's Exhibit A.

HEARING EXAMINER VANCIL: I need to make sure I have it first. We're going to pause for five minutes to make sure I have the right case number. And you're referring to 353, right?

MR. REUTER: Yes. It's Exhibit A to our objection.

HEARING EXAMINER VANCIL: Thank you. We're going to pause.

(A break was taken from 10:03 a.m. to 10:09 a.m.)

HEARING EXAMINER VANCIL: All right. We return to our record from the morning break.

Mr. Shorett is still on direct. And you were referencing Exhibit A to the objection for Case No. 353.

MR. REUTER: That's correct.

HEARING EXAMINER VANCIL: Please proceed.

MR. REUTER: Thank you.

BY MR. REUTER:

Q. Okay. We were talking, Mr. Shorett, about your conclusions in your appraisal review. This is page 7 in the -- in the Hilton review.

Could you give us an overview of the conclusions page?

A. Sure. So the -- the conclusions -- and, again, what I would like to point out is the first five paragraphs, if you will, relate to the review of the benefit study itself and the validity and the appropriateness of the conclusions reached in the benefit study.

And then after that is a discussion of the impacts and the expected revenue generation that is implied from the increase associated with the value increase estimated in the benefits study for the particular property that's been reviewed, in this instance, it's the Hilton Hotel.

Q. Does that latter part relate to the capacity in the market?

A. Yes. It relates to supply and demand. It's a -- it's a -- it's a way of demonstrating that if -- if you expect the property value to increase by one percent, then that implies a one percent increase in revenue expectation, not just from the hotel units themselves, but all other revenue sources.

And John Gordon will be able to go into a little bit more detail on this. But the high-level perspective is to recognize that the implications of the value increase result in a potential shortage of room supplies, supplies for each particular hotel. Meaning if you are operating at a 90, 92 percent, so let me -- again, this is John Gordon's expertise, but I think this is what he lays out really quickly.

Q. This is very important. So take your time.

A. It is. In fact, you know, John again will be able to explain this. So I'm going to steal his thunder a little bit here. But he will add on to it.

One thing that's very unique about hotel property -- not one thing -- hotel properties are really unique in how they're valued.

Q. As compared to an office building, for instance?

A. Exactly. This office building, which by the way

I appraised for the City back in 1995 for their purchase of it. It's very simple to say that the rents in this building would approximate $40 per square foot, full service, meaning that you need -- you're going to receive the $40 a foot minus operating expense equals a net -- net operating income. It's a very simple analytical approach to a real estate investment, that's what most properties in downtown Seattle consist of.

It could be an apartment as well. The same thing. You're going to get so much rent per square foot for the unit minus expenses, gets you a net operating income. You convert that into a value by capitalizing it into a value. That's a very common valuation methodology.

Q. So how are hotels different?

A. Well, they're very different in that unlike an office building or even an apartment, office building usually has leases that are three, five, ten years in length, so there's a predictability of income. You know what the income is going to be for a year. An apartment is not too much different. The shortest is probably a six-month lease, it could be shorter, but in general. An annual lease, you know that there's predictability in the income.

In the hospitality industry, it's completely different. You basically are -- are generating revenue from rooms that you rent on a daily basis. Sometimes longer if there's a convention assigned to it. But the terms, and, again, John Gordon will be speaking about this, average daily rate, which is the average rate over per day that you receive for your apartment unit -- sorry, your hotel unit over the course of 365 days times an occupancy rate. You're not full all the time. You have turn. You have to maintain the rooms, the units, the rooms. They need to be cleaned.

And then there's downtimes on Sunday nights where there's not a lot of people there.

So the actual income generated from leasing or renting, it's not leased, from a hotel is -- is variable. And it can change immediately. 9/11 is a good example when all hotels stopped renting, being able to lease because there was no more air travel. You couldn't -- you couldn't -- you couldn't rent rooms very easily. So --

Q. Whereas with an apartment or an office, you got a lease with fixed income.

A. Right. Yeah. It's much more sustainable and durable. Over time it will be impacted and affected.

Also, it's a -- there's these other revenue sources. Food and beverage which, you know, you go to a hotel, are you going to eat there, or are you not going to eat there? Associated with that are the costs of goods sold. You got to provide the food. You got to provide the labor to serve the food and all.

It's a very unique ongoing business operation that is -- you know, I've been in the business for almost 40 years now. And I've appraised my share of hotels. I have John Gordon working with us for a reason. Because he knows how to do hotels.

I'm competent in being able to understand them, explain the value of them. But he's far more efficient in understanding of them than I am.

Q. Okay.

A. But my point is, is that I'm thoroughly competent in understanding how they work. The point then to this analysis is that what it's showing, and if you look at some of the hotels, not necessarily ones in this group, but there's some hotels that the values have increased by three percent. And that translates to additional -- you need additional demand to satisfy the revenue to support that value increase.

Q. Let me -- let me ask you about that.

First, what you're talking about is shown generally in pages seven through 12 of the Hilton appraisal review?

A. That's correct.

Q. Okay. And when you said a three percent value increase, what you mean, you are referring to the ABS valuation study that assigns an expected three percent lift from the benefit -- from the LID improvements.

A. It assigns some level of value in increase, yes.

Q. And how much is it in the -- for the -- for the Hilton?

A. I think the Hilton is just under one percent.

Q. Okay. And so -- so the point is, you're looking at whether this hotel can bear that. How are they going to pay for that? How -- what is that? What is the impact of that supposed one percent; is that right?

A. That's correct. And, again, just to kind of maybe give it a little higher level summary of the conclusions. The conclusions are, number one, the validity and appropriateness of the study itself. And then number two is the impact that the estimates in the benefit study would have to the property if they were actually accepted, and how the property would have to change their performance to meet those value increases. That's fair to say.

Q. Okay. And whether they can?

A. And whether they can.

Q. Okay.

A. Right.

Q. All right.

A. I'd also -- I think it's also important to understand that there are -- in doing an appraisal review, let's go back to the scope.

In a mass appraisal it's a little bit more unique than just the single property appraisal. If I was doing an appraisal of a regular property -- I'm sorry, if I was doing a review of an appraisal of a regular property, there are a number of -- of outcomes of that review.

One could be just to simply reject the appraisal in its entirety. And not provide an opinion of value. And that is -- if you reject the appraisal, you need to have the basis and support for it.

Effectively -- another outcome would be that you accept the appraisal with some level of modification that the appraiser might make.

In this instance, I did not make a modification. I do not accept the appraisal, the benefit study. But for -- for supportive purposes, we provided this additional analytical presentation that says, and even if you were to accept it, these are the implications.

So the rejection of the benefit study as being credible is focusing on the methodology in the benefit study itself. And then pulling one of the 6,238 properties out, which is the subject technically of the review. And saying, and here is the specific impact it would have to that property.

Q. Okay. And that specific impact is pages seven through 12?

A. That's correct.

Q. Okay. And would you like to go through that with the Hilton as an example? Or is that better for Mr. Gordon?

A. Well, I think that the best thing to do is for me to comment -- yeah, I think ultimately in simple terms, the -- the expected demand, required demand puts a strain on the hotel operations.

I think ultimately John can opine or discuss this more succinctly than I can, but I understand it. It's interesting in the bigger picture to understand that it's not -- I just got to share this with you. It's not just one percent across the board, 12 months out of the year. It's more narrowly focused to a period of probably closer to six months.

Q. Why is that?

A. Well, because during the winter months, I think September, October, November, December, January, February, end of March, I may have missed a month, those aren't really tourist months. Those aren't tourist draw months. John will be able to talk about this in more detail.

But the composition of the clientele that visits a hotel consists of business -- you know, business-oriented customers, leisure customers, tourists. The tourists activity is what spikes the occupancy in the summer months. And so if we're talking about a benefit -- or we're talking about a project, we're talking about a special benefit. And the reason there's this benefit is because it benefits these particular businesses that are within this LID boundary. They're only going to come from those six months out of the year that -- that the tourists will be there.

So the other times of the months, such as now when you're here on business travel, you know, you're not -- you're not fitting that tourist category segment. Occupancies at this time of year are lower than they are in the summer.

So it just -- when you hit the summer months and the expectation is because of this project you're going to receive this benefit, you've got to have the room supply to be able to support it.

And what -- what John Gordon will be able to explain is that right now most all of these hotels are operating at their maximum efficiency. And the ability to squeeze out additional revenue from this is going to be very difficult and challenging and is the -- the forecast increases are not supportable.

Q. So why don't they just raise their rates?

A. They can -- John will speak to this a little bit more clearly than I can. But at the end of the day, there's competition for rooms.

Q. Okay.

A. And rate is still important. People care about that. If you're looking -- paying 230 versus 220, versus 210, you know, there's going to be the price-sensitive group that picks the lower pricing and you lose out on that client.

Q. Okay. That makes sense. Should we turn to Exhibit 1?

A. Sure.

Q. Okay. Tell us generally what is the exhibit -- what is Exhibit 1. And then we can walk through -- tell me -- tell us what it is, and then let's walk through the different pages of it.

A. Well, so Exhibit 1 is the attachment to the appraisal review. The first five paragraphs that I note here that I talk about, and I'm going to just paraphrase some of these. It summarizes -- the attachment is the detailed support for the summary of the reviewer's conclusions that are this appraisal is -- is not credible. It's misleading. It provides opinions and property value. It provides inappropriate opinions of property value before and after the LID improvements.

It relies on case studies that are in completely different settings than the difference between the properties before and -- immediately before and immediately after the LID improvements. And they're a stark contrast to the conditions that would be assumed without the LID improvements.

And then it also talks about -- it critiques the economic studies that were used by -- by the ABS benefit study appraisal. And then we kind of talk about some of the more granular difficulties of even trying to estimate property value increases of a half a percent to a number of these properties.

So basically, this is the supporting document that details the rationale for the reviewer's conclusions.

Q. The reviewer's conclusions being those on page 7.

A. That's correct.

Q. All right. So let's go through -- the first -- the first subject is on page 2 of Exhibit 1.

HEARING EXAMINER VANCIL: And you're referencing Exhibit 1 to what?

MR. REUTER: Which is exhibit -- it's Exhibit 1 to Exhibit A to the Hilton objection. That's what we're talking about.

HEARING EXAMINER VANCIL: The Hilton. I didn't see these marked. So where is your Exhibit 1 within the Exhibit A?

MR. REUTER: It's -- if you look, you'll see page 11 and 12 of Exhibit A -- no. At the -- in the lower right on page numbers -- you're too far back.

THE WITNESS: It's my exhibit number.

HEARING EXAMINER VANCIL: Right. But they're not marked. It's somewhere in this document, I think. Someone has to tell me where it is.

THE WITNESS: It's immediately following page 12.

MR. REUTER: In the lower --

HEARING EXAMINER VANCIL: There are page numbers on the upper left-hand corner.

MR. REUTER: Those are the page numbers in Exhibit 1.

If you look in the lower right, see 12.

HEARING EXAMINER VANCIL: Okay.

MR. REUTER: Turn the next -- the next page is Exhibit 1.

HEARING EXAMINER VANCIL: All right.

MR. REUTER: And then at the top of each of those pages, it's 2 of 25, 3 of 25.

HEARING EXAMINER VANCIL: Thank you.

BY MR. REUTER:

Q. Okay. So on 2 of 25, you discussed the difference in the before and after?

A. Correct.

Q. And this Exhibit 1, your testimony about it pertains to all of these hotel properties in which you've done an appraisal review.

A. Yes.

Q. So go ahead. And explain the difference between the before and after.

A. Well, that's the most important component of this whole benefit study. And what I -- not conclude. What I glean from reviewing the benefit study is written on -- I'm on page 2. And my number one, which is difference in before and after condition.

And I know the hearing examiner has heard this before, but it bears reading again in detail. Because it sets the premise for the condition that the benefit study bases the -- the condition of the property before the LID improvements. And I think it's very important.

Third paragraph under number one, the study states, "With the LID project completed, accessibility to the waterfront from nearby areas, including the Pike Place Market, downtown business district, and Pioneer Square will vastly improve. On an overall basis, referring to economic studies and rating system discussed herein, the waterfront area in general improves from a subjective quality rating of average in the before scenario to excellent with the LID project completed."

And that is really one of the foundations of the benefit study that I disagree with strongly.

Q. So -- so in other words, their premise, the ABS premise is that it's going from average to excellent and, therefore, a benefit follows.

A. Well, they're specifically talking in this instance about accessibility. But it also then talks about the waterfront area in general. So it's a combination of access in the overall improvement to the area.

Q. Okay. And what do you disagree with? What's your disagreement?

A. Well, what I disagree with is that -- and again, I have the benefit of having been on the waterfront for a long time. I don't need to harp on this. The Alaska Way Viaduct was a nightmare, and I'm glad it's gone. I will admit under oath that anytime I got on it, I went as fast as I could to get off of it. And it was -- the noise impact from it, if you're down at the, you know, waterfront piers was substantial and deafening actually.

With this removal, even as it is today with all of the construction going on, it's just a completely different -- a different neighborhood. And I can only imagine, you know, if these LID improvements weren't in place, I can't imagine -- I can imagine that the waterfront would be restored to a more quiet, ambient, pedestrian-friendly, tourist-friendly area without the LID improvements.

We all -- I take for granted that the waterfront looks out over Puget Sound, all of the shipping activities, the fireboats when they're out there. We have the Great Wheel. You're looking at the Olympic Mountains on a sunny day. I get that. You've got Mount Rainier. You've got all the -- the terminal activity. It's just an unbelievable waterfront experience even as it sits today. So to put in the improvements that would otherwise have been there only adds to it. It makes it a destination location on its own.

Q. Without the LID improvements, you're saying?

A. Without the LID improvements. And even as it is today, believe it or not, there's tourists down there today enjoying it. It's not as strong as it could be. But that's -- that is a fundamental difference between my interpretation of the condition before and the benefit study condition before. I don't understand how it can go from, I believe it was average to excellent with the LID improvements.

Q. Okay. Are there -- the pages that follow, Mr. Shorett, are several drawings, I think they are. They're not photographs, I don't believe, of the before and after. Do -- do these illuminate the point that you're making?

A. Yes, they do.

Q. And how so?

A. Well, let's -- let's kind of put this in a little bit of context first.

So these are the drawings that were provided from the addendum to the benefit study sometime in mid January. So these -- this is the first that I have been able to review the City's perspective of what the condition of the property would look like without the LID improvements.

I think it's -- I'm going to share this observation, I think it's important to understand, that in one of the meetings with the City, Marshall Foster was there, and his team of waterfront experts or waterfront folks, were posed the question about, you know, what is it going to look like? And it was clear at that time -- and I can't date that time, but my -- without my calendar. That they had not considered that. And Marshall even asked, said, Well, is that something you want us to do?

And there was a suggestion that that would be a yes, that would be nice to have. I'm only bringing this up because I'm not sure what Mr. Macauley had when he did his initial benefit study. I'm not convinced that he had anything close to this level of detail of what the improvements would have looked like absent the LID improvements.

It's also important to recognize that -- and we'll get to each of these before. That these are improvements that would not -- we talked about this. That would not likely be in place until 2023 anyway. So what we're doing -- or what the appraisal does, is makes a hypothetical and it doesn't say it's a hypothetical. You'd have to look. Assumption that immediately before those improvements are in place without the LID improvements, which isn't going to be the case. It's going to be two, three, four years until they're actually completed.

So what's one piece that's ignored in the entirety of the study is the disruption to businesses, tourists, all those things that are going to happen, that have been happening along the waterfront while this project is being constructed.

So to get to your question, these -- I have the entirety of the document. I printed it out. I made sure I had the big ones. I looked through -- I didn't read it in detail. But I looked at the exhibits. I know that the LID improvements consist of -- I know generally what they consist of, and I know that they include not only the overlook walk, but they do include the improvements up Pike/Pine Corridor down in Pioneer Square, road improvements, street improvements, things like that. All the way down to the stadiums, which was one of my clients.

And so I understand the big picture of what the LID improvements consist of. These are ones that I pulled out because to me they're very helpful in visualizing the difference between the before and after as presented in the addendum.

I'd be happy to go over each of these, if you'd like.

Q. Well, what do you see is the difference between -- in the promenade on pages four and five. It looks to me like there's more trees in the "after." And the

parking is gone.

A. Yeah. That's -- that's the bottom line. And, again, I -- I want you all to know, the City people and Mr. Hearing Examiner, I'm all for this project. I think this is fantastic. I think it's wonderful. I'm on Bainbridge Island. I'm going to benefit from this. Thank you very much for doing what you're doing, even if you keep it as it is without the -- you know, without the LID improvements.

I have no skin in the game against this. I look at this and I go -- for example, a client of mine owns Pier 57, Hal Griffith and his son Kyle. I've been working with them. They've asked me to advise them on this, the LID project. They've got a lease -- a new lease that they're in the process of trying to negotiate. We just did an appraisal for them for financing. You know, we've been talking to them, and the impacts that the current activities are having on their current business are substantial.

One of the things that they pointed to and actually gave me a study for that was generated by Madigan, the Ivar's, the owner of Ivar's and operator of Ivar's. They've been studying parking for quite a long time and correlating their business revenues to the reduction in parking because there's been a general loss of parking, surface parking lots in the area. To them, they recognize that they get a lot of their businesses from the hotels and other areas and the like.

But the loss of parking is significant. So when you look at these two and you say, what is the big difference? Yes, you're losing parking. And I counted about 60 stalls. I don't know if it's accurate or not. I just tried to count them off of this. You're losing surface parking.

You're moving, in a sense, you're moving vehicle activity away from the waterfront piers. Good and bad. I don't know.

Q. Well, regarding parking, does the valuation study account for the -- the cost or the detriments such as loss of parking? Or does it only address the benefits?

A. There's a -- there's a comment in there about parking. I would have to go back and review it. They make a note that there's some loss of parking, but that that would be offset.

Q. But is it quantified?

A. No, no.

Q. So if you're trying to get to the net, if you're trying to get an understanding of the benefit, it would be wrong, would it not, to exclude a calculation for a

loss such as parking?

A. You know, I -- we would have been very useful for them to go through a formal parking analysis. At the end of the day since I don't agree with their benefit study, it doesn't really matter. I disagree with their opinions anyway.

But, yes, it would have been useful. And if you think about it, parking is important.

So to answer your question, going back, and I know you asked a question about parking.

But if you look at the two drawings, what is the difference? The difference is the -- the parking is removed and is now more of a pedestrian corridor, is more of a landscape setting that's called a park, supposedly. To me, it looks like it's a more landscaped area, and I don't really necessarily see the differentiation as to why it's a park.

Q. Okay.

A. I will note some of the property owners I talked to -- it's very interesting. I received an awful lot of phone calls about this from property owners or their representatives. Some of them were very incensed that there's actually going to be more trees blocking their view from the ground floor up the other side on the east side of Alaskan Way. So, you know, there's pros and cons to the vegetation.

Q. Are there points you wish to make in this before and after section, or should we move on to the section two on the general versus special benefits?

A. Well, let me just give you my observations. I put them there for a reason. If nothing else, just to emphasize the comment that there's -- so if you look at page 6, for example, that's a before and after the space immediately south of the Colman Dock. There really isn't much different, again, there in the before scenario, than there is in the after, other than some additional vegetation.

Page 7 which shows Pier 58, this is going to be an improvement to that area. If you compare it with what it is in the after scenario. There's going to be more decking. Really, that's what it is is more decking. Now, again, having walked the waterfront, I know that they've already got decking down there. Is this going to be a betterment, sure. Let's call it more space for pedestrian access and activities.

But when you compare the two photos, again, loss of -- I mean, is it really -- is it so -- the key issue here is are the LID improvements so substantively better and definably better than they would have otherwise been, that there's a reason for special benefit? And the answer is no.

And I just think that you look at these and go, okay, well, there's an instance where maybe. And I think you mentioned it too. We've got the overlook park which is a very -- that's going to be a nice gateway for pedestrians to walk. Is that significant of all the projects? That may be one of the obvious and notable significant projects that maybe benefits properties immediately surrounding it. Maybe not.

I know there's -- I know that there's the waterfront park condo people who are really upset about the fact that they're having this cascade of tourists come down because they had had relatively private quiet neighborhood.

This Pier 51 -- what do we call it, 58, you know, that's an improvement. Is it so unique and so special that it drives a special benefit all the way up to Ninth and Virginia? I don't see that.

The next on page 9 and 10 is there's a discussion about how access will be vastly improved from average to excellent. If you look at it now, there's -- there's current pedestrian access. It's not shown here. I think they took it out. Oh, no, there it is. There's a staircase there. And it provides the staircase going up to the Four Seasons Hotel will remain unchanged.

In the after scenario, they make it a more artistic staircase. Access is already there.

This next one, I think, is really important because --

Q. Which page are you on?

A. I'm sorry. Page 11. We're starting to talk about the overlook walk now. And we were present for the first day of the hearings. And I heard the testimony of one of the residents that I -- this echoes with me and I think it's so true. If you're there -- if you're either a tourist or a resident in one of those multifamily properties or an apartment, you know how to get down to the water already.

Actually, it's harder now because of the Alaska Way -- took away one of my access points because then I have to kind of divert myself, but because of the project, they took the -- that took that access point away.

But before -- in the before scenario, tourists already have the opportunity to walk up, they call it the Pike Street Hill Climb, that's page 11. That's been in existence for years. There's an elevator -- you can flip to the next page, which is kind of a diagram of that area. It's a little bit hard to read. I know it because I put it together. In the green area where it says, Restore Zone -- well, there's the hill climb. You can see the stairs. That's already there. This is a posting right now off the City's website how you get down to the waterfront.

There's an elevator that's accessible via the skybridge that takes you there, and then you can go down to another elevator that takes you down to that same green restored area.

There's plenty of access down to the waterfront. And I get that the Overlook Walk is going to be grand. It's wonderful. It's great. But there's already access. And one of the property owners testified to that already.

Q. So the question is whether making the staircase more artistic or providing some better staircase is a substantially more intense benefit justifying an LID assessment?

A. That's the bottom line. Again, we're kind of going back to -- is this enough of a betterment that it justifies assigning value to the individual property owners within whatever defined boundary area you want to call it.

Q. Okay.

A. Because alternatively, if they didn't do this, and it's interesting because on page 13, this is a drawing that shows what it would look like without the

Overlook Walk. And I'm -- you know, they still have the Hill Climb Court staircase and elevator down. But at some point, when do you call a project, a City responsible obligation to a project that's part of a bigger assessable project?

And I -- you know, I don't need to go there. But I think that's kind of the area. You look at this and you go, okay, so this is good. They're going to improve access. You can go to the next page on 14 and see what it looks like. That's grand, that's great.

By the way, it's on top of the Aquarium Ocean Pavilion, which is a separate project which we haven't even talked about whether or not that's actually going to happen or not. That's not being funded by the LID improvements. That's outside -- it's a different project, as best as I can tell.

So leave it be, as it may, I think what I'm trying to convey, and let me just summarize, the reason for presenting these is, are the LID improvements so substantially greater that it's possible to determine a value increase to the 6,238 properties within the LID boundary area with a high degree of reliability, and the answer is no.

Q. Okay. So maybe we should look at our map here. I have a map of downtown Seattle which includes LID area,

or most of it. I wonder if you could mark on this where this overlook walk is, and then we'll make it an exhibit.

A. Okay.

Q. Would you just --

MR. LEE: Can we take a look at that real quick?

