

Seattle Waterfront LID Assessment Hearing

Seattle LID Public Comment Hearing

February 26, 2020



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SEATTLE WATERFRONT LID ASSESSMENT HEARING
BEFORE
HEARING EXAMINER RYAN VANCIL

Taken at 700 Fifth Avenue
Seattle, Washington

DATE TAKEN: FEBRUARY 26, 2020
REPORTED BY: CRYSTAL R. McAULIFFE, RPR, CCR 2121

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ALSO PRESENT: VICTOR MOSES

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I N D E X

MARCH 26, 2020

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1 SEATTLE, WASHINGTON; FEBRUARY 26, 2020

2 9:03 a.m.

3 -o0o-

4 HEARING EXAMINER VANCIL: I'll call to order
5 this February 26, 2020, continuance of the Seattle
6 Waterfront LID Assessment Hearing. The objections
7 continue to be heard for Hearing Examiner Case Nos. 336,
8 337, 339, 340, and 342.

9 First, I need to address a motion to compel
10 discovery from another party. The City -- and I got the
11 motion. It's been forwarded to the City, so we'll have
12 some discussion on that. It's something I need to take
13 out of quick order due to time constraints.

14 We'll take a break today at 10:00 a.m. I'm
15 not sure how much longer we're going to go, but I'll
16 plan on taking a break at 10:00.

17 Please make sure your cell phones are off
18 and not on during the hearing.

19 And we've had a little problems with our
20 court reporters. So I need to remind everyone to speak
21 one at a time and -- for purposes of both recording and