MR. REUTER: Yes.

BY MR. REUTER:

Q. Mr. Shorett, would you just circle where the Overlook Walk is there?

A. (Witness complies.)

Q. Okay. And then -- and then I would like you to mark with a letter each of the properties for which you've provided an appraisal review. Let's start with the Edgewater. Maybe you could just put an "E" where the Edgewater is.

A. All right. Yep.

Q. And a -- the Hotel Monaco is at 4th and Spring. You can put an "M" there.

A. (Witness complies.)

Q. And a "V" for the Vintage?

A. That's on 5th, I believe.

Q. And an "H" for the Hilton, on 6th and University?

A. There it is. Yeah. "H."

Q. And then the Thompson.

MR. GORDON: 1st and Stewart.

THE WITNESS: Thank you, John.

BY MR. REUTER:

Q. Okay. So that will give us some perspective on where -- where the -- where the properties are relative to what -- I think we can agree if the Overlook Walk is actually built, this is -- that would be the perhaps lone significant part of the project. And the point being to my earlier comments, how -- how does -- how does -- how did the Hilton -- how is that appurtenant? How could something that far away down a hill be specific and targeted and substantial for properties this far away.

The Edgewater isn't even shown on the ABS presentation slides. It's so far down here. So we'll get -- we'll talk more about the Edgewater. But I wanted to just visually show that to give people some perspective on -- on my overall argument about just a lack of connection.

Okay. Peter, should we talk now about the general versus special benefits portion of the appraisal review?

A. Sure.

Q. Okay. This is where you talk about case examples and that -- that ABS used with the High Line in

New York and other projects. Give us an overview of this?

A. Sure. So the appraisal itself relies on what appears to be two general sources of market information determine the special benefit -- the special benefits.

One are case studies of properties where there was a preexisting condition, whatever it was before. And then an improvement made to the particular area most often in the form of a park. And the study references a number of properties. I'll go through those shortly.

I also note that there's an HR&A report that was referenced in the appraisal. They also relied on some academic studies. But this HR&A report which part of an academic study did also talk about some other projects themselves that they thought were relevant. And they didn't talk about it the same way as ABS did. But I thought just to make sure that we had all our bases covered, that we would look at those as well.

In a high level what we did was review the projects in the ABS report. And then did our own research. And from a very high level, what we found was that the -- almost every project in the before scenario was vastly inferior to the condition of the -- the area after the project.

And it's in stark contrast to the condition that we have here where the property without the LID improvements is a very attractive and desirable community area.

Q. Okay. Let's make sure that we're all on the same page here.

A. Yeah.

Q. The -- the ABS valuation study references other projects.

What is the point, as you understand the ABS study, what is the point they're trying to make by pointing to those other projects?

A. Well, it appears that what they're trying to do is show that property values increase because of a project. And they're giving an example of what it was before and giving an example of what it was after. And then providing relatively anecdotal information about property value increases because of the project.

Q. So -- so in other words, they would say the High Line -- the construction of the High Line walkway or park, had an actual -- delivered a benefit. And, therefore, this LID project will deliver a benefit.

Is that -- is that what you understand their point being?

A. Right. And let me kind of expand on that. Because you hit one that's really important.

The High Line Park. If any of you have been there, I have been there a number of times, is a former abandoned railroad. It's north and south on the west side of Manhattan Island.

Basically, the -- it was a physical infrastructure barrier separating neighborhoods and communities. It was transformed into an elevated walkway park, call it a park, call it what you want. But basically, created pedestrian access to the neighborhoods on both sides. It's just a vastly different project for comparison purposes for trying to determine what special benefits are.

Q. So -- so, in other words, if -- and is that -- is that statement, that it's a vastly different project, the same for the other examples in -- in pages 18, 19, and 20 of your Exhibit 1?

A. Yes. I mean, another one that stands out, Rose Kennedy Garden -- or Rose Kennedy Greenway. The Big Dig, as we all heard about it, when we were getting to dig our tunnel, right.

They took an elevated structure, removed it, and put it underground and basically took a physical infrastructure barrier away, and took that space and it opened up into connectivity, connected park.

Combining, connecting the east with the west.

It's just a completely different -- it just doesn't -- what the -- what the project is with and without the LID improvements is so granular and so difficult to measure from some -- from something like the Kennedy Greenway that is a huge project. It's just a major gentrification of an area.

Q. And -- and you're contrasting these projects on which ABS relies with what you perceive to be happening in the LID in this case, right?

A. Well, ABS -- ABS is drawing that conclusion. I'm looking at those conclusions and saying, I don't agree that these are like projects.

Q. Okay.

A. One of the things that we do in -- in our work is the most empirical approach for determining increases in value is called a matched-pair analysis.

And this is important for the hearing examiner to understand and everybody to understand. If you -- if an appraiser is trying to determine an increase in value from a property in a -- in one condition compared with another condition, the most common way is using what's called matched pair.

And that would be -- and I'm going to use for simple sake of discussion. I'm going to pose the question, is a corner lot, say downtown Seattle, with the same zoning, same size, is it more valuable than an interior lot? Well, you might think, obviously, yes, intuitively it is more valuable. Okay. That's anecdotal. We just kind of form that opinion based on what we would think.

The reality of it is the most analytical approach to determining what an increase in value would be is match pair. By finding a sale of a property with identical attributes, one on a corner and one interior, and you measure the difference.

All things being equal, there will be a measurable difference. There should be a measurable --if there's going to be, it would be measurable. That is what's missing from this benefit study.

Q. There's -- there's -- there's no measurement of the difference between a match pair, in your example, the corner would be more valuable than the interior lot and there's no measurement of the delta between those values?

A. That's -- at least that's what the analysis would show. So for another sake of discussion or comparison could be, you know, the appraiser could have gone to -- near the Seattle Center and found -- I think they're in Zone NC365, and found a property that's next to Seattle Center and measured that with a property that is distant from Seattle Center.

Again, hopefully, all things being equal, to determine if there's a benefit from being proximate to the Seattle Center.

Q. Okay.

A. And if there's -- and maybe the data isn't perfect, so you run the analysis on a number of different transactions and see if you see a trend.

That's how you determine if there's a value increase because of a project. Simple enough.

Q. And that was not done here?

A. No.

Q. And did you do some of that?

A. No. We didn't. We didn't go to that degree. We basically looked at the -- at the projects that they used and concluded that they weren't relevant for this analysis.

Q. And okay. Let's talk about your Section 4, which you've entitled inequitable analysis.

A. Sure.

Q. What is that section?

A. So this is -- what this is trying to identify or explain is that the benefit study is based on current conditions for properties, whether they're improved or vacant. And shows how inequitable the approach that they use is.

In other words, the benefit study values improved properties as improved. Office, retail, whatever they are. Immediately adjoining one of those same properties, which is basically our match pair discussion, it could be a vacant lot that has near term or immediate term redevelopment potential.

And the benefit study analysis will conclude -- and as I'm on page 22. Here is an example -- a perfect, a really good example of the inequities of the approach that they used by valuing the improvements. The --

Q. That ABS used?

A. That ABS used.

Q. All right.

A. The Cyrene Apartments is compared with the surface parking lot down the street. I provided -- I printed out these yesterday. I think it's a good visual, so that you can see the distinction between the properties that are used in this Section 4 discussion. And --

MR. REUTER: Let's mark that.

THE WITNESS: I think it would be useful to use as a quick visual to explain that point.

HEARING EXAMINER VANCIL: I'll mark the photos as Exhibit 3.

(Exhibit No. 3 marked.)

BY MR. REUTER:

Q. Two-page document with three photographs on it. Go ahead, Mr. Shorett, what's it show?

A. So if you flip to the second page. That basically shows the location of two properties, these two properties that I used for comparison. The one in blue is the Cyrene Apartments, that's just south of where the Overlook Walk will be.

The one in yellow is half of it at development site, that entire block will be developed. But the benefit study broke out the value, so I just carved it out because they're the same size.

Q. Just for clarification, the Cyrene is in the top photograph of the first page of Exhibit 3?

A. That's correct.

Q. It's the beige-colored building that's maybe four stories tall? Or is that all one building?

A. It's all one building. It's got the four stories with the glass, eight or ten or twelve stories behind it.

Q. Okay.

A. So that's a recently developed property that was built to its highest and best use. Actually, built before the viaduct came down. But that's the typical type of development that one would expect to see along the waterfront. I didn't put the assessed value -- or the assigned values. But that was assigned an assessment of $1.18 million. And that's based upon the fact that it was approved at -- making numbers up at $100 million before and $105 million after, whatever it is.

The same site that could support that same building, which is 1B at the bottom of the first page identified as a developmental site, is assessed $257,023.

Q. Why would that be?

A. Because that's being assessed based on land value only. And land value is a small component of an overall development.

Q. Would you think that day after tomorrow the same building is going to be built on 1B as is on 1A?

A. The owner of the property is in for plans and permits. And there's the expectation that within -- I'm sure by the time the waterfront project is completed or near about, there will be a similar-sized multifamily development on that property.

Q. On 1B?

A. On 1B.

Q. Yet they'll only have paid $257,000 assessment?

A. That's right.

Q. Are there other examples?

A. Yeah. The next one is also actually very demonstrative. The amount of assessment is much smaller. But it's worth a quick look if you have those.

MR. REUTER: This will be Exhibit 4.

HEARING EXAMINER VANCIL: Marked as Exhibit 4.

(Exhibit No. 4 marked.)

THE WITNESS: What this shows, again on page 7, I'm sorry, page 22 of my review. I list example two what's called Amazon Office and Development Site. Two nearly identical sites. The Amazon office is improved. They have an assessment of $78,000. The development site actually is under construction, and in the photograph you can see the top of the photograph is the nice silver building to the right of the photograph.

I don't know when it's intended to be completed, but it's going to be completed fairly quickly from what I can tell. And they were assessed about one-third of what the Amazon office was assessed. And that's because they were assessed on land value, not improvement value. So they're going to get a $50,000, $52,000 benefit from not having been valued similar to the Amazon office or the other way around, Amazon overassessed by $52,000.

BY MR. REUTER:

Q. When you mean benefit, you mean just a lower assessment?

A. Yeah.

Q. $2,000 lower?

A. Lower taxation, whatever you want to call it.

Okay. And then the last is on the top of page 23, which is the Olivian Apartments. And it shows the Olivian Apartment building, which is valued as improved compared to two lots immediately next to it, which on the second page, I didn't highlight the middle one, but the Olivian Apartment is highlighted in blue on the second page. And the two development sites, one is yellow, and one is not outlined. It's the middle piece.

And, again, it shows that most all things being equal, although they applied a higher rate to the vacant land of .75 instead of .5, that the Olivian will be assessed at 314,000 compared to about $75,000 for the vacant development site.

So the gist of this is that -- and I understand this is not -- not an easy task. But the reality of it is, is to have formed a fair opinion unilaterally across all properties that it would have been appropriate to consider only the land value component of the properties to provide a consistent analysis.

Q. So in other words, in Exhibit 5 with the Olivian, you would say what Mr. Macauley should have done is value only the land on which the Olivian Apartment

improvement is built. Because that's all they did in the 3B photograph.

A. Yes. So I think -- the answer is yes. The appraisal is flawed because it has an inconsistent analysis.

Q. Okay.

A. Yes.

Q. We --

HEARING EXAMINER VANCIL: That last photo was marked Exhibit 5.

(Exhibit No. 5 marked.)

MR. REUTER: Thank you.

BY MR. REUTER:

Q. We skipped the discussion of the LID boundary area on page 20.

A. Right.

Q. What's the -- what's the highlight of that point?

A. Well, let's go back and talk about special benefits.

Because I think -- I think we actually glossed over that a little bit more than we should have.

And basically, it kind of sets the table for discussing this.

Q. Okay.

A. And I would like to go back just myself so I can remember my notes.

General versus special benefits. Again, that's the crux of the -- of the assignment here is, is there -- are there -- I take that back. There's two pieces. There's more than two. The two important pieces of the assignment. Are the improvements that are being considered, the LID improvements, so unique and so special that they would be considered a special benefit to certain properties?

And if so, then what are the properties that benefit from those improvements. General benefits are those that accrue to the community. Road systems, airports, Colman Dock, by the way, is a benefit for everybody that's being funded by public money.

Q. The Colman Dock, you said?

A. The Colman Dock. The ferry terminal. The seawall. I mean, these are projects that everybody is benefitting from.

A special benefit has to be so unique that there has to be some form of actual physical improvement to a property. One of the things that you mentioned -- and I want to go back to the very beginning of my notes. What Mr. Reuter mentioned was the legal definition of special benefits.

And I've testified enough and I've been involved in many special benefit cases, different special benefit meaning against Sound Transit. Talking and identifying and understanding what the special benefits are. I understand legal instructions. I understand jury instructions. I don't profess to be a lawyer.

But --

Q. You can dream though, Peter.

A. I can dream.

But I have worked with enough cases to understand that our profession has its own interpretation too. And we have actually academic literature, publications by the Appraisal Institute that speak about special benefits versus general benefits.

For the very reason of helping to clarify these issues, not only here, but in matters with Sound Transit, special benefits claimed by Sound Transit for proximity to the station, things like that.

And we have Real Estate Appraisal Valuation and Litigation, Second Edition, James Eaton. Anybody that's spent a lot of time in real estate has gone through a couple copies of those. The latest is Real Property Valuation and Condemnation that was put together by some esteemed Appraisal Institute members that I look at and I respect.

And one of the definitions of special benefits is they must be unique and peculiar. And I was kind of stumbled by what "peculiar" means until I thought about it a little bit more. Well, "peculiar" means something that's out of the ordinary.

When you look at LID projects normally and benefit studies typically, what you find are defined improvements to a particular area. Utilities are the most common ones. Try to get my utilities underground. I started with that.

If you look at Mr. Macauley's resume, in the back he talks about the LID projects he's worked on. I think every other one has utility, utility, utility. These are -- projects have a direct and specific benefit to a property that's definable.

South Lake Union Streetcar was the last LID done in the City of Seattle. That actually was -- I wasn't involved in that. I was indirectly. But that was my understanding was a very defined and focused area around those stations. That is something that wasn't there. I mean, a streetcar comes in -- you know, before and after. That's it. That's pretty specific.

What I'm trying to convey here is that -- and this goes back to the point of why land only is that -- and a lot of these utility projects, not even necessarily an LID, but a city will come in and do a project and charge a hookup fee. Right. I mean, okay, you're going from sewer now to utility. You have to pay 10,000 bucks a lot to hook up to this utility. And the person that's on the holdout, holding out on their system, not ready to do it yet, sooner or later they have to pay.

The problem with the LID, there's a financing mechanism but there's no latecomer fee process. You can't -- these vacant lot pieces that we were talking about that are getting a better deal than their improved neighbor don't -- there's no mechanism for them to pay into the system, to process this.

So that really is the whole point of explaining -- showing you that those photographs is that the most fair and equitable way to do this would have been vacant land, to look at the entirety of the project with vacant land.

Q. Because then there would be no free-riding latecomer.

A. Right. And I understand that you can say, well, yes, we have these improvements. Let's just say that we accept the results and opinions of the benefit study that you will see an increase in average rate and things like that. Then you're going to go, okay, fine, well, then go ahead and correlate to how it impacts the land, which they didn't do.

So this is a -- you know, I don't -- I don't -- you know, I think that Mr. Macauley has taken off a big chunk in trying to determine special benefits. As I said it earlier, I respect him. I have no issues. This is just a very difficult assignment. I do not see, again, I go back to special benefits are easily recognized when they're actual physical improvements to a property.

And the granular level of difference between the before and after is so small that it's immeasurable, which takes us to the boundary map.

If you look at the boundary map which is on page 21, this extends -- and I -- it could be, for all I know, a half a percent for that last little piece at the corner of -- I think it's Denny Way and I-5. But how can you -- it's just not -- I mean, our profession is not that precise to be able to say that I can make an adjustment of a half a percent.

Q. And this is -- this is the difference between a formula and a calculation between financial data and anecdotal, right?

A. That's right.

Q. So just staying on 21 there, do you see the Edgewater?

A. I do.

Q. Okay. Does this -- when I first saw this, I thought this looks like the South Carolina gerrymander map, where there's just a hook out there to capture the Edgewater. Do you see that?

A. I do.

Q. Do you notice that across the street from the Edgewater, literally across the street, the property isn't included.

A. Right.

Q. Okay.

A. Yeah. Again, I think -- the point of bringing this up is that if I were to consider doing a special benefit study for the formation of an LID, if the City contacted me, I would want to be clear, number one, that I see that there's benefit. Okay. It needs to be identified. And during the whole course of this process I haven't seen -- other than the verbiage written in the appraisal, that there's a demonstration that the project -- I'm sorry.

The LID improvements are so substantively better than what would have otherwise been absent those improvements, that I can't see how there's really a value lift is the word that's been used because of them.

And -- but even if I did, I couldn't imagine extending the boundaries out as far as they did. I could see it being in a bit of a -- you know, parallel to the major improvements or nearby the major improvements and creating the boundaries somewhere around there.

The whole point is, is that when we're doing our appraisal work and if we're adjusting for something, if you recall, I was giving the matched-pair analysis. Corner versus interior, that will be a finite number. It's not going to be .5 percent. I can guarantee you that. It probably is going to be five percent, it's probably going to be ten percent.

Q. And is there an industry margin of error for that kind of stuff?

A. Well, that's where I was going. Is that -- you know, I mean, I hate to say -- I would like to think that if you get two appraisers in different rooms with the same information and same set of assumptions, you would be within five percent of one another. I'd like to think that happens. We know that doesn't always happen. But if you're within five percent of one another, that's a pretty comfortable margin of error.

So to have some -- to be able to say, I am 100 percent confident because it's outlined that way that that property at the far northeast corner of the boundary will benefit by .5 percent, I don't know how you get that.

Q. Well, we can be more specific than the property that you're referencing way up in the corner because we have the Edgewater at .92 percent. And we have the Vintage at .99 percent. Doesn't that demonstrate your point, that this is too granular, too fine of a number to have any basis?

A. Yes. That's one way of looking at it. When you put it in the other context, the highest, I think, is four, three-and-a-half -- four, that's all still within the margin of error of rounding in our profession. I'm not the only one that would say that.

Q. Have you seen Mr. Gibbons' letter?

A. Yes.

Q. And does he -- does he express an opinion on the margin of error?

A. He has a very similar perspective, yes.

Q. And is it the same as yours, 4 percent?

A. Yes. 5. I'd round up to 5.

Q. Since I mentioned that letter, let's just identify it. We're referring to the letter that's Exhibit C to the Hilton Appraisal Review; is that correct?

A. I did not incorporate Mr. Gibbons' work in mine.

Q. I understand that. But it's part of the objection. I'm just asking if you and he expressed the

same opinion about the margin of error?

A. I read his report. I didn't see the exhibit. Is that his current one dated --

Q. Yes, it is.

A. Then that's the one. I have reviewed that cursory.

Q. Okay. Thank you.

So just walking through your appraisal review, we've now talked about the margin of error, Section 5 on page 23. Section 6, is that something that Mr. Gordon will be testifying about, the overstated values?

A. I would like to -- I would like to comment on that. And Mr. Gordon will be talking about the overstated values for our properties specifically.

Q. Okay.

A. And, again, I'm being respectful to the mass appraisal process and understanding that the appraiser does not have the same information that we have, because we're on a granular level of a particular property. But, you know, when we've been looking at these hotel properties, we found almost all of them to be overvalued, substantially overvalued.

Out of curiosity, because I'm a tenant in Two Union Square, and I happen to know Craig Wrench, who is the asset manager of it, of the building, and who's been

-- has had somebody participating in the LID meetings. I asked him -- I asked him how -- what he thought of their value, of the ABS value, for the One and Two Union Square properties. And I think his response was "annoyingly accurate." I'm, like, okay, that's good. Because we had looked at some other properties and thought that, well, they're not too unreasonable.

Again, going back to the simple math. Office building, rent, expenses, cap rate. Easy.

But when we started finding these hotel properties overvalued, we started to be a little concerned about other properties and, again, there's -- there's one that Mr. -- I'm working with Mr. Lutz on, that the hearing examiner will hear about later. There's properties that have sold their development rates off, that are being considered as redevelopment sites. And they can't be redevelopment sites if they sold their development rights off, and the building is historic. It probably could be at some point multifamily.

But there are just too many properties to have -- to have such a high level of precision. And their value estimates to make this a fully credible appraisal. And I get -- that's why we're here, to speak our piece.

But we were really surprised in particular to see how overvalued the hotel properties were.

Q. Okay. The last section is the economic study section.

A. Right.

Q. What's the gist of that?

A. Well, what's important here is, again, the benefit study relies on the case studies and economic studies. And there are a number of economic studies cited in the report, one done by HR&A Advisors. They're all listed here.

One of the things -- so I basically looked at each of these. I did this. I focused on each one. I pulled the studies up, found them, and reviewed them. The biggest issue -- or the biggest common denominator, I think it's fair to say, with all of them is almost identical to the case studies. They're dealing with a very significant change from a project because of a project.

And even the HR&A study is talking about the value of properties on the central waterfront because of the project. They don't -- none of these studies would ever get to the granular level of saying with or without the LID improvements. All they're doing is looking at the big picture.

And at the end of the day as I've testified already, the waterfront is very enjoyable and attractive destination location. It competes, though, with Pike Place Market, the Seattle Center, Chihuly, all these other -- I mean, it's competing for tourist dollars.

So all the studies are really doing are putting an academic perspective on the positive impacts of projects. I don't think anyone would disagree that there's positive impacts because of a project. But I'm not sure exactly how that translates or correlates to special benefits to a specific property.

Q. Versus general?

A. Versus general, right. Yeah. I need to be saying general more often because at the end of the day, again, I'm going to go back to some of the opening comments. Thank you for doing this. I live on Bainbridge Island. I'm going to be able to bring my boat over to Bell Harbor Pier and walk along the waterfront. I'm going to be able to come over on the ferry and enjoy all of these improvements. Just as anyone from Sequim, Port Townsend, North Seattle, Bellevue will be able to --

Q. Spokane?

A. You too. Spokane. We can include that.

It's just not possible to consider these special benefits.

Q. Okay. I think that's all we have.

HEARING EXAMINER VANCIL: Thank you. Cross.

MS. THOMPSON: Thank you.

We would like at this time to reserve our right to include any future testimony as part of our cross in a deposition that may take place at a future time.

MR. LEE: We understand that's already scheduled.

HEARING EXAMINER VANCIL: Of this witness?

MS. THOMPSON: Yes.

MR. REUTER: I've not seen that.

THE WITNESS: I'm not aware of it either.

HEARING EXAMINER VANCIL: For these cases? You got his counsel here saying not the case. I know he's already testified, that he's testifying to other cases --

MS. THOMPSON: Yes, yes.

HEARING EXAMINER VANCIL: -- with a different attorney.

MS. THOMPSON: So to the extent his testimony -- he's stated here today that his appraisal review is of the ABS study which applies to the entire LID study, not just to the particular properties that he's been -- that involve the cases that are being heard today.

MR. REUTER: Here is my concern.

And I spoke with Mr. Filipini about this. I can't be in a position where they defer their cross-examination which is supposed to happen today. They -- I then am done, and I don't have a chance to redirect. My case is over. And then -- and then they depose him on my cases. And then present that in their case. That's -- that's cut me out of my rights to participate in this process.

I don't think they should be allowed to defer their cross-examination. If they're going to depose him, let them depose him. But this is their chance to cross-examine him. Mr. Filipini has made that point several times that he resisted depositions in the first place on the argument that this -- this can all happen in the hearing setting, saying that that's the way LID assessment hearings are supposed to go.

So I -- I don't think you should allow them to defer what's supposed to happen today.

MS. THOMPSON: Well, to be clear, we will be cross-examining Mr. Shorett today. Our position is that he has prepared an appraisal review of the ABS study and has stated today that it applies to the study as a whole and not just to the hotel properties that he's here testifying about specifically.

And so our position would be that if we depose Mr. Shorett as part of the LID hearing process, that any testimony by him, whether it be with respect to the overall appraisal review or to his individual testimony regarding other properties not at issue today, we should have the right to use that testimony in our case.

HEARING EXAMINER VANCIL: Right now I'm not going to allow it. I'm going to -- it sounds speculative whether something may or may not come out of the deposition related to these cases. You have the opportunity to cross-examine him today. So I suggest proceeding with that. And don't assume that this case will be reopened based on later cross-examination of him as a witness and for deposition, which it doesn't sound like it's been scheduled with this counsel. It sounds like that's all related to other case numbers and his work on those cases so far.

If counsel for the City can make an argument, look, here is something very specific he stated in the deposition and/or later in the hearing process relevant to these case numbers, then by motion you can try to introduce it.

But right now you got a witness that you can -- you can cross-examine. You can ask him any questions that you want.

So it remains speculative to whether there's any opportunity to do it later.

MS. THOMPSON: Okay. Thank you.

HEARING EXAMINER VANCIL: Please proceed.

CROSS-EXAMINATION

BY MS. THOMPSON:

Q. Go morning, Mr. Shorett.

A. Good morning.

Q. Your resume states that you're a president at Kidder Mathews; is that correct?

A. Yes.

Q. What kind of work does Kidder Mathews do?

A. That's a broad question. We -- we -- I guess we call ourselves a full-service commercial real estate firm.

Q. So what does a commercial real estate firm do specifically?

A. We have four distinct service lines. One is commercial real estate brokerage; the other is commercial real estate management; the other is real estate valuation and consultation, which is my group. And then we have a lending function.

Q. And how many appraisers are in your office?

A. Seattle office?

Q. Yes.

A. Roughly ten.

Q. And are they all members of the Appraisal Institute?

A. They -- member of Appraisal Institute as in AMI. Not all of them are. But all of them are at least affiliated with the Appraisal Institute.

Q. What does it mean to be MAI?

A. MAI is basically the professional designation that an appraiser achieves after -- after attending a number of -- of education courses. I can't name them all. There's probably 10, 12. It's been a while since I had to do it. And submitting and providing your appraisal experience. Taking a comprehensive examination. And passing and -- preparing and passing a demonstration appraisal report. After all of that has been reviewed and successfully completed, you're awarded your MAI designation.

Q. So is that designation more of a general sort of certification of your abilities and expertise as an appraiser? Or are there specialties within that?

A. No. That's a general -- there's -- that's a general designation for commercial appraisal. But commercial also allows you to do residential. There's a separate designation awarded by the Appraisal Institute for a residential profession. They are not necessarily and usually not allowed to do commercial.

Q. Okay. Your resume also says that you have a background in appraisal and counseling.

What type of counseling work do you do?

A. Well, actually working on this LID project is a good example of counseling. Appraisal is a fairly generic word, in my opinion, for producing an appraisal report.

Counseling is more of an advisory function. Working with a property owner to determine what the best use of a property might be. Outside of an appraisal report, working with an attorney group, for example, to understand the best approach to -- and strategy for the valuation of a legal argument. Something to that effect.

Q. So were you just referencing the counseling that you provided to Jack McCullough that you mentioned earlier?

A. I did not provide counseling to Jack McCullough.

Q. What was the extent of your involvement with Jack McCullough and the property owners that he represents?

A. The extent of my involvement with Jack McCullough was I was initially invited to attend the meetings that he organized on my client's behalf. He acknowledged that. And invited me to the meetings. I really only was there for an ear. If there was any participation or communications with Jack, it was more of a -- of a function process side of things. I don't think that I ever consulted with him specifically on a particular property about the project.

Q. And the property owners that he represented, were they clients of yours?

A. No. They were not -- one ultimately is, Hal Griffith of Pier 57 was there. But he didn't retain me until after -- after the hearings and it was for a different topic, for a different issue.

Q. Okay. And your resume also states that you provide litigation support and expert witness testimony?

A. Yes.

Q. How much of your practice is litigation support and expert witness testimony?

A. Those are two different things.

Litigation support is -- it varies. It really varies.

Let's go with the testimony. Testimony today. Gosh, when did I last testify? It may have been a year ago. I may have been in a deposition this past -- in 2019. There hasn't been much testimony this past year. Litigation support has been fairly substantial. I work for a lot of property owners, again, Sound Transit projects. And I would say that 60, 70 percent of my work is litigation support.

Q. And how do you define "litigation support"? What does that include?

A. Well, that's a good question. I put down litigation support to leave it open. Basically, you know, a client has a -- has a valuation issue. Yesterday before I met with Mr. Reuter, one of Gary Fleur's clients has a property that has a unique property valuation aspect to it. I sat down with her for half an hour and tried to understand what the issue is, knowing that it could lead to litigation.

I call it litigation in the sense of, you know, it's potentially litigious, if that makes sense.

Q. Okay. So in the last five years, how many times have you testified as an expert witness?

A. I don't want to -- I can offer this if it's something you'd like. I have a complete legal CV that shows all of the legal cases that I've been involved in and the past testimony. I can't repeat those. I don't know what they are.

Q. Okay. Could you give me an estimate? Is it more than ten, less than ten?

A. Of what? I'm sorry.

Q. Of instances where you provided expert witness

testimony?

A. In the past five years?

Q. Mm-hmm.

A. Including deposition?

Q. Sure.

A. That's legal testimony. Probably ten times.

Q. Ten times?

A. Ten, 15.

Q. Were those all in real estate cases?

A. Yes.

Q. And what kind of real estate cases have you been involved in, either as part of litigation support or as expert testimony?

A. Over the past five years?

Q. Yes.

A. Mostly fair amount of Sound Transit work. There's some WSDOT -- I usually represent attorneys who work with property owners, and I would say Sound Transit has been a pretty dominant matter. There's been, I think, it's been so long since I looked. The Taylor Bridge fire, I represented a class of property owners for that. It had nothing to do with an agency, other than a fire damage.

Q. So you mentioned Sound Transit. Are those cases condemnation cases? Like what role do you play as an

expert in those cases? What type of expert work are you doing for those cases?

A. Well, they're usually responses to the Sound Transit's proposals for the acquisition of property. Sound Transit has been very active in acquiring land for the light rail. Either in fee acquisition for its entirety or partial acquisitions that have either portions of fee takes, permanent easements, or their latest and greatest or temporary construction easements in the last seven years.

Q. So those would be -- would you characterize those as eminent domain cases?

A. Yes.

Q. So turning to the appraisal reviews that you prepared for the properties in this matter, I see that the appraisal review report is dated February 3, 2020; is that correct?

A. That sounds about right.

Q. When were you retained by the property owners to prepare the appraisal review?

A. In these five cases, all within January, once they received the assessment notice.

Q. And what was the scope of your assignment, just for this appraisal review?

A. You pretty much heard me explain to the hearing examiner from questions from Mr. Reuter, that the purpose was to determine the appropriateness and reasonableness of the benefit study.

Q. And what information did you review to undertake that review?

A. That's a really good question because I forgot to cover that.

Materials that I was able to review. Well, I did explain this. I had the feasibility study that was done in 2017. And I mentioned the benefit study done in 2018.

I received the benefit study, the 2019 benefit study, the addendum. There was the final LID assessment role, which was actually incorporated in the benefit study.

We requested some work files from Mr. Macauley and we received some Excel files for 2018.

What I didn't have were the details of Mr. Macauley's work file, analysis, comparisons used, interview notes, et cetera. And things like that.

Q. Aside from the items that you just mentioned, which included the feasibility study, the initial 2018 study, and the addenda to the 2019 study, did you review documents or data outside of the ABS special benefits study in evaluating it?

A. Well, I explained that we reviewed the reports referenced in his appraisal and also the HR&A report. So we reviewed those documents.

Mr. Gibbons has -- wrote a white paper, I guess, is what he calls it. And I looked at that. I talked with a number of attorneys. I talked with some property owners. I visited the waterfront -- I can't remember where it is where they have the models so you can see what the project looks like from the model perspective.

I've walked the property many times, properties. Not all of them. But mostly along the waterfront.

Q. So the studies that you mentioned, those were included in the addendum, right?

A. No, they weren't.

Q. They weren't?

A. No.

Q. The HRNA study?

A. HRNA study might have been in the addendum. I don't recall that. But I know that the other studies that were referenced in the Macauley report I had to find.

Q. On your written appraisals or appraisal reviews, do you typically have assistance?

A. I always need assistance, yes. Not always. But facetiously. Excuse me. I did have the -- I benefitted from the assistance, I think I explained this earlier, with John Gordon, who is sitting over there, and Jesse Baker.

Q. And so starting with Jesse Baker.

What role does Mr. Baker play in preparing your appraisal review?

A. Jesse basically is -- he graduated from Cornell in the hospitality program. And he's been working closely with John over the years. John has been his mentor. And when we started the project, we basically assigned roles. And the roles were, my job was to focus on the appraisal reviews, but also to assist in the appraisals. John's role was to focus on the values of the properties but to assist in the review.

And Jesse's role was to help both of us. And at least in terms of the reviews, Jesse provided some details of the case studies that were used. I asked him to do some research on that. He also helped prepare the analysis, the supply and demand analysis included in the review. I think that covers it.

Q. Okay. So who drafted the appraisal review?

A. I did.

Q. You wrote the initial draft of the appraisal review?

A. Yes.

Q. Approximately how much time did you spend on the appraisal review?

A. Quite a bit of time. I -- I would venture a guess of 30 hours, 40 hours.

Q. And do you know how much time Mr. Baker spent?

A. I don't know. I would have to look it up.

Q. Could you give an estimate?

A. The appraiser review, ten to 20 hours. 20 hours.

Q. And are you working on an hourly rate for this project?

A. We were doing it on fixed fee. And hourly for testimony.

Q. And how much was the fixed fee?

A. $10,000 per property. And it all depended on -- for these properties, $10,000 per property. That's it.

Q. And your testimony fee?

A. Yes. $350 an hour.

Q. Over the last five years how much of your work has involved appraisals related to Local Improvement Districts?

A. Well, since there haven't been very many Local Improvement Districts in the area, it's easy to say this is the main one.

Q. So earlier in your testimony you mentioned that

you're familiar with the LID formation process. It sounds like you've had some personal experience and maybe some experience with prior clients.

Have you ever prepared an appraisal for a Local Improvement District?

A. Yes, I have.

Q. And when -- when was that?

A. It was a long time ago. I don't know.

Q. Could you estimate? Was it more than five years ago?

A. Yes.

Q. More than ten?

A. Probably, say, 20 years.

Q. 20 years?

A. 15, 20 years.

Q. And so that -- in that situation you were retained by the municipality to prepare an appraisal of the value added by the LID improvements?

A. Yes.

Q. And do you recall what size of study that was, how many properties were involved?

A. I'd just tell you what I know about it. It was basically a community septic system that needed replacement and they -- it was involving multiple single-family homes, probably 50 to 100. I'm making that number up. But something like that.

Q. So it didn't involve commercial properties?

A. No. It was residential.

Q. Residential only?

A. Yes.

Q. Do you recall what method you used in that appraisal?

A. No.

Q. So in that LID appraisal, would you consider that to have been a special benefit study?

A. Yes, it was.

Q. And that Special Benefit Study from over 20 years ago, would that --

MR. REUTER: That's not what he said.

BY MS. THOMPSON:

Q. So you prepared a Special Benefit Study in the past.

A. Yes.

Q. You can't remember the precise date.

A. Correct.

Q. You estimate that it was more than 20 years ago?

A. I really don't know the exact date. I had said 20. It could be 20. I really don't know. It's been a while.

Q. It's been a while. So when you did prepare that

Special Benefit Study, that was the only study -- Special Benefit Study that you prepared for a LID improvement?

A. Special Benefit Study, final Special Benefit Study, yes.

Q. What kind of training do you have in preparing a Special Benefit Study?

A. One does not need special training to do a Special Benefit Study.

Q. What kind of training is involved?

A. A Special Benefit Study is prepared under Standard 6 of the Uniform Standards of Professional Appraisal practice. It talks about mass appraisal process. It incorporates many elements of value influences that transcend through not only the day-to-day practice of an appraiser, but one that is actually spending time focusing on the impacts and issues associated with special and general benefits, which I have been actively involved in probably over the past ten years, specifically for Sound Transit projects.

So it incorporates the traditional appraisal practice of appraising properties, appraising properties in bulk for a -- even a potential portfolio analysis. And applying rationale and reasoning for what is to be -- what needs to be credible and what is to embrace public trust, which is the primary doctrine of our code of ethics is to not provide a misleading appraisal report.

I've spent considerable years focusing on making sure that whatever opinions I'm either rendering or reviewing of someone is not a misleading opinion. And you really can't just say -- just because I've worked on a special benefit study, I'm therefore an expert. That doesn't -- isn't how it works. There's so many components that go into it that it extends across a broad field of different areas of expertise.

Q. So you mentioned that you have applied special benefit analysis in your work with Sound Transit; is that correct?

A. Yes.

Q. And earlier you stated that the work with Sound Transit is eminent domain work; is that correct?

A. Yes.

Q. For the most part?

A. Yes.

Q. So is there a difference when an appraiser is evaluating a special benefit in an eminent domain context versus evaluating special benefit under the specific LID statutes?

A. I cannot speak to the LID statutes as much as I can just the concept of special benefits. The statutes are legal -- legal area of expertise. I know that there are statutes because that's where the -- for example, the 60 percent factor comes in.

But in terms of actually preparing an appraisal for an LID assessment, I -- I do not expect that the function and premise of the appraiser is any different than it would be as being a state-certified appraiser whose intent is to provide a credible third-party opinion of value. And it's basically -- an LID assessment is technically the inverse of an eminent domain proceeding is actually instead of giving you money for something that they're taking, they're actually asking you for money for something that they're providing.

So as best I can understand, the concepts of special benefit are unilateral and transparent between the two in terms of how an appraisal should be prepared.

HEARING EXAMINER VANCIL: And we'll stop there. Returning at 1:15.

(A break was taken from 12:00 p.m. to 1:15 p.m.)

HEARING EXAMINER VANCIL: Return to the record with Mr. Shorett on cross.

BY MS. THOMPSON:

Q. Hello again.

A. Hi.

Q. Before the break we were talking about your

appraisal review that you prepared in this case. And I wanted to ask what the scope of work -- or rather how the scope of work was defined in your engagement agreement.

A. The scope of work was basically -- I'd have to reference the engagement letter. I don't have it in front of me. But the scope of work talked about reviewing the benefit study and then talking about the impacts -- and I don't have the exact verbiage -- of how the assessment impacts the property or how the property itself may or may not be relevant to the assessment assigned to the property.

Q. And did you -- we also before the break were talking about the information that you reviewed as part of your appraisal review. And we established some of the documents that you looked at. I wanted to ask a follow up question.

Did you receive any information or data from property owners that wasn't part of the ABS study?

A. For the appraisal review?

Q. Yes.

A. Well, we did receive information from property owners that wasn't necessarily directly used for the review. It was ultimately used for the appraisal that we did of the property. I'm just saying it because there may have been some elements that we looked at that were appropriate for consideration of the review, such as occupancy.

Q. Okay. And so that information would have been related to the specifics -- the specific parcels, what their uses were, business information -- I guess I'm just asking, what kind of information did you receive?

A. We basically received the financial statements from the property owners. And what is referred to as their STAR report, which John will expand on. But that's basically market research.

Q. Okay. And in your appraisal review, did you follow Standard 3 -- and forgive me, of the USPAP I think you called it.

A. USPAP.

Q. And what does "USPAP" stand for?

A. Uniform Standards of Professional Appraisal Practice.

Q. And did you follow Standard 3 of USPAP?

A. Yes.

Q. And did you make any extraordinary assumptions in your appraisal review?

A. I don't think so. Let me check, but I think the answer -- I did not.

Q. What assumptions did you make to arrive at your opinions?

A. Well, the assumptions that I'm using are the assumptions that these -- -- the assumptions that I'm reviewing, it's really more the assumptions that I'm reviewing, not necessarily the assumptions that I'm making.

Q. So did you make any assumptions at all in -- in coming to your conclusions during your review of this study?

A. I'm sorry. That's kind of a tough question. I'm just trying to think without -- if I say no, I just want to make sure that I didn't forget anything. But at the end of the day -- maybe if I say it this way this will help.

The benefit study, the appraisal review should be more or less a standalone document. I'm reviewing that document, and I am considering the assumptions that were used in that report.

Q. Okay. So aside from the assumptions that were made in the report, did you make any of your own assumptions?

A. I don't think -- well, there is some estimates of occupancy so those are on assumptions. Those are -- John will talk about that more. But those technically, I guess, are assumptions that we've used. It's basically by inference, though.

Q. Okay. And did you consider any hypothetical conditions in your review of the study?

A. No.

Q. Have you ever been retained to do a mass appraisal?

A. Yes.

Q. Could you give me some examples?

A. I was retained by the City of Seattle to provide a very preliminary analysis. I guess it wouldn't be a mass appraisal. I take that back. That's not a mass appraisal. No, I have not.

Q. Okay. Is the mass appraisal method or technique, is that an approved method within your industry?

A. They wrote Standard 6 to address that. So, yes.

Q. So as part of your review of the study, did you conduct your own mass appraisal of the LID project?

A. No.

Q. Were you retained by any property owner within the Local Improvement District to provide an appraisal that decided not to object to the LID?

A. No. I stand corrected. Very poor communication between myself and the property owner of Pier 57. I didn't prepare an appraisal, but I provided them some value opinion advice and they chose not to appeal.

Q. Okay. And just to clarify, did you provide any sort of value opinion to any other property owner aside from that pier owner?

A. No.

Q. So I want to look back at your appraisal review. And the version of it that I'm looking at is -- was prepared for the Hotel Monaco. But as I understand it, Exhibit 1 to each of the appraisal reviews for the properties involved in this hearing are identical. Is that correct?

A. Yes.

Q. Okay. So if we can turn to page 15 of 25 of the Exhibit 1.

A. Yes.

Q. Here you include a discussion of the studies that ABS reviewed in evaluating the special benefits to the LID improvements. Is that correct?

A. Yes.

Q. And one of those studies on page 16 is the Tom McCall Waterfront Park in Portland, Oregon. Is that correct, do you have that listed here?

A. That's not a study.

Q. Or a -- sorry. It's described as a case study in your report here on page 15.

A. I see. Okay. Yes. I understand.

Q. Okay. So the case study of Tom McCall Waterfront Park is listed here on page 16?

A. Yes.

Q. And did you personally review that case study?

A. Yes.

Q. And that project involved the remodeling of existing park features; is that right?

A. Yes.

Q. And it also involved street beautification projects?

A. Yes.

Q. And it also included a waterfront promenade?

A. Yes.

Q. And that case study was contained in the ABS study, was it not?

A. Yes.

Q. Did your review of the ABS study assume that each of the six LID improvements were independent improvements? Or did you assess them as a single project?

A. I reviewed the ABS appraisal who identified the -- described the improvements. My review of the ABS report is a review of the report that describes the improvements how they describe them. So I'm not sure I can answer your question.

Q. So in your -- in your opinion, did the ABS study evaluate the improvements as individual improvements or as one holistic project?

A. I believe they considered as one holistic project but broke it up into various groups for descriptive purposes.

Q. So turning back to your report at page 22.

MR. REUTER: Are we still on Exhibit 1?

MS. THOMPSON: Exhibit 1, yes.

BY MS. THOMPSON:

Q. Under Section 4 entitled "Inequitable Analysis."

So you state here that in your opinion the sites within the LID boundary should have been analyzed on the common denominator of assessment per square foot of land area. Is that right?

A. Yes.

Q. And do you agree that when an assessor is evaluating a special benefit, that calculation involves an analysis of the fair market value of property?

MR. REUTER: Did you ask about an assessor or an appraiser?

MS. THOMPSON: Oh, sorry. An appraiser.

THE WITNESS: Could you restate the question?

BY MS. THOMPSON:

Q. Sure. So when an appraiser is conducting a special benefit analysis to determine whether a special benefit has, or potentially will occur, does the appraiser have to consider the fair market value of the property?

A. Yes.

Q. And fair market value is defined as a sale by a willing and informed seller under no compulsion to sell, right?

A. Yes.

Q. And it's also defined as a purchase by a willing and informed buyer who is likewise under no compulsion to buy?

A. Yes.

Q. So on page 22, as I mentioned, you say that the sites should have been analyzed based on their square foot of land area. And so that -- if the appraiser or were just looking at the square foot of land area in valuating that, that would not include any improvements that were made to the land?

A. That's correct.

Q. So the value of the land -- sorry. Excuse me. The value of property would be based exclusively on the value of the underlying land?

A. The property that was improved?

Q. Yes. Assuming we're talking about an improved property.

A. Yes. That's correct.

Q. So let's look at the example that you discussed earlier, the Cyrene Apartments.

A. Yes.

Q. So the ABS study lists the fair market value of those apartments as 101,209,000 before the LID improvements. Is that correct?

A. Yes.

Q. And that evaluation includes the value of the improvements to the land?

A. Yes.

Q. Did you determine what the fair market value of that parcel would be without the improvements?

A. No.

Q. Is it safe to say that it would be lower?

A. Yes.

Q. Do you know an estimate of how much lower?

A. It wasn't my responsibility to estimate the values. So I would suggest that the value of the site is probably not to dissimilar to what was applied in the surface parking example. But I don't have -- I'm not making that estimate.

Q. Sure. If you were retained to determine the

fair market value of the Cyrene Apartment property, would you ignore the value of the improvements?

A. I could.

Q. But would you to determine the fair market value of that property?

A. It depends on what the scope of the assignment was.

Q. So, again, the fair market value is the price at which a willing and informed seller would sell, is it not?

A. That's right.

Q. So would the owner of Cyrene Apartments sell that property for the value of the land only?

A. Well, they could because it's already on a ground lease and so the interests are already fractioned. So there's the underlying value of the land that's subject to the ground lease agreement. And then there is the lease hold improvement above which are the ownership of a different entity. So they're already separated.

Q. So I want to talk next about latecomer fees which you mentioned earlier.

Earlier you testified that LID funding does not include latecomer fees. Is that right?

A. That's right.

Q. So let me know if I'm understanding you

correctly.

Your statement before was that whenever a project is being funded through a LID, latecomer fees are not a mechanism that's available to provide funding.

A. I don't know that to be true. I am just making the comment that in an equitable arrangement, which may not necessarily be a LID comparison, that there could be latecomer fees. I think the example I gave was when a municipality decided to fund a utility and I think they would have the discretion to charge a latecomer fee or hookup fee or whatever you want to call it.

Q. But that's not necessarily in a LID situation?

A. No.

Q. In your experience, have you ever heard of a latecomer fee being used in the context of a lid?

A. No. All I'm doing is complaining what -- explaining the weaknesses -- the weakness of the appraiser's methodology because it is inequitable. And if there's provisions in an LID process for this, I'm not aware of that. But the point is is that it's not there and it's inequitable. Doesn't make sense. Or it's not consistent.

Q. Okay. So I want to turn now to the sort of the property-specific sections of your appraisal reviews. And I'm going to just use the Hotel Monaco as an example,

which is Case No. 133. I have a copy, if you would like.

A. Sure. Yeah, please.

Q. So we're going to be looking at Exhibit A to the Hotel Monaco objection.

And if you can turn to page 9.

A. All right.

MR. REUTER: And this is -- this is not page 9 of Exhibit 1. It's the page number looking at the numbers in the lower right?

MS. THOMPSON: That's correct. So the page 9, the first header is "Market Projections."

BY MS. THOMPSON:

Q. And I want to look down to the next section which is called Required Revenue Increase.

HEARING EXAMINER VANCIL: Just to confirm, we're in Exhibit A to the objection for Case No. 133. Much of the testimony through the day has been referring to Exhibit A -- Exhibit 1 of Exhibit A for Case No. 53.

MS. THOMPSON: I was referring to Case 133.

HEARING EXAMINER VANCIL: Just now you are. Yes.

MS. THOMPSON: Yes. Okay. Thanks.

HEARING EXAMINER VANCIL: Much of the testimony today has revolved around Exhibit 1 to Exhibit A of 353, is all I'm saying.

MS. THOMPSON: Thank you.

HEARING EXAMINER VANCIL: Everyone said Exhibit 1, which was confusing for the record. That's why I'm trying to get it on there, it's not the Exhibit 1 for the hearing examiner's purposes. Just a subexhibit.

BY MS. THOMPSON:

Q. Okay. We're down at the section called "Required Revenue Increase."

So this calculation, as I understand it from how you were describing earlier, is assessing how much additional revenue the -- in this case, the Hotel Monaco would require in order to essentially payoff the assessment that has been assigned in the study.

A. No.

Q. Could you explain what this calculation represents?

A. Sure. And at some point I'm going to exit the conversation, and save some of the detail for John. What the intent of this is, is merely to show that -- let's start out at the beginning. Let's start at the top of page 9, second heading LID Impact showing that the value before estimate is $107,140,000. The ABS valuation increases that by 1 percent for 1 million -- 108 million -- these are big numbers, $108,208,000. And the property receives a benefit of just over a million dollars.

Just happened to show the LID assessment alongside. What this analysis is doing is showing the impact that the increase in benefit, value benefit, not the LID tax, has on the implication of the hotel operations.

Q. Is this -- it looks like -- excuse me. Sorry.

So you mentioned that your colleague may be better suited to answer some of these questions. So just to probe that a little bit.

Did you -- were you involved in creating these equations and calculations?

A. Jesse Baker actually did these numbers with my guidance. And we talked to John Gordon about it, who is, you hopefully all know by now, knows hotels a tad bit better than I do.

In terms of eloquency of presentation, he's probably better at it. But I do understand that and I went through all the numbers with Jesse, checked them to make sure that they're right, understand what they are and what they mean. So, yes, I understand that.

Q. So I'm going to draw your attention here to what is listed as the cap rate.

Does that mean capitalization rate?

A. Yes.

Q. What is a capitalization rate?

A. If you recall earlier, I was trying to explain the simplicity of how you value an office building. And I'll just do it very -- well, $40 of square foot of rent minus $10 a square foot of expenses, you effectively net $30 a foot in income, $30 a foot in income times your square footage is what the property owner will receive in income from the property before debt, interest, and depreciation.

And that is an industry standard number that analysts look to for the -- and forms the basis of converting the value of the prop -- the income into a value for the property.

The capitalization rate is the rate of conversion. And it's commonly known as a capitalization rate, rate of return, or cap rate.

Q. And how is that capitalization rate determined?

A. Market data. In other words, there's comparable hotel sales out there. There's publications that provide rates of return. There's a number of indicators for rates of return. And they vary from maybe as low as 4 to 5 percent for an apartment to 5 to 6 percent for an office, to 6, 7, 8, whatever percent for a hotel.

Q. So the capitalization rate in your report isn't based on the specific data concerning that property?

A. No. This is all -- if you -- okay. If you want to say hypothetical, I suppose this would be a hypothetical situation where we're running an analysis that says if you were to accept these numbers, this is the end result of the hotel's operation of what it could cost in terms of how it's operating.

We're just using these numbers as, I guess, benchmarks, if you will. I mean, seven is a great rate. But the point is this is just for demonstrative purposes rather than analytical, saying this is what the value of it is. We're taking the values in the ABS report and just using them for demonstration purposes.

Q. So the cap rate that's listed here in the Monaco report and I -- let me know if this is wrong, but I could assume that the same capitalization rate is the other reports you prepared, that's an assumed capitalization rate.

A. Yes.

Q. Okay. So next I want to look at the required demand increase evaluation that you did on -- I believe it starts on page 10.

A. Mm-hmm. All right.

Q. So these are calculations about the number of new rooms that would be needed to meet the estimated increase in value of the property.

A. Yes.
Q. So you calculated here that the Hotel Monaco will need to increase revenue by 1 percent or $373,800 to meet the 1 percent increase in value projected by ABS.
A. I don't know where you're reading those numbers from, but I'll take your word for it if it's written here.
Q. Sure. It's the set of numbers that's below the first paragraph there, new revenue, new demand required?
A. Okay.
Q. So then you have in those calculations a set of letters, ADR. Does that mean average daily rate?
A. Very good. Yes.
Q. That's the average daily rate per room?
A. Yes.
Q. And here you have the ADR for the Hotel Monaco listed as $200, and it looks like that is an assumption based on the fact that assumption is written in parentheticals next to it?
A. That would make sense, yes.
Q. Okay. So what did you base your assumption on?
A. I'm going to let John answer that. I can answer it. We have their operating statements. We have their STAR reports. We know what the rates are in the area.
I would suggest from my memory that the rate is

probably within a reasonable percentage of that. The actual rate that they're operating at, I think. I can't say specifically more than that.

Q. So could it be higher than $200?

A. It could be.

Q. So I'm going to hand you what is Exhibit B to the Monaco objection. And this is the limited appraisal that was prepared for the Monaco hotel. And I ask that you turn to page 10.

A. All right.

MR. REUTER: I'm sorry. Are we on the same page, or did you switch?

MS. THOMPSON: Different. Sorry. This is objection -- sorry. Exhibit B to the Monaco objection, page 10.

MR. REUTER: All right. This is Mr. Gordon's.

MR. GORDON: That's my work, yeah.

BY MS. THOMPSON:

Q. And under "Projected Performance," about halfway down that paragraph, it says, "For a future stabilized year stated in current dollars, we are projecting an average room rate of $220."

Is that higher than the assumed average daily rate that you have listed here in your appraisal review

report?

A. Yes.

Q. And when calculating an average daily rate for rooms, is that calculated based on the daily rate throughout the year, an average of the daily rate throughout the year?

A. So I think at this point when you're getting to this level of questioning, I know John Gordon is very anxiously awaiting the opportunity to be able to explain to you how the hotel is valued and basic metrics.

And I think rather than having me try to answer it, it's better coming from him since this is what his -- the purpose of his presence today is to talk specifically about the appraisals.

MR. REUTER: It's also beyond the scope of my direct. I didn't ask him about the appraisal.

THE WITNESS: That's right.

MS. THOMPSON: Well, it's in the record.

MR. REUTER: Well, he's telling you that he didn't do -- the appraisal is for the appraiser to testify about.

BY MS. THOMPSON:

Q. So your appraisal review report that you testified about earlier today on direct examination, you said that it consists of two parts, right?

A. Yes.
Q. The first part is the overall critique of the ABS study.
A. Yes.
Q. And the second part is a more specific look at how the ABS study would impact a particular property; is that right?
A. One metric of looking at it, yes.
Q. So the second part that we're discussing right now relates to your evaluation of the ABS study because it -- it works out how it would impact your client?
A. I'm not worried about my client. I'm just focusing on the property. The point is, and I think I tried to explain it. And I don't think the analysis that we're providing is just an "oh, by the way."

I've already come to the conclusion that the ABS benefit study is not credible and it can't be relied on. And this is just basically a piece that says -- and this is another reason why it's not acceptable.

MS. THOMPSON: I would move to strike that answer. It's nonresponsive.

HEARING EXAMINER VANCIL: He thinks it is. If you want to rephrase and ask him the question again, that's fine.

BY MS. THOMPSON:

Q. So you prepared this appraisal review, correct?

A. Yes.

Q. And in doing so, you prepared two parts of a single appraisal review?

A. Yes.

Q. So in your opinion the -- does Exhibit 1 relate at all to the rest of the report?

A. Which report?

Q. Your appraisal review?

A. Let's get off on the right foot here. Re-ask the question.

Q. Yes.

A. I'm not sure that I answered it properly.

Q. So what we have here, for example, the Hotel Monaco, is Exhibit A to the hotel's objection is a -- an appraisal review prepared by Kidder Mathews, signed by you and Jesse Baker.

And included within this appraisal review is sections that relate to the -- some specific information to the Monaco hotel. And then also an Exhibit 1 which includes the critique of the ABS study. Is that correct?

A. Mostly, yes.

Q. So both of these portions of the appraisal review were prepared by you as part of your appraisal review of the ABS study?

A. Yes.

MS. THOMPSON: So -- I mean, my position is that it's fair game to ask him questions about the study that he's testified to before.

MR. REUTER: Well, I think you're trying to ask him how does -- how do those pages preceding Exhibit 1 relate to both the appraisal review, and perhaps more importantly to the appraisal. I think you're asking how do they tie -- how do those three pages about the Monaco specifically tie in.

And I think what Mr. Shorett is saying it's best to ask Mr. Gordon because it might tie more closely to the appraisal than they do the appraisal review in Exhibit 1.

MS. THOMPSON: And I understand that. But this report was prepared by Mr. Shorett and signed by him. And --

MR. REUTER: Okay. I'm just trying to get you to the actual best answers. So you can ask him how do those pages relate.

HEARING EXAMINER VANCIL: Before you decide what she can ask, I hear that you're raising an objection.

MR. REUTER: No. She can go ahead. I'm just trying to steer this.

HEARING EXAMINER VANCIL: Please don't. If you have an objection, please raise an objection.

If we have another witness that's coming on that's more relevant to the questioning you're getting at, let's get to that.

If you feel there's something specific with this witness that you want to get to, you're allowed to go forward with this witness.

MS. THOMPSON: Okay.

BY MS. THOMPSON:

Q. Will Mr. Gordon be able to testify about the calculations that you've provided in your appraisal review?

A. Yes.

Q. Is there a reason why Mr. Gordon wasn't a signatory to the appraisal review?

A. He's acknowledged. His professional assistance is acknowledged. At the time we hadn't incorporated that particular analysis that you were just asking me questions about. And, no, there's no reason, and actually all three of us should be signing each of these documents.

MS. THOMPSON: Thank you. No further questions.

HEARING EXAMINER VANCIL: Redirect.

REDIRECT EXAMINATION

BY MR. REUTER:

Q. Have you done appraisal reviews before, Mr. Shorett?

A. Yes.

Q. How many, do you know?

A. Hundreds.

Q. Okay. Have you done them for the City of Seattle?

A. I can't think of any off the top of my head. But I probably have at some point.

Q. But for Sound Transit?

A. Specifically for Sound Transit, I don't recall. I haven't been engaged by Sound Transit for quite a while.

MR. REUTER: Okay. That's all I have.

HEARING EXAMINER VANCIL: Thank you, Mr. Shorett.

Exhibits 1 through 5 are admitted.

(Exhibit Nos. 1-5 admitted.)

HEARING EXAMINER VANCIL: Do you have another witness?

MR. REUTER: John Gordon.

HEARING EXAMINER VANCIL: Please state your name and spell it for the record.

THE WITNESS: John David Gordon. J-O-H-N, D-A-V-I-D, G-O-R-D-O-N.

* * * * * *

JOHN DAVID GORDON, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. REUTER:

Q. Tell us about yourself, Mr. Gordon.

A. I'm --

Q. Professionally speaking.

A. Thank you. I'm a real estate appraiser with Kidder Mathews. My educational background includes a bachelor's in economics from University of California at Berkeley, and an MBA with an emphasis in finance from the University of Washington.

While at the University of Washington, I worked part-time for two hotels. And in 1984, I joined an accounting firm with a large hotel appraisal practice as a small division within the larger accounting firm.

I've been appraising hotels since that time, so that's 36 years. I've worked in different firms, but I've been at Kidder Mathews since 2004. I have appraised at last count 685 -- completed 685 appraisals of hotels. I don't say that I've appraised 685 hotels because there's some that were appraised more than once.

I've appraised approximately 50 -- completed approximately 50 -- between 50 and 55 hotel appraisals involving properties in Seattle.

Oh. Professionally, I'm a member -- member of the -- a designated member of the Appraisal Institute, which is signified by the letters after my name, MAI. It used to mean Member of the Appraisal Institute, and now it just means MAI. They're very sticky about that.

I'm also an AIGRS, which is a review designation. So I've been awarded two designations by the institute.

I am a past president of the Seattle chapter of the Appraisal Institute, and I've served that organization in a number of capacities.

Q. So are these hundreds of appraisal, were these all done for lawyers?

A. No. I almost never work for lawyers.

Q. Okay.

A. I do very, very -- I could count on one hand the number of tax appeals that I've done. I stay away from that work if I can.

Q. And -- but you're being paid in this --

A. Yes.

Q. -- case.

All right. So I would like to -- I would like to start out with what I call Hotel Econ 101.

Please explain to the hearing examiner how it is that a hotel business works, and how you can determine the value of a hotel?

A. Okay. In the expectation of that -- of this topic being addressed, I prepared some illustrations, and I don't know what the proper procedure is for sharing them.

HEARING EXAMINER VANCIL: Do you have a copy for the City?

THE WITNESS: Yes. There's one for the City and one for yourself.

HEARING EXAMINER VANCIL: We'll mark this Exhibit 6.

(Exhibit No. 6 marked.)

THE WITNESS: And I think, Todd, you already have yours.

BY MR. REUTER:

Q. I do.

A. I'd like to start out by saying something about what a hotel is. As Peter pointed out, it's not an office building; it's not a retail center. It's a place where the average lease term is one day, where the rental rate changes every day, where operating expenses may be

60, 70, even 80 percent of your total revenue. And where the management of the property is critical to its function.

Hotels are very management intensive. Somewhat similar to nursing homes in that respect. But there are very few property types that compare with hotels. Because of that, when you're analyzing them, you're not simply analyzing a stream of -- a stream of lease income that might be foreseeable on a steady basis over a long period of time. You have to analyze each of the line items of revenue and each line item of expenses individually.

The steps involved in appraising a hotel are several, but I'm going to go through them just step by step. I perhaps should have said earlier in my background that I teach hotel appraisal, and will be conducting a class in March if anyone wants to sign up to learn about it.

At any rate, the first step in a hotel appraisal is to understand what you have. What type of hotel that is. We use the terms "full service" and "limited service" primarily to denote whether or not the hotel has a restaurant. A full-service hotel does. A limited-service hotel does not.

In the last couple of decades the term "select service" or "focused service," those terms have come into vogue and they basically mean something in between. You might have a free breakfast, but you've got a bar in the hotel that serves a small meal -- serves light meals in the evening and drinks. So it's not exactly a big full-service hotel, but it has more than nothing in the way of food and beverage. That's where those terms come from.

There's also the term that you all may have heard of, an extended stay hotel. And that means a hotel where a significant number of the guests are staying for long periods of time. That's to be distinguished from a transient hotel where most of the people are staying only a day or two.

I bring up these terms so that we can understand what sort of hotels we're dealing with in downtown Seattle. All five of the properties that we -- that we'll be here about, that we're here about appealing, would be considered full-service hotels. They all have restaurants. They all have other minor sources of income. But the bulk of their income comes from room revenue. And a significant portion of their food and beverage revenue comes from hotel guests.

So the first step in analyzing hotels like this, the first step in the appraisal is to try to come up with an idea of what sort of room revenue the hotel can generate.

The reason that we do this is that people who buy hotels are buying them on the basis of income. They're not buying them on the basis of the income that the seller earned last year that will be a good indication for them as to what income they might expect. But what they're really interested in is how much income can they make as the new owner of the hotel in the coming year. So our focus is always on how is the hotel expected to perform next year.

If the hotel is not stabilized, if the market is fluctuating up and down or the performance of the hotel is expected to fluctuate up and down, then we look at more than one year. That's a -- that's a distinction that we've become -- become evident later on.

So what is it about a hotel that distinguishes one from another? The quality of the rooms, the number of the guest rooms, whether the room count has changed within the past few years, as you will find to be the case in two of the five hotels that we're looking at today.

What sort of food and beverage did they have, how much of that revenue in restaurant and banquet revenue, how much of that is being generated by hotel guests, how much of it is coming from the outside of the hotel for local businesses, rotary club luncheons, weddings, that sort of thing.

The reason that's important is because if your occupancy is going to fluctuate, your revenue will also fluctuate but not necessarily in proportion. Your food and beverage sales may go up at a slower rate even if occupancy surges because some of the food and beverages sales is lost in -- from local sources. That too we will look at as we get to the income.

The location of a hotel, that's been beaten to death -- I've forgotten the word. You hear the phrase "location, location, location," all the time. People talking about that. That's been around for almost 100 years now. It did grow out of the hotel industry. It's a cliche. That's the word I'm looking for. It's a cliche.

Location is certainly important. Other factors of the hotel are important as well in terms of the quality of the property, the age, the condition, the size, how much space you have in the hotel, whether your rooms are big or little, whether you have a lot of common area or just a little bit of common area. All of these things enter into the value of the hotel. They enter into its performance. So when we start looking at a hotel market, the first page in this packet is -- gives you an idea of the kind of information that we're looking for in terms -- in terms of a hotel market. And I should say everything in this -- nothing in this packet is proprietary. I've purposefully included only information that is available publicly or relates to hotels that I've disguised adequately enough to where you can't determine which hotel it is. But I'm putting them in here for illustration so that we understand how the hotel process proceeds.

So your first step is to identify what we would determine your competitive set. That is the hotels with which you compete most directly. If your hotel is full, where do you send people? If you need rooms and somebody else is full, who is going to send them to you? If a guest is thinking about coming, in this case to Bellingham, that's the example that I have.

If a guest is thinking about coming to Bellingham, and they think they might want to stay at the La Quinta, would they also consider the TownePlace or the Home2 or the SpringHill. You try to focus in on the hotels that are most relevant to your property. And often, not always, but often the best guidance from that is from the managers of the hotels themselves, because they know who their competition is.

In the appraisal that we'll be discussing later, the comp sets that we used are the comp sets defined by hotel management, by the management of the individual hotels. Since there's five different hotels with five different managers, there's five different comp sets. They don't all agree on who their competitors are because they aren't all the same competitors.

The Edgewater wouldn't necessarily compete with the same hotels that the Hilton does and vice versa.

But regardless of the source, you need to come up with a list of hotels that you're going to analyze as your comp set, so that's step one.

In step two, we look at the history of this market. And by market, I mean the competitive set. Now sometimes the competitive set will be defined to include everybody. In several recent appraisals I've included everyone in the northern part of Bellingham as the comp set. So 14 properties get crammed together.

In other cases we use a much more narrower focus such as what are the sets that have been selected by the hotel managers in these cases. But in any case, we want to try to track what's been happening both in supply and in demand. That's the second page in your packet.

The top portion of this table shows -- and I'm sorry, I didn't number the pages. Does everybody know what page? This is the one where it says "Average Daily Room Supply" at the top. And it's 2012 is the first year shown.

The top portion of this table shows the increase in supply over time. By "supply," we mean how much hotel rooms are there in the competitive set. Now you'll notice, for example, on the third line, the La Quinta Inn & Suites in this example. It opened in 2013, but it only had seven rooms. The following year it had 81 rooms.

What these numbers are is not the number of rooms in the hotel, but it's the average daily room supply divided by 365 days. So if a hotel opened in December the way the La Quinta did, very slow -- it's average supply during the course of the year is very low because it was only open for a few weeks of the year.

The following year, 2014, it's open the whole year. I just wanted to clarify that because people sometimes look at this table and say, oh, that's very strange that all these hotels are half open in their first year of operation. Not the case.

So the average daily room supply is what it sounds like, the number of guest rooms on average during the course of the year.

The real market supply and available room nights, is simply the average daily room supply multiplied by 365. So it's the capacity of the competitive set during the year. Occupied room nights under market demand is how many of these rooms are actually occupied by guests. So if you divide the occupied room nights by the available room nights, you get the market occupancy rate. That occupancy rate is something that is referred to frequently.

Now look at -- in this example, look at what's happened with market occupancy. In 2012 in this Bellingham market it was at 76 percent. By 2018 it was 64 percent. If you look up to the occupied room nights the volume of demand increased significantly over this period. Sometimes by double digits.

So how is it possible that the occupancy could be going down when the demand is going up? The reason is that the supply went up faster than the demand went up.

And what we end up with is a market in this example where there was so much new supply that despite strong growth and demand, occupancy percentages declined. You will see that same situation in some of the hotels that we look at for the comp sets because downtown Seattle has had a very large increase in supply. One in particular, 1260-room hotel. But several hotels that have opened within the past few years and several more that are coming.

So the experience of Bellingham is telling for Seattle in that we should look not only to increases in demand and supply but potentially to decreases in occupancy. Ordinarily in a hotel appraisal we'll look forward three or four or five years. And that's what we've done in these appraisals that we'll be -- that are exhibits for the appeals.

There's a forecast that goes out in most cases five years, in one case I believe we went out six. And we try to project out how occupancy will perform in that market during the near term. But at some point it becomes impractical for us to anticipate what's going to happen in supply and what is going to happen in demand.

So most hotel appraisals -- appraisers will at some point in the future stabilize their market and say, okay, we think we're going to grow a little bit next year. There's going to be a new hotel. Four or five years out, this is how we're going to be and this is our typical level of performance.

So if you flip ahead to the next page, this is showing that same market with the forecast going forward to the year 2024. And in this case we determined that 68 percent was a reasonable long-term rate of occupancy for the North Bellingham market.

I know it may seem odd that I keep referring to

Bellingham when we are appealing Seattle hotels. This is just an illustration. This is just a learning exercise. So there's our forecast in this example. We do a year-by-year forecast. And then at some point, we stabilize the performance in the forecast.

The lower portion of these tables, of both of these tables shows the market average room rate. The term "ADR" was used earlier today, which is correctly short for average daily rate. When you're talking about the average for a group of hotels, you refer to the market average room rate rather than just the average daily rate, but it's the same idea.

How much are people paying to stay in these hotels on average? This shows that in 2018, if you were staying in North Bellingham, you would be paying about 100 bucks a night to stay in your hotel. The line below, that, RevPAR is a term that was invented by the owner of Hospitality Valuation Services or HVS back in the 1980s. He's the fellow who literally wrote the book on hotel appraisal. He even made it look like a textbook. And he defined this term as Revenue Per Available Rooms. It's the product of the occupancy rate and the average daily room rate. So in this example, it's $64. That's if you own a hotel and you're trying to anticipate how much revenue am I going to get, this -- this would suggest that in this market, on average, these hotels are pulling in about $64 a night for each room that they have in their hotel. It's not what the guests are paying. The guests are paying 100 bucks, but not all the rooms are filled.

So if you average the revenue among all of the rooms in the hotel, it comes down to $64. And then the last line on the table is the annual room revenue and I stated in thousands just so it doesn't crowd the page. So in this example, the North Bellingham market was grossing $32 million in room revenue during 2019. It seems like a lot for Bellingham. But there you go.

The next step -- now we've talked about where the market supply is and market demand, where it's been and where we think it's going. I do need to jump back and explain one more thing about this.

This is the table that goes up to 2024 for the market. So at the top left, it says "Market Supply." At the top right, it says 2024.

In the middle of that table, under "Market Demand," there are two elements that go into our forecasted market demand. First, we look at demographic trends, what's been happening long term in the city, in the county, in whatever region is source -- is the source market for your hotel.

What kind of growth rates are we seeing, just in general. If there's no -- no unusual fluctuation in the market, no new hotels, how much will hotel demand grow. And it basically grows with the population. Population grows, employment grows, maybe you get a new employer in. But in most markets the line that says "Underlying Growth" is going to be somewhere between 1 and 3 percent per year. It's not dramatic.

Dramatic is what happens in the line marked "Induced Demand." Because if a new hotel opens up in a market within a competitive set, that hotel is going to bring people in from peripheral markets or bring in new guests because they have a new brand.

We did a hotel -- I appraised a hotel in Idaho that was going to be the first Marriott Hotel in Rexburg. And many of you may know Rexburg is home to Brigham Young University. And the Marriott chain is very -- is very popular among -- among the families that would go to Brigham Young University. So a number of the guests who would like to stay in Rexburg, parents who are coming to visit their kids at college, were staying in Idaho Falls because there was a Marriott in Idaho Falls, a Fairfield Inn, and they could get their points. They could get loyalty points by staying there.

When a Marriott opened in Rexburg, those guests came back to Rexburg because that's where they really wanted to be. From the point of view of appraisal, that was induced demand because the Rexburg market was very small. They opened a new hotel. All of a sudden, demand shot through the roof for the market. Because it was people who wanted to be there in the first place. And that's what new supply can do is to bring in new rooms.

Now you'll see in the forecast for all five of these -- for all but one of these properties, four out of the five, we are anticipating increases in supply that will induce new demand into the market. So we're expecting that the hotel -- that the total demand in each of these markets is going to increase by more than just the underlying rate, more than just that 2 percent.

Okay. That will become more obvious when we're actually looking at individual studies.

If we go to the next page that just has years across the top, and in the top left it says "Supply Ratio," once we've evaluated the historical performance of the market and we projected how we think the market is going to perform, then we look at the relationship between our hotel, our subject hotel and the market.

First we look at it historically and say that, well, over the last five years in this example, you'll see the top line. The subject hotel has got 80 rooms in it. The market has -- it currently has 673. It went up a tick from 652 in 2014.

What year should we look at? If we look at 2014, the very first column on that table, we compare the -- the room occupancy rate that our hotel achieved to the market occupancy rate for that year. Market occupancy in 2014 was 73.3 percent. Our hotel's occupancy rate was 69.6 percent at the very bottom of that little section. Toward the middle of that section, you'll see a line that says "Occupancy Index." And an index is simply the ratio of how did we do to how did everybody do. So it's the subject to the market. In this example, this hotel did -- the room occupancy rate of this hotel was lower than the occupancy rate for the market. Our occupancy index was less than 100 percent. It was 59 percent. The following year jumped to 101. They did better or the market did worse. Take your pick.

The following year we're at 98 percent index, then 97, then 94. These aren't the room occupancy rates. The room occupancy rates are at the bottom of that section, 77, 76, 78, 78. What it shows is the relationship between our hotel and the market. And the reason we're doing that is because we've already projected how we think the market is going to do. And if our hotel typically gets 95 or 94, or 97 percent of the market occupancy rate, then looking forward if we're comfortable with our forecast of market occupancy, we should be able to say, well, yes, we should -- unless there's a disruption to the market, we should continue to get 94, 95, 97 percent of the market occupancy rate.

That's what happens on the next page where we project out. In this case, we projected that every year our subject hotel would do an occupancy index of 95 percent. We multiply that times the market occupancy rate that we already projected for the overall market and that, what pops out is our occupancy rate for our hotel.

I'm spending a lot of time on occupancy because of all of the factors that go into a hotel forecast, hotel -- forecast of hotel performance, occupancy is going to be the most critical one. How many heads do you have in beds. It affects not only your room revenue; it affects how much revenue you can get from other sources. It affects your operating expenses.

Q. Other sources such as food and beverage?

A. Yes.

Q. Okay.

A. I won't belabor it but our room rate analysis is just -- is done just the same. At the bottom of the page -- or towards the bottom of the page on each of the sheets there's a section called room rate. We do exactly the same thing. We look at the historical relationship between our hotel's average daily rate and the market room rate in each year, and derive the roommate index. The indices of this hotel in the past, the room rate indices have ranged from 95 percent to 99 percent. 98.6. And we're projecting 97 percent in the first year and 100 percent thereafter.

The point I'm trying to get to is we don't pull our forecasts out of clear blue sky. We look at the historical performance of the market. We project how we think the market is going to perform in the future. We look at the historical relationship of our hotel to the market and we use that to impute how our hotel will perform in terms of room revenue, average room rate and room occupancy.

Okay. Is everybody still with me at this point? Are there any questions before we jump into the next section?

Q. Well, I think the key thing, Mr. Gordon, is to tie what you have told us about, how hotel valuation happens, to what you did for the subject hotels in this LID.

A. Okay. Well, we did all of what I just described.

Q. Okay.

A. The competitive sets were defined by the managers of each hotel. I skipped over the STAR reports entirely, didn't I?

Q. What are they?

A. Okay. Back in 1987, a fellow named Randy Smith was working at a large accounting firm, not the same one I worked at. He's actually our competitor. He was gathering market data on hotels which the -- which his firm would then use to do appraisals and market studies, often for other hotels.

And he was finding that it was difficult to get hotels to agree to get to share their results with him when they knew that his firm was going to go out and potentially build a competitor. He came upon the idea of -- of operating a separate firm, which would only collect the data and make it available only in aggregate form, so that nobody could use that data against those providing it. That company became known as Smith Travel Research. They later changed their name to STR. Randy Smith is now a multi gazillionaire on a beach somewhere. But his firm continues to collect the information, and they've been doing that now for 30 years.

They are by far the widest -- they have the widest acceptance of any source of hotel data. They -- it's hard to understate their importance to the industry and how relevant they've become and how much people trust the numbers that come out of that.

STR has two primary services that concern us here. One is that every participating hotel in the survey -- and this is ones of thousands of hotels around the country, every participating hotel receives a monthly report showing the performance of the competitive set that they define. So that each manager of the hotel says, well, I'm the Hilton Hotel, and I think I compete mostly with the Renaissance and the Hyatt and the Monaco. So here is my competitive set. They tell STR, this is the set that I want studied. And every month STR sends them a report on how their hotel performed compared to their group, to their competitive set. STR never reveals the individual data of the members of their competitive set, but they do reveal the aggregate data.

So this is a monthly report that shows up. It's an Excel file, and it comes every month on or around the 15th of the month.

Q. What can a hotel owner learn from a STAR report?

A. Oh, it's -- it's hugely valuable to know that the market -- if your hotel has tanked, you've had a terrible month and you're thinking, oh, is it just me? Or is it everybody? Well, now you can know. It really was everybody, so I don't need to feel so bad. If it is just you, then maybe you need to think, well, what happened to my hotel? Did I -- was it because I raised my rates 20 bucks and everybody went away? Well, maybe it was.

Q. And if somebody wanted to sell a hotel, would the STAR report bear on the value of that hotel?

A. It would be an indication of how you're going to perform. Remember that in valuing the hotel everything is coming down to what would a buyer pay for it. That's market value. What can I sell my hotel for? What would somebody pay? What they will pay is based on how much income they're going to generate. We can talk about the sales approach, we can talk about the cost approach, nobody cares. It's always on income for hotels.

And the income is very heavily dependent on how your hotel is going to perform in terms of room occupancy and average room rate, room revenue. Those are the drivers. Everything else flows down from that. We'll get to that in a moment. But it's critical to be able to have a good forecast as to how your rooms department is going to perform, how your -- what kind of occupancy you're going to do.

So, yes, hotel managers pay very close attention to STAR reports. The other document that STR provides is when the STAR report is not available or an appraiser is not happy with the comp set. There have been examples where I've appraised a hotel where they own several properties in the same market, and from an objective standpoint those are competing with each other, but because the hotel owner owns them -- owns both properties or several properties, they don't need them included in their STAR set. They already know those numbers. So instead they pick comps -- other competitors out that they want to be able to see results on in the aggregate. And they may leave out a hotel that the appraiser thinks is really relevant.

Another example is a case where the hotel is proposed. So there is no STAR set. There's no historical record.

In either of those cases, STR makes it possible for appraisers, or anybody, to purchase data. It's still aggregate data. You get monthly results, monthly occupancy, monthly room rate and revenue for whatever set of hotels you pick within some limits. They can't all be Marriott. They can't all be Best Western. They can't all have the same owner.

That's a fee for service. They charge 550 bucks and you get a report and it's very helpful.

In the case of these appraisals that we are using -- the appraisals that we wrote in support of these appeals, we had access to STAR reports for all of these hotels. So we did not go out and order a separate -- a separate STR trend report.

Q. So just to be clear, those examples that you will gave of this alternate setup, that's called a trend report?

A. That's a trend report and we did not use the City's appraisal.

Q. You used actual STAR reports?

A. That's correct.

Q. You mentioned if a STAR report isn't available, to whom is a STAR report not available?

A. Well, it's available to the manager and the owner. If they choose not to share it with you, then it's not available.

Q. So it's -- it's confidential information?

A. Yes. It's entirely confidential because it shows the individual performance of that hotel. The aggregate numbers aren't strictly speaking confidential because they don't show an individual hotel's performance but they are copyrighted. You can't just go blaring them around.

Q. So at the risk of getting ahead of ourselves, we can assume that ABS, in doing their valuations, didn't have access to the actual STAR reports?

A. We know they did not have access to STAR reports of financial statements because the hotel managers told us that, that they did not share those as part of the LID study.

It is possible, and I would suggest likely, that Macauley may have ordered a trend report for downtown Seattle, and just said, I want all of the hotels in downtown Seattle, how are they doing. And he would have gotten a good amount of data for 40 or 50 hotels. But he did not have individual property data for any of the hotels, to my knowledge.

Q. Who are appealing here today?

A. That's correct.

Q. Okay.

A. Okay. Any questions at this point now that I'm still confusing the issue for everyone?

Having come up with our forecast of room revenue, everything else in the financial statement -- well, what we are -- our goal is to put together an estimate of how the hotel is going to perform in the future as defined by the net operating income of the hotel. That's the income after all of the operating expenses, but before capital costs such as depreciation and interest.

The room revenue is the starting point to that.

But if you turn to the page -- to the next page which looks like this and has a 300 at the top. This is an example of how a hotel operating statement is organized. There is a publication that the accountants put together called the Uniform System of Accounts for Lodging Properties. And for the most part, the organization that I presented here adheres to the Uniform System. There are a couple of exceptions that I will point out when we get to them.

But basically, its organization is that you have various sources of revenue and that would be rooms, first of all. And then food and beverage if they have a restaurant or food and beverage operation. You can have other sources broken out individually. I didn't do it for this example. But if you have a health spa, parking garage, a gift shop, you might break those out as separate lines. But you can also just lump them together as "other" because they're usually pretty small numbers. So that's the first section.

The second section, Departmental Expenses are those costs that are directly related to the revenue -- directly related to generating the revenue above. So the department names correspond both in the revenue section and the expense section. You'll see there's rooms revenue, rooms expenses. F would be revenue, F would be expenses.

They are sometimes mistaken for variable costs. They're not. Each department has a mix of fixed and variable expenses, which means that as your revenue goes up, your expenses don't necessarily go up. These departmental expenses don't necessarily go up at the same rate because there may be some costs that are fixed. In the rooms department, for example, you have only one head housekeeper. You're going to have the head housekeeper regardless of whether occupancy is 30 percent or 80 percent. But you will hire individual room attendants based on what your occupancy is.

So you might have one during the winter and three during the summer or ten during the winter and 30 during the summer depending on your size.

Similarly, in food and beverage, your kitchen staff is pretty well fixed. But if the revenue goes up, if you're having more sales in the restaurant, you are probably going to have to hire more wait staff. If you're doing more banquets, you are going to have to hire more banquet staff. So there's some fixed cost -- oh, the food and what you're drinking and eating, that's all variable too. So each of these is a mix, a fix, and variable components. There are very few that are entirely fixed. There are a few that are entirely variable, but for the most part it's a blend and that becomes relevant in our forecast as well as you will see later down the line.

Undistributed expenses, another word for that would be overhead. Again, some fixed, some variable.

I think these are pretty self-explanatory. Administration tends to be sort of a catchall. It includes the general manager's salary and your credit card commissions. Those are the big items. But any little things, postage and dues and donations get thrown into administration.

Fixed charges are taxes and insurance. In the State of Washington, we also have a B&O tax, which may be included in the tax line.

All the -- the combination of departmental, undistributed and fixed expenses is referred to as direct expenses. That's my own nomenclature for it; you won't find that in any publications. I just couldn't think of a name that was shorter -- I wanted something shorter than saying income before deducting, yada, yada, so we're calling it direct expenses. But that's what that is. If there's any confusion, it's just everything above it added up.

The operating profit is how much money you have left over at that point. But from that number you need to deduct management fees and capital reserves. Not every operating statement of a hotel will show management fees because not every hotel uses an outside management company. But if someone is going to buy a hotel, the presumption is that either they will hire a management company or they'll do the work themselves, in which case they should be compensated.

So in either case it's appropriate to deduct management fees as an expense. Three percent of gross is pretty typical. But it could be a little higher, a little lower. There's a line that says "Capital Replacement" there, and you can see it's calculated at 5 percent of total revenue. What that is is money that should be set aside every year so that you can replace the furniture.

Remember that unlike an office building or retail center or a warehouse, hotels have a lot of personal property. If you go to a hotel, you're sleeping in some of it. There's the beds, the dressers. In the restaurant there's the furnishings there. There's the equipment in the kitchen. The HVAC system may or may not be personal property.

And then all the linens and the supplies.

So that needs to be replaced from time to time and the general industry standard has been to set aside between 4 and 5 percent of your income -- sorry, I misspoke, between 4 and 5 percent of your total revenue as an allowance to replace these items.

Now, not every hotel actually sets up a separate bank account and puts money into it. Some do. A lot of them pretend that they're setting aside money and then the bill comes due and all of a sudden they have to scramble or go out and get a loan for personal property so they can replace their mattresses.

But the theory is sound, that there has to be some set aside.

Now, the reason that I've gone through all of that detail is because when it comes time to apply a capitalization rate the way that we mentioned cap rates before, that has to be based on a certain definition of income. And the generally accepted definition is net operating income after direct expenses, after management fees, after capital reserves.

So when I talk about applying a cap rate, I'm talking about applying it to the NOI, net operating income or NOI of a property.

At the bottom of this page I wanted to -- because one of our properties is on a lease, I wanted to show how you deal with leased property. This won't flow through to the rest of my discussion, but there's a line for ground rent at the bottom.

Q. Which property is that?

A. This is made-up property --

Q. No. But you said one of our properties is --

A. Oh, the Edgewater. Yeah. The Edgewater has a lease. Yeah, it's a setback. Actually it's a real property that we have tweaked the number to where nobody can identify it. And it's in Oregon.

The bottom of the page shows ground rent of a million dollars. If you subtract the ground rent from the NOI, you get NLI, which is the net leasehold, which we're not going to use anymore until we get to the Edgewater in a couple of days.

Last page. If you turn to the last page of the packet. This is how the appraisers, our forecast of income, of net operating income is translated into our opinion of value.

There are two forms of capitalization. Direct capitalization and yield capitalization. Yield capitalization has other names. It's also called internal rate of return analysis, discounted cash flow analysis, but I like the symmetry, so we're calling it direct and yield.

At the top of this last page, direct capitalization in the simplest case for a stabilized hotel, you take the net operating income you're anticipating for the coming year, you divide it by a cap rate, and that gives you your opinion of value.

In a more complex case where the property is not stabilized, then you -- you do all of that -- you do those first steps, and then you make an adjustment for the impact of the near term shortfall or surplus in income. The near term variance in income.

I'm not going to spend time explaining how we do that. It relies heavily on the yield analysis, and if you want me to, I can explain it. But I don't have a page for it. I didn't bring a printout of that page. Suffice it to say that it's an adjustment to account for the fact that your hotel is not stabilized now, but you think it will be eventually.

In yield capitalization, the center part of this table, this is looking at a multiyear forecast. Again, we're looking at net operating income in the first column. We're discounting that projected cash flow to today's date at a yield -- at a selected yield rate. And the product of those two is the present value of each cash flow. We assume and most investors assume that they won't hold the hotel forever. Eventually, they're going to sell it. The most common assumption is that you'll sell it after ten years. And my own thought is that

that's probably because of the depreciation schedules for personal property. That if you hold the hotel for eight years you've fully depreciated your property, and then you turn around and start working to sell it, the new owner can come in and redepreciate it. Thank you, tax law.

But the net proceeds that you would get in ten years from selling the property, after some selling costs, are discounted to the present. The same way that annual cash flows are discounted. Add all of those up and that gives you the line -- in this example, 49,000,860.

At the top of the page our conclusion was 48,000,510, so pretty close from an appraiser's standpoint. We -- I would think of that as being pretty close. If it comes out exactly right, then -- if they come out exactly the same, then you probably have a mistake somewhere or somebody is trying to fudge something.

Our opinion of value was developed in this way in each of the appraisals that are under appeal. We came up with this sort of table, the income capitalization table. Came up with two indications of value using direct cap and yield cap and reconciled them to our final opinion of value for the property.

Q. And you derived your conclusions from STAR reports and financial reports obtained from the hotel properties?

A. That's correct. We had access to everything that we asked for. We asked -- we got STAR reports for multiple years, going back in some cases six years. We had either three or four years of complete operating statements for each of the hotels. Because they were motivated. I mean, they wanted our help. So -- so they shared those.

None of that material, to my knowledge, was available in the ABS valuation study. And that's not -- that's not a hit on ABS to say that. It's -- it -- anytime somebody is doing a mass appraisal, they can't possibly have access to the individual data. They can't possibly go through something in as much detail as we do -- as we can for an individual hotel.

Q. So whose number is more credible?

A. I think my numbers are more credible.

Q. Why?

A. Because we had access to their historical numbers and because of our methodology is generally accepted within the industry. The numbers that we had -- we were able to -- we tested these numbers. As I said, we did not do a sales comparison approach or cost approach, because investors typically are going to purchase a hotel on income.

But one thing that we did do was to come up with details about recent sales in the area to see if we were at least within the rank. If we were bracketed. And we do have -- I can share with you this document. I don't know why I only have two. But this -- could you pass this to the Chair.

This is a list of the sales of high end hotels in Seattle within the past, I think three-and-a-half years.

HEARING EXAMINER VANCIL: Mark this Exhibit 7.

(Exhibit No. 7 marked.)

THE WITNESS: And I wasn't selective on it. I put in all the hotels. Most of them are -- all of them may be full service. I no longer have the list in front of me. But they -- the prices -- the values per room that we came up with for the five properties that we're appealing, do fall within the range of the sales.

Now, there is one property that we're appealing which -- which we're appealing with -- in another hearing which is above the range. But that's -- that's very unusual.

So on this list of sales you can see we're showing in the second column, we show the sale price, the price per room, and the price per square foot. There the range in price per room is from 259,000 to 696,000. It's a pretty wide range, which is one reason the sales approach isn't particularly helpful in coming up with a specific value conclusion. But I do think that it helps -- it helps give you some context, some parameters as to what hotel values have been in this area.

Again, these are all Seattle hotels. They were all either full service or select service. And all the -- all the details there are there for you to see.

We also, to further our -- the credibility, to enhance the credibility of our work, we didn't simply rely on the historical performance. We did receive the historical operating statements of each subject property and we relied most heavily on their historical performance in coming up with a forecast.

But we also considered two other sources of data. The first -- that's for the Chair.

BY MR. REUTER:

Q. Both of these pages?

A. Yes. One is a published survey of hotel performance, and I've extracted only the data that we actually use. The survey itself is, I want to say 80 pages long, something like that.

Q. John. Wait one second, please.
A. Okay.
HEARING EXAMINER VANCIL: Will these be marked separately or are they the same exhibit?
THE WITNESS: They can be separate. They can be separate.
HEARING EXAMINER VANCIL: Could they be the same?
THE WITNESS: They could be the same too.
HEARING EXAMINER VANCIL: Let's mark them as a single exhibit, Exhibit 8.
(Exhibit No. 8 marked.)
THE WITNESS: The second page shows the performance of -- okay. The first page is survey averages for samples of hotels around the country. At the bottom of the page I say how they were defined within the sample. The total census of that publication is around 2,500 hotels. So they group them in by location, they group them by size and by average rate. And then they publish aggregate results, average results for those samples. That's what's shown in the first page.
The second page shows the actual performance of four individual hotels. They're not named because it's confidential information. But that is how they actually performed. Now I've -- the individual -- the survey data

is all 2018 data that was published in the 2019 survey. That -- that survey is called Trends in the Hotel Industry. And it's published by CBRE.

BY MR. REUTER:

Q. So this Exhibit 8 information was publicly available?

A. Yes. That's available to anybody.

Q. Okay.

A. The survey information. Anybody with 500 bucks because it's -- you have to buy the survey.

Q. Do you know whether ABS obtained similar information?

A. I don't know. There's nothing -- well, we'll talk about that. We can talk about that when I address that table that they sent.

Q. Okay.

A. So the second sheet was the individual results. Oh, I restated all those to current dollars because some of that data is several years old for the individual properties. But all of those are hotels in King County. One of them is one of the properties under review, and I didn't intend to include it on there. But I did that table before we knew who we were appealing.

So --

Q. Okay.

A. At any rate, what's your question?

Q. Well, I think -- I want to cover the -- I want you to cover the waterfront in how a hotel is supposed to be valued. I think you've done that.

A. Yeah.

Q. You've told us the documents that you rely on including confidential financial information that wouldn't be available to ABS?

A. Right.

Q. Let's -- let's shift then to how did ABS do it.

A. We're not 100 percent sure how they did it.

Q. Okay.

A. Because the only document -- we've received -- we have their preliminary report issued in May of 2018. We have their final special benefit study issued in November 2019. But to my reading, I don't see in that study an explanation of how they came up with the individual property values, at least not for hotels, which was the only thing I was really concerned about.

However, we did receive an Excel file that appears to relate to their preliminary study from 2018, which, if you're familiar with Excel, there are tabs at the bottom of each file. There's a tab for each hotel in downtown Seattle, except the Edgewater. I don't know why. The Edgewater was not there. Everybody else is there.

Q. That gets back to the gerrymander hook that included the Edgewater?

A. Maybe that was a late edition.

Q. Go ahead.

A. The original file name on this file started out 2017. So it suggested to me that it was created in 2017. But I don't know that that's the case. It could be just coincidence or random numbering.

For each hotel, the file showed the calculation of net operating income and value. And it appeared as though those values corresponded to the numbers in the preliminary benefit study. But I'm -- I'm not 100 percent sure that that's true for every case. The way --

Q. Let me ask you some more specific questions.

A. Sure. Shoot.

Q. Going back over what you said were important things to do, I -- I believe you -- you said -- the first question is what type of hotel do you have, full service or not?

A. Yes. Because you don't want to compare apples and oranges.

Q. Do you know whether the ABS methodology asked that question?

A. I don't. But -- no, I don't know.

Q. And do you know whether they looked at average daily rate?

A. They looked at room rates. They did not have access to the actual achieved average daily rates of these hotels. So they came up with estimates. But the way they estimated the average rate was to look at the advertised rates and to say, well, they're saying that they get $600 for the suites and $400 for their standard rooms, so we're going to say that it's $500. This is an example.

Q. That's what's called a rack rate.

A. Yes. That's called a rack rate because in the old days when I started working, they were -- each hotel had a rack, a metal rack, literally a rack that sat behind the desk and it had little slots in it. And each little slot had a piece of paper, cardboard that had the room number and the price of the room.

And when you rented the room, you took that little piece of paper and turned it upside down, so you knew that the room was rented.

Q. Okay.

A. And when the person checked out of the room, you turned -- you flipped it over and the back side said "on change" which meant the room was dirty and you couldn't rent it. And when it got clean and the housekeeper came back and said it's clean again, and then you flipped it back over and it was ready to rent. So this was a rack.

At some point they updated to wheels from solid racks. Then it was a spinning wheel. Same idea. But that's where the word came from.

Q. Okay. So your understanding of the ABS study is that it -- to ultimately to reach its value determination, it relied on the rack rate, otherwise known as the full-boat retail advertised rate versus what might be a lower number than the average daily rate?

A. Right. The average daily rates of these hotels are substantially lower than rack. I was trying to impress at lunch, impress upon everyone at lunch that nobody pays rack rates. If you're paying rack rates, you really shouldn't be paying rack rates. Everybody can get a AAA discount, an AARP discount. There might be a special business. They might be with a group. There's always a way to pay less than rack. The average achieved rate is always lower than rack. In some of these cases, it's substantially lower, like half.

Q. And so what would the effect be, the bottom line effect on the value of the hotel if you used rack rate versus average daily rate?

A. It bumps it way high.

Q. Okay.

A. The other components that they used were not -- not on their face unreasonable. They assumed that every hotel would run 80 percent occupancy. Well, downtown Seattle is pretty much running 80 percent occupancy, so on average that's probably not too far off. There's always a chance that some hotel is doing better or worse.

They assumed that the hotels would have expense ratios of 70 to 80 percent. They didn't go through a breakdown of expenses the way I did earlier or the way I did for these appraisals. But their overall expense ratio, 70 to 80 percent is not bad. I don't know why they picked 70 percent for some hotels and 80 percent for other hotels because they don't explain it. But that bracket is within a ballpark for full-service properties.

The capitalization rates that they applied, remember that that's how we come up with a value conclusion is by capitalizing the income. They -- they basically assume that every hotel is stabilized because they just did a direct cap analysis. They didn't deal with yield rates or discounting or any of that. They just said we're all stable and we'll just cap everything.

But the cap rates that they applied were between 7 and 8 percent. Our range was -- we used 6 percent for one hotel. Not one of the ones under appeal here. But by and large, we were at 7 or 7-and-a-half percent. So there's not a huge variation in cap rates. There's not a huge variation in expenses. There is a huge variation in the average room rate that they're anticipating. And that's -- I think that's where they went off track. Yeah.

Q. Okay.

What else can you tell us about the ABS methodology that compares to the way you testified hotels properly evaluate. Anything else?

A. You know, it's a mass appraisal. We don't expect the appraisers either to have access to the same data we do or to go to the same level of analysis.

Q. Including, for instance, meeting with the local management?

A. Right. Yeah. I went and saw -- and I've been to all these hotels before. But I did take a walk through for this hearing within the last two weeks. I've walked through all the hotels that we're appealing. And -- I can't remember what else I was going to say.

Q. Okay.

A. There was something in your question you asked. Oh, did I interview the managers?

Q. Yeah.

A. I've talked with the -- either the manager or the owner or both for all five of these hotels, personally discussed their --

Q. Why is that important?

A. Well, because they have a better view -- they have a better insight as to how the hotel is going to perform. I can look at the historical records and tell you what their room revenue was last year. But they may have a pretty good idea of what it's going to be.

Q. So this gets back to your statement that the -- the key question for value or a key question is what is the income going to be next year?

A. Right. Yeah. The person who is buying a hotel really doesn't care what the income was last year because the seller gets that income -- already got that income. He wants to know what he can get.

Q. Could ABS be in a position to have any understanding of what next year's revenue would likely be?

A. They could --

MR. LEE: Objection to speculation.

HEARING EXAMINER VANCIL: Objection being?

MR. LEE: Speculation.

MR. REUTER: Who is the lawyer here? Both of them?

HEARING EXAMINER VANCIL: Good question.

Who is handling this witness? It's been Ms. Thompson.

MR. LEE: Ms. Thompson.

MS. THOMPSON: I'll repeat the objection. Speculation.

MR. REUTER: Okay. So I'm getting to -- to the ultimate question here, one of them is which appraisal is more --

HEARING EXAMINER VANCIL: This is about the question you just asked, right?

MR. REUTER: Yes. So he needs to be able to testify what the differences are in the methodologies used, so you can decide which one of these appraisals is more credible on value.

HEARING EXAMINER VANCIL: Overruled.

THE WITNESS: Could you repeat the question?

BY MR. REUTER:

Q. I don't remember the question.

A. The -- the ABS -- ABS, Macauley could not have, in practical terms, doing 6,000 properties, he would not have had access to the actual operating results and he could not have done as detailed an estimate as we did. He could have -- and perhaps did, order an STR trend report and looking at that report, he might have said, well, the occupancy rate for the City has been around 80 percent or 85 percent for the last five years, I'm going to assume that we keep going like that. That would not be unreasonable for a mass appraisal.

Q. Do you know whether there was any quantification or research done on the supply impact caused by the 1206-bed [sic] Hyatt Regency?

A. I don't know. I don't know if it did anything like that.

Q. Okay. Let me ask you about this article that is attached -- we're looking at the Monaco. It would be --

A. There's an article.

Q. Yes. It's a --

HEARING EXAMINER VANCIL: File number 133. You're looking for what?

MR. REUTER: Exhibit F to the -- to the Monaco objection. This is the CoStar article. Do you remember this?

THE WITNESS: Oh, yeah. I remember it talked about supply changes.

BY MR. REUTER:

Q. In Seattle.

A. Yeah.

Q. So this says, quote, "The main issue for hotels, particularly in Seattle, is supply".

Do you agree with that statement?

A. Are they quoting me from my --

Q. No. No. But they're quoting Yan Freytag, senior vice president of STR?

A. Okay. Well, STR knows what they're doing. They are right. It is a supply issue. For those of you who don't know, there's been a lot of new hotels that have opened in Seattle in the last few years. And even though demand continues to grow, thank you, Amazon, occupancy percentages have begun to come down. I think we covered this earlier, that there's been some slippage in occupancy. It's not as dramatic as I forecast, but it has come down.

Q. Okay. So I want to do a couple things now. I want to ask you the question of why don't these hotels just raise their rates to address the coming assessment if the LID goes forward.

And then I also want to tie back to this question of what those pages in the appraisal review mean and how they relate. I want to tie that up. All right?

A. Okay.

Q. So on the first question.

If there's concern that the subject hotels are going to have to find a way to bear the expense that's proposed to be assessed against them, why don't they just

raise their rates?

A. Well, room prices aren't independent of the market. If they could raise their rates, they would raise them already. They -- when new hotels come into the market, the way the Regency did, the Hyatt Regency has 1260 rooms. They opened in December of 2018. So 2019 was their first full year of operation. And they really punched down. Not only did they offer discounted rates, but they have so many rooms that most of the hotels lost some of their demand to them. They were really -- they were trying to get established. And that puts a lot of competitive pressure on room prices.

So you can't -- with very few exceptions, the hotels can't just go out and raise rates when they feel like it.

Q. And did you say there are more hotels coming?

A. Oh, yeah. There's one across the street from here that is supposed to open midyear, although they've been saying that for two years. There is -- in the forecast for individual hotels, when we get to the individual appraisal, I -- I include new rooms to the extent that I think they'll be competitive.

So with the Hilton, I think I include two hotels as new competitors. With the Monaco and the Vintage, I may have only included one. The Edgewater is pretty insulated from the impacts of new supply. Even though they did get -- they took some hit from the new supply, I'm not anticipating that they'll be directly competitive with any of the new hotels that are coming in.

Nobody is building down on the waterfront. Nobody will ever be able to because of the rules down there. So -- but with the exception of the Edgewater, I do include new supply.

Q. Okay. Now, let's go back to the appraisal review and those pages with the -- with the cap and the analysis. I want to get to opposing counsel's questions about what those numbers are and how they tie together.

A. Which one are you going to look at? I'll grab my copy.

Q. Let's look at the Vintage.

HEARING EXAMINER VANCIL: Case No. 134.

MR. REUTER: Thank you.

BY MR. REUTER:

Q. So to set the stage here, we're looking at Exhibit A to the Vintage objection. That is the document entitled "Appraisal Review."

And in the beginning section there are pages numbered in the lower right, we're talking about page 7 --

A. Okay.

Q. -- through page 11 in this -- or 12.

Tell us what this is and how it relates to your appraisal and the work you've done.

A. What we were trying to do here is to test -- to test what it would take for the hotel to achieve the kind of increase in value that is anticipated in the special benefits study. So if the special benefits study says, well, we think you can increase value by 1 percent, what does that mean? When we know that the net operating income of a hotel is the key measure -- is the key determinative value. We know that operating expenses are consuming 70 to 80 percent of the revenue.

And then we can back in into how much of an increase in revenue would be necessary in order to generate that increase in value. The revenue, of course, has two components, occupancy and room rate.

We've talked about the competitive pressure that restricts increases in room rate, and that's addressed in these reviews. But the reviews also talk about occupancy. And if you were -- if you were trying to get a bump in room revenue entirely through increases in occupancy, if the NOI is 20 percent, say, of the total revenue, then for a 1 percent increase in NOI you need a 5 percent increase in revenue.

How many rooms is a 5 percent increase when you're already renting at 85 percent or 88 percent in the case of this hotel. In order to get that much more revenue, you would have to push your occupancy rates so high that it would be impractical.

Hotels don't run 100 percent occupancy in the best of times. Because there's always Sundays when people don't want to show up. There's always wintertime when the tourists aren't there. So -- so the notion that a hotel -- and I will say that there is one hotel that does it. But that's the exception, not the rule.

But the notion that most hotels can bump their occupancy rates above the very high levels where they already are is -- would be stretching it. So what we did here on pages -- let's see -- I think it gets summed up on page 11, where we're talking about the -- these feasibility tests. And saying, well, what would happen if -- how much more occupancy would we have to do in order to -- in order to create -- how many more rooms would we have to rent in order to improve occupancy to the point where our revenue would go up, our NOI would come up, and our value would go up by the percentage that is indicated in the special benefits study. That's a long-winded way of saying it won't happen.

Q. If your occupancy is super high, you don't have any room to grow to pay for 1 percent --

A. That's an easier way to say it, yes.

Q. Okay.

A. In these tables, for this example, for the vintage, on page 11, the right-hand column in those tables is negative in most months, which means not only do you not have room to move, you shouldn't even be where you are. That it is just extremely high occupancy right now.

Q. So you're talking about the column entitled net --

A. Yes.

Q. And what are the -- what are the -- what is the difference between the best case and the worst case? Explain that again.

A. That has to do with how many -- how many additional guest rooms -- I think that -- I don't know how to explain this.

How many more additional guest rooms would be in the market -- let me double-check that I'm not misspeaking here. Okay. We used a misnomer. Where we are saying guest rooms, we should be saying room nights. Not guest rooms.

Q. Okay.

A. That threw me off. That was my fault.

Q. Okay. And so -- so what are the negative

numbers in the net again?

A. Well, it -- the negative is kind of theoretical. It's saying that you're already so full in these months that if the -- if 95 percent is the practical capacity of the hotel, you don't have any room to improve.

Q. Okay.

A. You can't do any better.

In the month of May in the -- the first feasibility test, we show that there is room to add 68 room nights. So they could pick up some there. But they couldn't pick up any until October after that.

Q. And this is just the Vintage.

A. Yeah, this is the Vintage.

Q. So the other ones might have different numbers?

A. They all have different numbers.

Q. They will have different numbers. Okay.

A. Could I have one minute?

Q. Yes.

A. It will come up in at least one of the appeals.

One of the things that's not considered in the ABS study is the condition of the hotels. And whether or not they're in need of renovation. The Monaco is planning a big renovation of their guest rooms. It's been ten, 12 years since they did their rooms. So it's time. And that is going to be a big expense that they --

that they feel in the first forecast year.

So because we -- we're doing a very specific analysis and because we saw the hotels and because we talked with the managers, we have more information than ABS does about what these additional expenditures might be.

Q. And that factors into your value analysis?

A. It factors in our yield analysis. Yeah, we take that as an expense if we know they're going to be doing a renovation. That is the case in the Monaco. It's not the case with the Vintage. The Hilton just renovated last year, which is why their occupancy went in the toilet last year. But they don't have anything pending. The Edgewater, I don't think has anything pending.

Q. Okay.

A. And the Thompson is brand new, so they don't need anything.

MR. REUTER: Okay. Thank you. So this testimony is intended to give the overview that applies to all the properties. And then after then my plan would be to have him testify about each of the specific properties and what their values are based on his appraisal.

So perhaps we should cross-examine him now -- I don't have any more questions for that portion of it.

Does that make sense?

HEARING EXAMINER VANCIL: Mm-hmm. You just have it -- you're moving on now to the point where there's specific properties that will be addressed?

MR. REUTER: Yes.

HEARING EXAMINER VANCIL: I don't know that there's any need to specify separate breakout time for cross-examination on this issue.

MS. THOMPSON: Yeah.

MR. LEE: Do it all at the end.

THE WITNESS: Is it possible to get five minutes?

HEARING EXAMINER VANCIL: You can get 15. We'll come back at 3:30.

(A break was taken from 3:12 p.m. to 3:29 p.m.)

HEARING EXAMINER VANCIL: Returning to the record.

MR. REUTER: Okay. We're having a little interruption in our plan. With your permission, I'm going to call a representative from the Westlake Center, which is Case 135.

HEARING EXAMINER VANCIL: And where is Mr. Gordon? What were we going to do with that? We're not continuing with him later? Fill in the blanks.

MR. REUTER: My witnesses from the Westlake Center are here. So with counsel's agreement, we're going to call them. Get them on and off. And then resume with Mr. Gordon.

HEARING EXAMINER VANCIL: Okay.

MR. REUTER: Thank you.

HEARING EXAMINER VANCIL: Any objection?

MS. THOMPSON: No objection.

HEARING EXAMINER VANCIL: Please state your name and spell it for the record.

THE WITNESS: Jessica Shand, J-E-S-S-I-C-A, S-H-A-N-D.

* * * * * *

JESSICA SHAND, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

HEARING EXAMINER VANCIL: Thank you.

DIRECT EXAMINATION

BY MR. REUTER:

Q. Where do you work?

A. I work at Westlake Center.

Q. And what do you do there?

A. I'm the general manager.

Q. Of the mall?

A. Correct.

Q. Okay. And that's as distinct from the office tower there?

A. Correct.

Q. All right. And how long have you been working there?

A. Since 2016.

Q. And how long have you worked in the retail mall business?

A. 25 years.

Q. Okay. And --

HEARING EXAMINER VANCIL: Mr. Reuter, can I clarify? Do we have another witness at the table? Who else is --

MR. REUTER: This is Jeff Koch. He's also going to testify. He works for the property --

HEARING EXAMINER VANCIL: Typically, audiences away from the table and just the witness is here. So everyone at the table is either a legal representative or the court reporter. If you want to pull up a chair in the back there.

THE WITNESS: Sure.

HEARING EXAMINER VANCIL: If you have some documents, you might want to keep those with you.

THE WITNESS: No.

HEARING EXAMINER VANCIL: All right.

Please proceed.

MR. REUTER: I apologize for that.

BY MR. REUTER:

Q. And so in those 25 years, has it been in management for the most part?

A. Asset management for Brookfield.

Q. And who is Brookfield?

A. The owner of Westlake Center.

Q. And that's your employer?

A. Correct.

Q. I have this map here and just so -- probably everybody knows where the Westlake Center is. Would you mind putting a W where the Westlake Center is.

A. Right here. Put a W?

Q. Yes.

A. This is Pine -- this is 4th and this is Pine.

Q. Okay. Thank you.

While I'm thinking of it, I would like to mark this as an exhibit.

HEARING EXAMINER VANCIL: What I'm going to ask you to do is take a photo of it. I'm not allowing oversized because of the volume of the record that you have. If you would like to use it for illustrative purposes, it won't be admitted. But if you want it admitted, I'll ask you to submit a reduced version. For

now you're using it for illustrative purposes, you decide to turn it at the end, we can do that.

MR. REUTER: Okay. Thank you.

MS. THOMPSON: I have a note about that proposed exhibit, to the extent we disagree with the placement of the exhibit, if it's going to be admitted as evidence, we'd like to have a copy, so that we can present counterevidence as to where the markings have been made.

MR. REUTER: Okay.

Okay. Let's talk about the Westlake Center.

HEARING EXAMINER VANCIL: Is there a standing objection?

MR. LEE: I would just tell you I think he accidentally put the Vintage Park wrong. Frankly, I'm still counsel of record as well. I think it's off by a box.

HEARING EXAMINER VANCIL: So it's a map of Seattle. We have all of the addresses to all of the sites in the record. So I -- if you want this to be used as illustrative purposes today, that's fine.

MR. REUTER: I take your point.

Okay. Tell us what is around the Westlake Center in the way of amenities.

THE WITNESS: So on our plaza, which is what we call our front yard, is decorative tile. It covers the entire plaza and extends onto Pine and onto Westlake Park. On our plaza, we've got eight trees with newly installed wrought iron that surrounds the trees that we installed, we paid for. We have -- well, there's a Starbucks on the corner. In front of our center, we have lighting with hanging plants, pots, flowers that we -- we maintain.

BY MR. REUTER:

Q. Street lighting?

A. Yeah. Street lighting.

Q. What are those lights like?

A. They're -- they're extended along Pine. So they're tall street lamps with two large globes for lights. And it lines Pine.

Q. Okay. And what --

A. And it's on the City side of our plaza.

Q. Okay. And what kind of activities happen out in that plaza?

A. We rent space to short-term tenants. We currently have a food truck that sells ice cream. We have the annual Christmas tree lighting on the plaza. Temporary tenants come and go. So usually in the summer, it's always booked.

Q. Okay. And what about across Pine from the -- from the --

A. Westlake Park.

Q. Yes.

A. Concerts are there. Entertainment. Music. Dancing. Children's groups. Theaters. There's always something going on usually in the summertime.

Q. Okay. And do you have an understanding of what improvements the LID proposes to make on or around your property?

A. From what I've been able to read from the package, it's -- it's not directly in front of us. It's to the east and west of us. Enhanced crosswalks, bike lanes, widening of bike lanes or the addition of a bike lane. Tree infill, tree pruning.

Q. Okay.

A. That's the Pike/Pine corridor improvements.

Q. But -- but none of that is right in front of the Westlake Center?

A. None of it is. No. It kind of hops over us.

Q. Why is that? For instance, why would there not be crosswalk improvements?

A. I don't think they want to -- from what I've read and from talking to some of the people from the downtown Seattle association, I don't think they want to interrupt that decorative tile that's in front of us. And there -- there won't be any tree infill or tree pruning because we don't have City trees on our property. We have our private trees on our property. And I don't think trees will be added because you have to, again, disrupt the decorative tile and there's waterproofing underneath that tile. We have a tenant that's under the street, Nordstrom Rack.

Q. Okay.

A. And -- and --

Q. Go ahead.

A. Bike lane.

Q. Yes. The bike lane?

A. So right in front of the Westlake Center is Pine. And the street sort of starts out in two lanes and then as it goes, it narrows down to one. I don't think there's room to add a bike lane in front of Westlake Center.

Q. Because it's a one-vehicle-wide roadway?

A. Correct. One vehicle, one way.

Q. And speaking of bike lanes, do you perceive addition -- the addition or improvement of protected bike lanes on Pine to be a benefit to the Westlake Center?

A. No.

Q. Why is that?

A. Typically, they're commuters. They don't shop. We don't have a bike rack in front of our property. There's no place to park a bike to go in and shop. Bike riders is not -- they're not our customer.

Q. Okay. Do you perceive the projected improvements along the waterfront along Alaskan Way to offer a potential benefit for Westlake Center?

A. I'm not sure. We benefit from increased traffic to our center. I just don't know what would drive them from the Seattle waterfront area to Westlake Center.

Q. And why is that?

A. I would consider Westlake Center to be a destination. I think if the Seattle waterfront is improved, the tourists may stay longer in that beautiful area. I just don't know what would drive them to walk five blocks uphill to go to Westlake Center.

Q. Okay. Has the Westlake Center done any work to improve the public right of way in front of the mall?

A. We have.

Q. What work is that?

A. There were loose -- the decorative tile that I spoke of, there were loose tiles. Both on our side and the city side. And we repaired those.

Q. Why did you do work in the public right of way?

A. Because we -- we reached out to the City numerous times, e-mail, phone calls. And we didn't get a response. And so we took -- for the safety, we took matters into our own hands and we repaired the tile.

Q. I'd like to hand you an invoice with a photograph attached.

Does this invoice relate to the work that you just described?

A. It is.

Q. Can you tell us what is shown in the photograph attached to the invoice?

A. I'm sorry. Can you repeat that?

Q. What is shown in the photograph?

A. So the blue circle is the area of repair.

Q. And in what portion of that, in the public right of way versus your property?

A. If you can see, the gray tile is sort of in two sections. The smaller part of the circle is the City -- City side.

Q. Okay. And this is money that you spent on that project, the invoice amount?

A. Correct.

Q. Okay. I'd like to mark this.

HEARING EXAMINER VANCIL: Marked as Exhibit 9.

(Exhibit No. 9 marked.)

BY MR. REUTER:

Q. What is happening with retail in your area there?

A. We've had quite a few retail stores close in the downtown area.

Q. Give us some examples.

A. We've had -- well, in our center PF Chang closed. In the downtown near us, we've got J. Crew, Coach, Kate Spade, Gucci, Barnes & Noble, H&M.

Q. Forever 21?

A. Forever 21.

Q. Macy's?

A. Macy's.

Q. And how are your tenants -- well, let me ask you this. Are you familiar with what's in the lease regarding LID assessments for your tenants?

A. I am.

Q. And what's likely to happen with an assessment -- how are you going to deal with it?

A. We will turn around and pass it back to our tenants.

Q. And how are your tenants doing in the retail sector?

A. They're down double digits in sales.

MR. REUTER: That's all I have.

HEARING EXAMINER VANCIL: Cross.

CROSS-EXAMINATION

BY MS. THOMPSON:

Q. Hello.

A. Hi.

Q. Is Westlake Center the only mall located in downtown Seattle?

A. No.

Q. What -- what other mall is in the Seattle --

A. Pacific Place. Two blocks east.

Q. East. So farther from the waterfront?

A. Correct.

MS. THOMPSON: Thank you. No further questions.

MR. REUTER: Thank you.

HEARING EXAMINER VANCIL: Thank you.

MR. REUTER: Jeff Koch. Please state your name and spell it for the record.

THE WITNESS: Jeff Koch. J-E-F-F, K-O-C-H.

* * * * * *

JEFF KOCH, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

HEARING EXAMINER VANCIL: Thank you.

DIRECT EXAMINATION

BY MR. REUTER:

Q. Where do you work, Mr. Koch?

A. I work for Brookfield Properties. I'm a regional manager of asset management.

Q. How long have you been doing that?

A. As a regional VP, for 15 years.

Q. Okay. Do you keep an eye on the retail business?

A. I do, yes.

Q. Is that your livelihood essentially?

A. It is, yes.

Q. Okay. And how are you connected with the Westlake Center?

A. I'm the regional manager that oversees Westlake Center, yes.

Q. So does Ms. Shand report to you?

A. She does, yes.

Q. Okay. And can you tell me if you're familiar with the term "dwell time"?

A. I am, yes.

Q. What does that mean?

A. Well, it's -- you know, we -- we -- you know, we're a customer -- you know, we try to create that experience for our customer to -- if it's from a retail standpoint, an entertainment standpoint, amenities that we add to our centers, that creates that dwell time that customer will stay for a longer period of time in our center. Yes.

Q. Okay. And do you have concerns with regard to dwell time facing the prospect of an improved waterfront in Seattle?

A. I do. Yes. You know, Jessica touched on it a little bit. The improvements that are going to be done are primarily along the waterfront, that creates more of an amenity, more traction, more entertainment, potentially more retail, more shops, all of that will create an additional dwell time for that tourist that's currently in the market, that customer that's currently in the market will create that longer dwell time all along -- riverfront, excuse me, along the waterfront versus, you know, traveling a half a mile, five, six blocks to Westlake Center.

Q. Okay. And you heard her testify about the retail sector.

A. Correct.

Q. Do you have those similar concerns?

A. I do. Yeah. You know, you know, Westlake Center, the retail is currently down double digits from a retail standpoint. We all hear all the media and everything that's going on. From a retail perspective, nationwide, we're continuing to compete with online business that is growing at 20 percent annually. We're -- we're -- you know, the brick-and-mortar stores are struggling to maintain their sales in -- you know, in the downtown corridor around Westlake Center.

You've seen that loss of retail, if it's Macy's, if it's Barney's, all the other retailers that Sandra mentioned earlier, it's an impact on online business too. It's a struggle. The margins are getting smaller and smaller, for brick and mortar versus finding the online business.

Q. So do you foresee the proposed waterfront or LID improvements benefitting you or maybe hurting you?

A. No. I think it's actually, probably going to have a negative impact on Westlake Center just due to the increased dwell time along the waterfront and the time spent in that area, yes.

MR. REUTER: Thank you. That's all I have.

MS. THOMPSON: No questions.

THE WITNESS: Thank you.

MR. REUTER: Thank you.

May I just say goodbye to them? I'll be back.

HEARING EXAMINER VANCIL: Okay. We're on the record.

MR. REUTER: Mr. Gordon.

HEARING EXAMINER VANCIL: Mr. Gordon, you remain under oath from before.

THE WITNESS: Understood.

DIRECT EXAMINATION (continued)

BY MR. REUTER:

Q. I would like to now move to the portion of the presentation regarding the particular properties that you appraised. And I would like to begin with the Vintage Hotel, which is Case 134. Your appraisal is Exhibit B to the Vintage objection. Did you prepare this?

A. Yes.

Q. Would you give us an overview -- just kind of a roadmap of what is in this appraisal?

A. Okay. The Kimpton Hotel Vintage started out life in the 1920s. It fell into severe disrepair. At one point it was called the Kennedy Hotel, but I don't think that that name dates back to its origins. In the 1990s, it was purchased and completely gutted by a developer who reopened it as the Vintage -- Vintage Park Hotel. Later it became the Hotel Vintage, and finally the Kimpton Hotel Vintage, which is its current name. The hotel has 125 rooms. It has no -- no dedicated meeting space. But it does have a restaurant with a private dining room, so in a pinch people could use the private dining room.

The restaurant is called Tulio's -- it's on the corner -- the hotel is at the corner of 5th and Spring. It has a parking garage, valet parking only, I believe. And an exercise room. What else do you want to know?

Q. Well, you told us the methodology for how you believe a hotel should be valued.

A. Yes.

Q. Did you follow that with your appraisal of the Vintage?

A. I did.

Q. And what is the value conclusion that you came up with?

A. We came up with -- I came with an overall value conclusion of $32 million, that includes personal property and real estate.

Q. And that's broken down on your cover letter?

A. Yes, it is.

Q. 30.7 for the real estate and 1.3 for the personal property?

A. Yes. Do you want me to go through the steps?

Q. I would like you to tell me what the -- what the ABS valuation study valued it at.

A. Okay. Their estimate of the current value of the real estate was 55,163,000.

Q. And yours is 32 or --

A. 30,700,000.

Q. So you -- you understand the ABS number of 55 million to be just -- to exclude the personal property?

A. That's my understanding. The personal property is not that material. But we've been going on the assumption that their number excludes personal because it seems to be tied in with the -- the way the assessor deals with the property.

Q. Okay. So their number is roughly 55. Your number is roughly 30.

A. Correct.

Q. Can you explain the difference?

A. I can't entirely because we didn't have access to their methodology for their final number. The preliminary number, the number in their preliminary study that came out in May of 2018 was $43,083,000. Their final conclusion was $55,163,000.

So they came up about 12 million in the course of a year between their preliminary number and their final number. We did have access -- as I said earlier, we received the spreadsheet showing how they calculated their preliminary number. And they used, among other things, an average daily room rate of $425. They assumed that that's what the average person was paying to stay at the Vintage Hotel.

Q. That's what they used to get to the number -- the 40 --

A. That's what they used to get to the $43 million. We don't know what their assumptions were to get to $55 million.

Q. Presumably a higher rack rate number?

A. We don't know.

Q. And what's the rack rate number -- or what's the -- what's the -- what's the average daily rate number?

A. The one that we used in our forecast is $208.

Q. Compared to something that started with a four or higher?

A. Yes. They were at 425. They were making those estimates in 2017 or '18. We're making our estimates based on 2020 dollars. So there's a slight -- you need to tweak that slightly.

Basically, they were twice as high or more than twice as high as us. And just as an aside, our number is within 5 percent of the actual 2019 ADR.

Q. Okay. And do you have any other explanation for how your numbers, your value numbers can be so dramatically different?

A. No. Their cap rate is reasonably close to ours.

Their expenses -- their expenses were high which partly offsets their overstatement of the revenue. But it really comes down to that room rate. I mean, that's the place where they're way off.

Q. And in your -- is your conclusion number, the 30 million and change number, is that explained in your appraisal?

A. Is it explained? In my appraisal, I go through the steps that we took and I do show our value conclusion. We did not include proprietary information in our appraisal.

Q. Okay. But you had some information in the appraisal about market demand based on STAR reports?

A. That's correct. Yeah. We talked about the supply of rooms in -- well, you may recall that I said that the managers of the hotels select the competitive sets for their STAR reports and that we accepted those STAR sets for our analysis.

The Vintage has, including itself, the Vintage has seven properties. So it's the Vintage plus six other properties.

Q. As its competitive set?

A. As its competitive set. That competitive set last year ran 87 percent occupancy.

Their average rate was $197. So the Vintage was doing -- well, without -- I don't want to give away proprietary numbers, the Vintage was very close to the market average.

Q. Let me say that these proprietary documents and the financials, we have those. We can't put them in the record. We would provide them under a protective order or similar agreement if that was something that the City wanted to -- wanted to have.

HEARING EXAMINER VANCIL: I just want to highlight, our procedures essentially don't allow for that, proprietary information, anything that comes across this wall here becomes a private record. If you redact things out, you can work out whatever you want with each other beforehand. Depositions, document retrieval, discovery, I don't even control, unless there's a dispute.

MR. REUTER: Understood.

HEARING EXAMINER VANCIL: But just as a warning to any party, health care information, money information, don't give it to me because it will become part of the public record.

MR. REUTER: Thank you.

THE WITNESS: I guess I could say that our -- in each of these appraisals we gave the greatest -- our forecast gave the greatest weight to the actual performance. So you won't -- you won't find dramatic differences between our forecast and how the hotel actually performed.

BY MR. REUTER:

Q. Okay. And is that true with all five of the hotels?

A. All except the Hilton because the Hilton last year was under renovation. And so it didn't -- its income was very low.

Q. Okay.

A. But I anti -- for my forecast, I relied more on how it performed during 2018 and before that, rather than looking at 2019. But in the -- presenting these, we're presenting them in a descending order of simplicity. So the Hotel Vintage is the simplest of these properties. It has no weird aspects or leases or renovations or anything. It's plain vanilla.

Q. Okay. And so we've talked about and Mr. Shorett testified about what we contend to be the absence of a special benefit for the Vintage and the other properties but if there was -- if there -- let's say there was a benefit, and let's say it's the benefit that ABS came up with, the lift percentage. What would the assessment be using their formula but your value number?

A. I think -- I have that on the table, but I think it's behind me.

Q. Would you get it, please.

A. I can go get it. These. I do have copies to enter, if you want to.

Q. I do.

A. Okay. There's three sheets. They can all be treated as one exhibit. I think I gave you yours earlier this morning. But maybe not. This is for the -- this is for the examiner. I'm sorry, these pages aren't numbered.

HEARING EXAMINER VANCIL: Mark this Exhibit 10.

(Exhibit No. 10 marked.)

THE WITNESS: In the first of the three pages, the right-hand -- right-side columns have the header ABS valuation. On the second page, the header is Kidder Mathews 112020. The third page is a supplemental page showing breakdowns of ratios and amounts per room. It doesn't really add any -- any new information.

Your question was what would the -- what would the -- what would the LID tax or levy be if we used our value conclusion and the ABS increase in value.

BY MR. REUTER:

Q. Yes.

A. The ABS adjustment.

Q. Yes.

A. For the Vintage, our estimate of the LID tax, after the 39 percent levy ratio is $119,062. The estimate in the ABS final study is 213,935. So this implies a reduction of $94,873.

The reduction is shown at the right-hand side of the second sheet, the right-hand column.

HEARING EXAMINER VANCIL: I apologize. I'm not following your numbers. I do see 119 on here, but it seems to be associated with the Hilton. Which page are you on?

THE WITNESS: I'm on the second page. The one that says "Kidder Mathews" at the top. The 119 is the Kimpton Hotel Vintage.

HEARING EXAMINER VANCIL: Okay.

THE WITNESS: That would be our estimate of what the tax would be. The ABS estimate is on the previous page. And that's 213,935. Again -- and that's the right-hand column of the first page. I should have put numbers on these.

MS. THOMPSON: I might suggest that we hand the exhibit back to the witness and he can number the pages, and then we can all follow along and the record will be a little clearer.

THE WITNESS: Yeah. Thank you.

HEARING EXAMINER VANCIL: I'll put one, two, three on them.

MR. REUTER: Okay. So one is the page that has "ABS Valuation" at the top.

THE WITNESS: Correct.

HEARING EXAMINER VANCIL: Yes.

MR. REUTER: Two says "Kidder Mathews" at the top.

THE WITNESS: Three says "Current Value Per Room and Ratio." And these will apply to all five of the hotels being appealed.

HEARING EXAMINER VANCIL: Okay.

BY MR. REUTER:

Q. Do you have more to add, Mr. Gordon, about your appraisal of the Vintage?

A. The procedures were the same of what I outlined this morning or this afternoon.

Q. Okay.

A. It's just a question of specific numbers. I'm happy to answer any question that I can about -- about the forecast. The forecast numbers, I'm happy to share. It's the historical numbers we've been asked not to release.

Q. Okay. Let's move then to the Monaco, which is Case 133.

A. The Monaco, almost as simple as the Vintage. The main difference with -- and they're under the same management. They're both managed by Kimpton. And they have the same owners or related -- related owners.

The Monaco did use a slightly different comp set than the Vintage. The manager of the Monaco picked out a total of eight properties including the Monaco itself, so seven competitors. The total room supply for this set is 2,285 rooms. It's about twice the size of the set use for the Vintage. And I think the reason they did that is they regard the Monaco as more of an upscale property. The Vintage is a nice. Comfortable, cozy, little boutique. The Monaco has 189 rooms, it's more able to compete with some of the larger hotels.

The Monaco set last year ran 84 percent occupancy with a $225 ADR -- $226 ADR. And that's the market ADR for that group of eight hotels. We're projecting 84 percent for the Monaco. And $220 average room rate.

Q. And do you know the -- the rack rate used in the ABS for the Monaco?

A. Yes. They assumed the average room rate was $500.

Q. Versus the 226 actual ADR?

A. 220 -- well, 220 is what we're predicting. I'm trying not to say the actual ADR. But it's real close to that.

Q. Okay.

A. Our projection of 220 is slightly higher than what they actually did in 2019.

Q. Okay. And --

A. And ABS at $500.

Q. What is it then about the Monaco that's more complicated than the Vintage?

A. Oh, it's not that huge a thing. They're going to renovate this year. So they put aside a budget of renovation costs and I'm not even sure I printed that page. Yes. Over two years, they're going to spend $3.78 million. So $3,780,000 primarily on guest rooms. So that's 20-grand a room. That's a nice renovation. That's a good, thorough refreshing of the rooms.

In our forecast when we do the ten-year forecast of income for that hotel, you'll recall I said that normally we deduct a reserve allowance, 5 percent of gross as a reserve. For the Monaco, instead of that 5 percent in years one and two, we deduct what they actually think they're going to spend. We divide that 3.78 million over two years and deduct that as expenses.

So when you look at the -- at the forecast, at the yield analysis and the forecast for the Monaco, it looks like their income goes way down in the first two years. But that's because they're spending money to keep the place up.

Q. Okay.

A. And that's a good thing to do. That's not a bad thing to do.

Q. And so --

A. Other than that, it's the same analysis as the Vintage.

Q. And so your valuation conclusion for the Monaco factors in the expense of that renovation?

A. Correct.

Q. Okay. And what is your value conclusion for the Monaco?

A. The conclusion -- the overall value conclusion is 6 million -- 65,600,000. But that's broken down with 63.7 million for real estate. And 1.9 million for personal property.

The personal property value seems a little bit low for a property of this type. But that's because a lot of the rooms are kind of beat up. They need -- they need the renovation that they're going to do next year.

Q. Okay. And how does that compare with the ABS valuation?

A. The ABS valuation, they valued it at

$107 million. 107,140 -- so 107,140,000.

Q. Before the --

A. Before the LID, that's their as-is value conclusion for the Monaco. So they're about 60 percent higher than we are.

Q. And if you took your value and assumed that these proposed improvements would actually deliver a special benefit of the projected 1 percent, what would the -- what would the assessment be for the Monaco, again, using your value and the ABS percentage?

A. Comparing tables one and two that were just distributed, the ABS estimate of the LID assessment or tax was 418,466. Our estimate, assuming that they did get a 1 percent increase in value, but basing it on our value conclusion, the tax would be 248,799. So the reduction in the LID tax would be 169,667.

Q. And that's shown on page 2 of Exhibit 10.

A. Correct. Just for reference. The cap rate that we used for the Monaco -- which one am I on? The Monaco.

MR. LEE: 7 percent.

THE WITNESS: Was it 7? Yeah. We used a 7 percent cap rate, going in cap rate for the Monaco. And I think I used the same one for the Vintage. But I will check. Yes. Seven percent for both.

BY MR. REUTER:

Q. How does that compare to what ABS did?

A. They were either 7 or 7-and-a-half for each one. If you look at their preliminary analysis because, again, we don't have access to how they came up with their final values. But they used seven or -- between 7 and 8 percent on all of the properties in their preliminary analysis.

Q. And -- and you mentioned a preliminary analysis.

A. There -- the preliminary version of the special benefits study. The one that came out in 2018.

Q. Do you have that?

A. Not with me. We have it.

Q. Okay. And what we know is, as with the Vintage, a big difference, and maybe the main difference -- I guess that's my question, is this the main difference, the rack rate versus the approximate ADR we're talking about?

A. Yes. They were -- they were actually lower on occupancy -- because they assumed everybody did 80 percent. The Monaco and the Vintage actually do better than 80 percent in a typical year. But they assumed a $500 average room rate for the Monaco, whereas the actual was slightly under 220.

Q. Yeah. Okay.

I think that concludes on the Monaco.

A. Yep.

Q. Okay.

A. They're just going to get more interesting after this.

Q. Okay. Next is the Hilton.

A. The Hilton is interesting because it's a hotel on top of a parking garage. And because it was renovated last year and because their room count changed and because they got rid of their penthouse restaurant that was -- had been there for 50 years.

Q. Okay. The Hilton is Case 353. Where is the Hilton?

A. 6th and University.

Q. Okay. Let's -- let's start higher level. Like where we stopped with the Monaco. Well -- well, let's go back to the way you started.

You were mentioning the uniqueness of the Hilton.

A. Yeah. It's unusual. It was built in 1970, so it's not a new property. But it's been well kept up and they underwent a big renovation last year. I think they said $9 million that they spent. But I can't stand by that number because I'm not sure if it's correct.

Q. So what -- what's the -- what's the net of all that? You mentioned the it's on top of a parking garage.

It doesn't -- no longer has its rooftop restaurant.

A. Right. It appears --

Q. The one year down with renovations. What --

A. The management didn't want to commit to what was going to happen with the hotel. But my observations and just based on my experience, I would guess that they're trying to reposition it. They might change the brand. They might leave it as it is.

It could -- because necessity got rid of their full-service restaurant, what they have left is their old bar in the lobby, which they put some tables in and it looks very nice, but it's really small. Their top floor, they took out the restaurant and the meeting room that was up there, and they put in guest rooms. So now they have more guest rooms than they had when the ABS study was done. But they have less food and beverage. And the size and configuration of the restaurant that they have now, looks a lot like a breakfast room in a Hampton Inn.

Hampton is a limited-service affiliate of Hilton. It would not surprise me if they eventually reflagged the hotel as a Hampton.

Q. So are you -- are you saying that when ABS did its valuation, there was a restaurant?

A. Correct.

Q. And there isn't now.

A. Well, keep in mind I'm referring to their early -- their 2018 work. The report that came out in 2018. Because that's the one we know something about.

Q. Okay.

A. But they -- they estimated the room count at 250 at that point.

Q. The --

A. It actually has 256.

Before the renovation it had 239. So what we suspect is that ABS was doing their work while the renovation was in progress and they were just estimating how many rooms they would end up with or the hotel planned to have 250, and they managed to squeeze in six more.

Q. So what we're trying to get is is a credible value of this hotel?

A. Right.

Q. More than we are to sort out, I guess, that mystery.

A. Okay.

Q. Right?

A. It's interesting to me.

Q. We want a credible value.

A. Well, if we look back at the -- the issue that you raised before on the average room rate on there, in the ABS preliminary study they estimated the ADR of the Hilton Hotel at $400 a night. Nobody is paying $400 a night to stay there.

Our estimate of value for the coming year -- value, our estimate of the average daily room rate, the ADR for the coming year is 236. And that's actually down slightly from their 2018 room rate. That's mostly because of what's been happening in the market, the pressures on some of these larger hotels. The Hilton, even though it only has 256 rooms, by virtue of its location near the convention center, it competes with some much larger hotels. And also it's got a nice brand. It's got a good brand.

So they, ABS, estimated their ADR at $400 based on their rack rates. And we're estimating their ADR at $236 which, again, is slightly lower, I'd say 5 percent -- well, I can't say that. It's slightly lower than what they did in 2018.

Q. So -- so, again, the number, the rack number ABS used was 400?

A. $400, yeah.

Q. And you're saying the ADR starts with a two?

A. We're projecting 236. Yeah. Starts with a two.

Q. Okay.

A. One other note, in the ABS -- again, the preliminary study that they did, their NOI ratio, that is their net operating -- the ratio of net operating income to total revenue was 40 percent. They thought that operating expenses would only absorb 60 percent of total revenue and the rest of it would fall to the bottom line. The actual ratio has been less than 30 percent. So they said 40 and the actual is below 30. So that's -- and that's directly because of the ADR.

That's -- that's that inflated room rate just falling straight down and affecting their NOI forecast. And that's how they come up with a higher -- with a higher value. They actually used an eight percent cap rate in this one. Our cap rate was, I think, seven.

Q. Okay. I think you should walk us through that net operating income point you just made.

A. Well, they -- they were -- they were projecting --

Q. "They" meaning ABS?

A. ABS was projecting in 2018 that the Hilton would have 250 rooms. That it would run 80 percent occupancy with an average rate of $400 a night.

If you multiply all that together times 365, you get annual room revenue of 29.2 million. Their actual room revenue was less than that. I would rather not say precisely how much less.

They were anticipating some minor other revenue, total revenue of 33 million. Their operating expense estimate was higher than the actual expenses. But because their revenue was so much higher, their NOI was still more than double what it had been in 2018.

So they took -- they didn't have access to the 2018 numbers. But based on their numbers, it would be assumed that the hotel was performing way better than it actually did. And this is in 2018 before the big hit that they took in 2019 during the renovation.

Their 2019 results were just terrible because they had -- the renovation was in progress and the new Hyatt Regency had just opened. So they got a double whammy. They were taking rooms out of service and then the ones they had left, they couldn't rent because of all the competition.

Q. Do you believe your -- do you believe you had sufficient information to be able to answer this big question about what's your income going to be next year with the Hilton?

A. We always believe that. But, yes, in this case.

Q. Did you --

A. We've talked to the management. We've seen the historicals, you know. We analyzed what we think their competitive market is going to do.

Q. And looked at the STAR reports?

A. And looked at the STAR reports, yeah.

Q. And what's your -- what's your conclusion with all these unusual features of the Hilton?

A. Well, my near -- my conclusion for last year is that they just had a really tough year. But I think they're going to bounce back pretty quickly. And this is in the report. We're projecting that their occupancy is going to stabilize at 95 percent.

Anybody who has done any hotel work knows that's just an absurd statement to make unless you know that that's what they used to do. They were pretty consistently running really close to full occupancy. And --

Q. Wow.

A. I just don't see any reason why they won't get back there, as long as they don't jack their rates too high. It's funny because it's an old hotel. It's 50 years old. And there's a lot of nicer places around it. But that Hilton name and that location just seems to be gold. They're doing nicely.

Q. And what does that tell you about this capacity analysis that you have talked about in -- in the pages of the --

A. The review.

Q. The appraisal review?

A. The capacity analysis for the Hilton is pretty straightforward. They don't have any capacity. On a stabilized basis there's no way that they can increase the number of bodies that are in that hotel because they would have to come in the summer when they're already running in the high 90s. So --

Q. In just tying it together, if there's no room capacity, how do they deal with a coming assessment for this LID?

A. How do they deal with it?

Q. Well, you know, I've asked this question, can they just raise their rates.

A. No.

Q. How do they -- how does -- how would it affect the value of the hotel?

A. Well, the way they keep their occupancy so high is by not being too aggressive. The Hilton is more affordable than the nicer hotels that it's near. And now with the pressure from the Regency and the other additions to supply, nobody is expecting -- we talked to several of the hotel managers whose properties have seen slight declines in room rates, and asked, well, when are you going to recover that, how long will it take to get it back. They say years.

That this is not a thing where they can pop back next year. The Hilton will come back and get a higher rate because they're renovated. That's not the case for every hotel. And their rate is still not going to go dramatically above where it was in 2018. So it's a case where the managers of the hotels downtown are in for the long haul.

They're assuming that they're not going to be able to be aggressive in rates. We're projecting rate increases at 2-and-a-half percent a year. So that's inflation, basically. We're assuming inflation close to that. We don't see an opportunity to recover in real terms the rates that were lost after the increase in supply.

Q. And same question as with the others.

If we took your value, but the ABS projected benefit.

A. Yep.

Q. What would be the assessment?

A. The assessment would decrease from -- the ABS estimate of 397,699 on table one to 313,232 on table two. So that assessment would come down by 84,467. And there -- they're only getting, in the ABS study, the Hilton only gets a .8 percent in value from the LID, from the improvements.

Q. Okay.
A. Time for another.
Q. Yes.
A. Okay.
Q. Let's go to the Edgewater.
A. Okay.
Q. This is Case 136.
A. The Edgewater is a pretty unique property. It's the only true waterfront hotel in Seattle. The Marriott near the waterfront is actually across the street from the water. But the Edgewater sits on piers. I mean, it's in the water. It's very old. It was built for the World's Fair. It's been renovated a few times. Somewhat unevenly, I think.

And yet it is one -- it is consistently one of the highest-performing hotels in the city. Not in room rate. But in terms of consistently high occupancy. People want to be on the water. So it's got that advantage.

The Edgewater feels that it competes with six other hotels including the highest-rated properties in the city. Their rate is not that high. But they feel that's who they're competing with because they regard themselves as a destination. Their competitive set last year recorded a market occupancy rate of 80.7 percent.

And a market average room rate of 296.

They generally perform slightly above the market average in occupancy, but well below the market average in rate -- in room rate. And that's because they included these high-end properties in their spec.

I forgot what questions you usually like to ask. There's no -- no special -- no renovations coming, at least nothing larger than the reserve allowance as projected for the Edgewater. We are projecting that they'll get a stabilized occupancy of 83 percent, which is basically where they are now. I mean, they're very close to that.

And that their average room rate for the coming year, we're projecting at 258.

This is as close to stabilized as we are likely to see, which would lead one to think that why is it a problem? Well, it's a problem because it's leased. And -- and I have to throw that back to you as far as what the legal implications are for the fact that it's leased. We're valuing the leasehold interest.

This is the property that I mentioned earlier where in the financial statements you have to deduct the rent from the NOI to end up with a net leasehold income. Because they have to pay rent.

Q. To whom do they pay the rent?

A. To the State of Washington.

Q. Is the owner of the property?

A. Yeah.

Q. And do you know how ABS valued this property? Did they value only the actual property owned by the Edgewater?

A. I really don't know what they did. That's my short answer. I don't know what they did.

Q. What did you do?

A. I valued the leasehold. I looked at the income stream to the operator of the hotel and deducted all the normal expenses, and then deducted rent. So that we ended up with a net leasehold income.

And I capitalized that at 7 percent. Now normally a -- normally, for the Edgewater as a fee simple because it's so stable, so unique in its location, and does compete with some of the high-end properties, I might have gone with the 6-and-a-half capped for them. But it's a leasehold interest.

Any time that you have a leasehold, you have more risk because not only are you obligated to pay all your operating expenses, you also have to pay rent. And that reduces your margin. Your operating margin. So it's pretty common for leasehold properties to have higher cap rates than lease -- than fee simple properties.

In this case, the fee simple cap rate would have been really low. So even though I bumped it up for the leasehold, I ended up at 7 percent which is where I was for the other properties, the other hotels.

It's not a dramatic change. In the -- in the -- the preliminary study, the preliminary special benefits study that ABS came out with in 2018 when they were Valbridge, they didn't have the Edgewater in it. I don't know why. They do have it in their final study, but that doesn't explain -- that study doesn't explain how they came up with their value. So I don't have anything to go on for where their value came from.

We don't know what cap rate they used, we don't know if they used fee simple or leasehold. It's -- it's a mystery.

Q. Okay. Do you know the rack rate?

A. Do I know the rack rate?

Q. That ABS used?

A. No. We don't have anything that ABS did.

Q. Oh, because you don't have -- you don't even have the '18 report.

A. It wasn't -- they excluded the Edgewater. Maybe because it was leased, maybe they thought they didn't have to deal with it. I don't know.

Q. Okay.

A. Their current rack rates range from 179 to 529. So somewhere in there is their average. I mean, I know what their average is.

Q. What's your value number and how did you get there?

A. The same -- the same procedures that I used for all the other hotels. We looked at the historical operating revenue and expenses. The position of the hotel within its competitive set. In this case, they had picked out, as they said, some pretty high-end properties. They used the Four Seasons, the Thompson, Hotel 1000, the Alexis. I mean, those are the top hotels in town.

And the Edgewater thinks they play in that sandbox. We looked at the -- we anticipated that they would continue -- that they would maintain similar indices as they have achieved in the past, the occupancy index, the room rate index. We're not anticipating that any new supply is going to have any impact on them at all. They're just insulated from that.

So my forecast of net operating income is very close to what they've been getting. We did deduct the rent. We knew what the rent expenses were, and we took that off. So when it comes time to capitalize the income, I'm capitalizing the leasehold income.

There's an inherent assumption in the leasehold analysis that the lease will remain in place forever. That the State is not going to want to take the hotel back and operate it or tear it down and put in a cruise ship dock or something.

As I say, the hotel is 60 years old, but the Olympic is almost 100 years old. So we don't know how long these hotels are going to last. But that's the presumption. Other than the leasehold, I treated it just like I treated all the others.

Q. Okay. And -- and take us through the value numbers and the -- the assessment using their lift number and value number?

A. My overall value number for the Edgewater leasehold was "sixty-million-six." Of that, 61,400,000 is the real estate. So 61.4 in real estate. 2.2 in personal property. The 61.4 in real estate in our estimate would produce an LID tax, an assessment, of 217,956. That's what we would expect them to pay if they do get the bump that ABS gave them in value.

In the ABS final study, they value the -- they valued the property at 117,444,000, so that's 50 million higher than us. And their estimate of the tax levy, the LID levy, would be 416,900.

So they -- our levy -- our recommendation or estimate of what the appropriate levy is about half of theirs. The savings is 198,944. That's how much less the Edgewater would be paying if the City used our value instead of ABS's. And if the ABS bump was maintained.

Surprisingly, ABS only bumped the Edgewater's value by .9 percent. They didn't go for three percent the way they did for the Four Seasons, for example, or other properties right on the water. And it may be because they're so far north.

They're right at the very edge, as you pointed out, they're right at the very edge of the LID service area.

Q. Have you -- have you looked at what happens to Alaskan Way in --

A. Not really.

Q. It's beyond the aquarium?

A. What happens to it in the LID?

Q. Where the roadway goes?

A. I really haven't. I can't say I'm an expert on that.

Q. Okay. We'll cover that later.

MR. REUTER: Okay. We have presented the -- the Kidder Mathews' appraised values. And we've proposed, through Mr. Shorett, that there is no special benefit appropriate for an LID assessment. So the percentage should be zero.

But what we're saying is if you disagree with that, we're presenting you in this Exhibit 10 the number -- we're doing the math for you of what we believe to be the far more credible, detailed, reliable, appraised value using their lift number. So -- in a -- what I'm saying is our request would be zero or this number we're showing you in Exhibit 10. If that makes sense.

I would like to stop. We have 20 minutes until 5:00. We've gotten through much more today. But I don't want to proceed with the Thompson Hotel and Sequel apartments. I don't want to try to squeeze that in to the last 20 minutes. So I would propose, and request, that we stop for the day, come back in the morning. At which time I'm going to present Cases 218, 219, 220. The Thompson is more difficult because it's a combined apartment and a hotel. And I have a client representative -- we're set for Thursday morning for the Thompson.

And he -- I believe is going to come testify. And so I'm -- we aren't going to need all day tomorrow. I mean, I don't know how long the cross is going to be. But perhaps we can do some of the Thompson tomorrow.

So what I suggest is that I talk to, if I can, my client on the Thompson. See if we can deal with it tomorrow because I think we can do it tomorrow. Again, depending on how long the cross-examination is, trying to speed this along. And then report in the morning what I can about my ability to put on the Thompson a day early.

HEARING EXAMINER VANCIL: Well, I'm sorry if there was some miscommunication with Mr. Edlund-Cho as the timing. We weren't setting aside specific items for the case. You were representing a group of clients. And there was no indication to me that you needed just the Thursday for the case. So I'm expecting you to go until the time runs out. That's typically how we do it.

MR. REUTER: Okay. So my confusion.

HEARING EXAMINER VANCIL: If you can get some time on the Thompson tomorrow, why wouldn't we go for another 20 minutes, get it done, and see where we're at tomorrow. You're not going to finish today, I know that. But it's the same record.

Okay. You got to do cross at some point. We've got three other cases you got to do. If you absolutely have a single witness that you have to do on Thursday and we haven't finished through tomorrow, that's fine. We'll get your witness in on Thursday. But I'm not hearing any reason to stop now.

MR. REUTER: Oh, okay. That's fine.

HEARING EXAMINER VANCIL: Okay.

BY MR. REUTER:

Q. Ready to move to the Thompson?

A. The Thompson.

Q. Okay.

A. Just go.

Q. Well, I don't have my file on the Thompson. I -- yes. Tell us -- tell us your understanding of the -- the -- we address this in the objection, Mr. Gordon.

But there is a -- a bit of an apples-oranges issue with the way ABS valued the Thompson and Sequel Apartments, which straddle two parcels, as I understand it, versus the way you did it.

Would you walk us through that?

A. Yeah. The reason the Thompson and Sequel get so mixed up, there are two uses, a hotel and an apartment building. And there are two parcels. Two parcels of land. But the two parcels, the land -- the boundary between the two land parcels does not match the boundary between the buildings. And in any case the buildings are joined on the upper floors by a walkway.

They've got their fitness center in one of the quarters and the others are just for service access. So from the -- from the outside it looks like it's all one big building. The assessor, when they came to assess it, because there were two parcels, both of them had to be assessed for land value.

But the assessor took all of the improvements on both parcels and piled them all onto the south parcel, which we think of as the Thompson parcel. But really it's the parcel for all of the improvements plus the Thompson land.

In the ABS study, they took the same approach. They said we're going to value this land parcel, even though there's an apartment building on top of it, we're going to call it just land. And all the rest of the value is going to be piled into the south parcel. So both the assessor and ABS have the north parcel as land, the south parcel as land and improvements.

We took the approach of saying we have a hotel and we have an apartment building. And we're going to value them like a hotel and an apartment building. So we did a value for the Thompson Hotel that was pretty similar to what we did for all the other hotels. Same approaches, same methodology. The Thompson has a few twists in that the Thompson is a soft brand under the umbrella of Hyatt.

Soft brands are becoming all the rage. That's a brand where you can be part of Hyatt, but you don't have to look like a Hyatt. You can have some flexibility in your building and what services you provide.

But the advantage that it has of being a Hyatt brand is watered down a bit when somebody builds a 1260-room Hyatt Hotel six blocks from your place. So now, all of a sudden, instead of sharing the Hyatt reservation system with four Hyatts, you're sharing it with five and the fifth one is really big. So I am somewhat pessimistic about the Thompson -- at least in the near term. It's a really pretty hotel. And I don't want to say -- convey anything otherwise.

But it's a hotel with only 150 rooms. Their room count was actually reduced from 158 when some guest rooms were converted to common areas, to meeting space.

It has a restaurant on the main floor and a rooftop bar. And last year the Charter Hotel opened, one block away, with a restaurant on the first floor and a rooftop bar.

Q. So --

A. And more rooms.

Q. So do these -- do these concerns you have drop to the bottom line, so to speak on --

A. They influence --

Q. On value?

A. They influence my projection on occupancy.

Q. Okay.

A. I think this hotel is in for a bit of a softening in occupancy. I'm projecting them this current year, 2020, at just under 77 percent occupancy. In a market where the market -- the average occupancy rate of the comp set was -- last year was 85 percent.

Now everybody is going down. I'm sorry. The comp set last year was 81.6 percent.

This hotel is out -- has outperformed its comp set in terms of occupancy. And I expect it will continue to do so. But everybody is coming down because of that Regency opening of the big Hyatt. And the Thompson is also going to face competition from the Charter Hotel that nobody talks about because it's almost identical to the Thompson. It's one block away. You can't expect that -- to get a new competitor like that is so close to you and not have some negative impact. It's just not practical.

Q. And -- and do you understand the ABS valuation study to have factors in these concerns that you just expressed?

A. Well, the Charter wasn't even open. And the Regency -- no, neither one of them were open when they did their preliminary study. Their final study that came out, they were open. So they -- you know, they presumably could have considered -- considered them.

But there was no evidence in the preliminary -- in the spreadsheet that we got for the preliminary study, there was no evidence that they considered the impact of competition at all. They just assumed everybody would run 80 percent in the -- in the new study we don't know what they were thinking because they didn't explain it.

The likelihood is that they did not do something down to that fine a point of how many rooms is it going to rent, what's the impact of the Charter, what's the impact of the Regency. Not to mention the five or six other hotels that are scattered around town.

Q. Do you know Robert Macauley?

A. No.

Q. Do you -- do you know --

A. I should say, I meet a lot of people at the appraisal dinners, and I usually forget their names as soon as I meet them.

Q. Okay. I don't mean have you ever met him. I'm sorry.

What I want to know, is he -- to your knowledge, is he known as a hotel valuation expert?

A. No. I know the hotel people. There are other people. I'm not the only one. And he's not one of them.

Q. And is anybody on his team or at ABS or Valbridge locally?

A. I don't know of anybody in that office who is a hotel expert. Doesn't mean there isn't one there that I haven't run across. But I tend to -- it's usually the same people.

When we're bidding for a hotel appraisal job, if I didn't get it, I can kind of guess who did. Because it's a pretty small, somewhat incestuous little group.

We all started out at the same companies and got trained by the same people.

Q. Okay. So I'm sorry if I asked you this already. Did you get 2018 ABS information on the Thompson?

A. Yes.

Q. Okay. And what rack rate did they use for the Thompson?

A. $555.

Q. Is that close to what you perceive the -- or understand the ADR to be for the Thompson?

A. It's about double what the actual ADR is for the Thompson. Our estimate for the -- for this year is $255.

Q. For 2020?

A. Yes. And that would put them in line with the charter and the other -- the Hyatt, Olive 8, a lot of the hotels in that area. There's very few hotels that can break the 300 line.

Now, if you're looking for a hotel on a Tuesday in July, yeah, you'll pay a lot more than that. This is just the annual average.

Q. And to this question about the -- your value versus the ABS value, you've included the Thompson and the Sequel on Exhibit 10.

A. Yes. I think the only way to look at this property is as one property. It's just -- otherwise, we can't compare what they did to what we did. Because they've got all the improvements piled on one parcel and we've split them up. In Exhibit 10, the line to focus on for the -- for the Thompson and Sequel is the bottom line, the combination of the two.

Q. And that's the number that is on page 1.

A. Yes. Page 1. It's the third line of numbers.

Q. Okay.

A. The before value that they put on that was 157,066,000. Our before value for the Thompson and Sequel together is 89,950.

Q. And other than that, double the rack rate versus the rough ADR, can you tell how ABS got such a higher value number?

A. Well, their expense ratio is right in line. They didn't mess up on the expense ratio. They're using a 7-and-a-half percent cap rate where we used a 7. I think we used a 7. Just a second. We used 6-and-a-half. So their use of a higher cap rate should have produced a lower value than what we did.

The only number that is dramatically different is the average room rate because they used rack rates, at least in their preliminary study they were using rack rates. And they came up with a rate that was twice what the actual was.

Q. So -- so I guess if you didn't have access to actual numbers, there would be some defense for using a rack rate?

A. I still wouldn't use a pure rack because everybody discounts. And one thing that would have been possible to do is to order the trend report that I mentioned earlier. Because anybody can buy those. If you ordered the trend report and selected the same -- or even just a similar set of hotels, that report would have said what the average rate is for the set. So if ABS had said here is the Thompson Hotel, it looks really similar to the Ändra which is down the street, we want to throw in the end of the market the Palladian, we're going to put in the Alexis, if we use the same set that the management of the Thompson selected, but if ABS had ordered that's as a trend report, then they would have seen what the actual average achieved rate is for this group of hotels.

And if they had, they would have realized that this group of hotels in 2018 averaged $272 in ADR.

Q. Compared to the 550?

A. Compared to the 555 that they projected.

Q. And do you -- do you think that number alone would be a significant enough change in the value of the hotel to explain the difference between your number and the ABS number?

A. Yes.

Q. Okay. Are there other issues that you think are worthy of discussion about the Thompson analysis?

A. Well, only in that it -- in terms of its interaction with the Sequel Apartments. The Sequel is 93 -- 93 units. And at the -- when I visited them, they only had two vacant. So they're doing real well.

But then we surveyed the other similar apartment complexes in the area and everybody is between one and three percent vacancy. So it's not -- they're not doing unusually well. All the apartments are full. I mean, it's no secret the apartment market is just nutso because of the Amazon people.

But the approach that we took with Sequel even though it's not a hotel, we took a somewhat similar approach. We surveyed apartments as to their vacancy and their rents, determined the rents that they're charging at Sequel seemed to be right in line. They're running almost full. So they're a pretty stable property.

We looked at their actual NOI, their actual effective gross income, operating expenses and NOI. And projected performance very similar to what they were doing now.

So there's not -- we didn't -- there weren't any big surprises there. We did use a very low cap rate of four percent for the Sequel and that's because apartment cap rates are very low right now. Particularly for new properties.

Remember this is a property that just opened within the last four or five years. So they're really nice. The gal there is -- she's very accommodating. She wants -- you know, she is proud of her property.

Because the Sequel and the Thompson are the same owner, they're able to share things. The fitness center is used by both hotel guests and the residents of the apartments. The restaurant -- I don't think you could -- I don't know if they let you charge meals in the restaurant if you live in the apartments. But it's sitting right there. It's a really handy little place.

And they have a courtyard between the two, so you can easily walk from the apartments to the hotel if -- for people that want to do that. It's a real nice development.

The main thing that makes it complex is it needs to be looked at as a whole, as one project. Not as two separate parcels or two separate uses.

Q. And is that the way ABS looked at it?

A. They looked at it as separate parcels, but that doesn't really affect the result. We just added their numbers together.

Q. So on the big spreadsheet for the Thompson and Sequel, there's two -- two lines; is that right?

A. There's four lines actually. There's the south parcel and the north parcel, which corresponds to the ABS numbers. And there's the hotel and the apartments which corresponds to our numbers. In either case, we add them together.

Q. You're referring to Exhibit 10?

A. Yes.

Q. Okay. Okay. I was talking about the valuation study spreadsheet?

A. Oh, in the special benefit study?

Q. Yes.

A. Yeah, they're listed separately. The parcels are listed separately there.

Q. Okay. But you added those two numbers together --
A. Yes.
Q. -- to get what their value is?
A. Right.
Q. Okay. We submitted a -- an appraisal review on behalf of the Sequel?
A. Well, we submitted one review for both.
Q. Okay.
A. One review for the Thompson and Sequel together.
HEARING EXAMINER VANCIL: Let's stop there.
MR. REUTER: Okay.
HEARING EXAMINER VANCIL: So I understand that we have some more to go with Mr. Gordon, starting down a question line regarding the Sequel. And then you have three other cases that you're addressing, 218, 219, and 220.
MR. REUTER: Yes.
HEARING EXAMINER VANCIL: When do you anticipate calling Mr. Gordon and how much more time do you have scheduled for him to be on direct? We've covered quite a bit similar to what you covered with Thompson with regard to the others picking up the pattern.
MR. REUTER: I don't think I need

Mr. Gordon for long in the morning on the Thompson.

HEARING EXAMINER VANCIL: So you want to bring him back tomorrow morning. Is that --

MR. REUTER: Yes.

HEARING EXAMINER VANCIL: Okay.

MR. REUTER: Are we still on the record?

HEARING EXAMINER VANCIL: Yes.

MR. REUTER: Okay. I -- I would -- yes, I do want to bring him back. But as I said, I may need time Thursday -- which is on the schedule. That's why I thought I had it.

HEARING EXAMINER VANCIL: Sure. I understand that you may have a witness for Thursday. We'll get to that. I want to get through tomorrow first. We're talking about Mr. Gordon is coming back tomorrow. You will finish with him. You have a few things to wrap up. You were mid question, so I know you have a few more questions for him.

MR. REUTER: Yes.

HEARING EXAMINER VANCIL: And then we need an opportunity for cross. And then you've got three additional cases that you're putting on.

Do you have an estimated time for how much time you need for Mr. Gordon and/or those three cases?

MR. REUTER: Well, Mr. Gordon is not

testifying with regard to those three.

HEARING EXAMINER VANCIL: Sure. But he's going to take up time. So how much time do you anticipate?

MR. REUTER: I probably need him for 15 minutes in the morning. Then will we do the cross on him?

HEARING EXAMINER VANCIL: We're getting to that.

How much time do you need for the three cases?

MR. REUTER: For the other three, I believe less than an hour.

HEARING EXAMINER VANCIL: Okay. All right. Do you have any witnesses for those three that need to be here, they're going to be here in the morning or something along those lines, so that we need to do cross later for Mr. Gordon, or do you have a greater complication with telling Mr. Gordon, with telling Mr. Gordon to come later in the afternoon?

MR. REUTER: The answer to that depends on what happens in the next half hour. I'm going to be meeting with people from the other three properties. And determining what we need and what we're going to do.

HEARING EXAMINER VANCIL: All right.

MR. REUTER: So I'm going to need some time. But it will be more, I believe, like Westlake Center was today.

HEARING EXAMINER VANCIL: Okay.

MR. REUTER: Than what some of these others were.

HEARING EXAMINER VANCIL: What I understand from you at this point is that you have some additional witnesses to put on for three witnesses, an hour or so give or take, and there's some cross-examination. A bit of time for Mr. Gordon. And then, of course, we need an opportunity for cross for Mr. Gordon. We can possibly get all that in tomorrow. It's going to depend on what slot we put it in.

We don't know until probably tomorrow morning, and then you have an additional witness that you're likely calling Thursday morning.

MR. REUTER: Right.

HEARING EXAMINER VANCIL: That's enough for us. Is there any questions about that?

MS. THOMPSON: No.

HEARING EXAMINER VANCIL: Okay. We'll resolve that tomorrow. Let us know where we're going. The City, just be prepared to do cross tomorrow. Either right after he's finished or later in the day. All right. Thank you.

MR. REUTER: Thank you.

MS. THOMPSON: Thank you.

(Hearing adjourned at 5:02 p.m.)

CERTIFICATE

STATE OF WASHINGTON

COUNTY OF KITSAP

I, Carisa Kitselman, a Certified Court 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 4th day of March, 2020.

CARISA KITSELMAN, RPR, CCR #2018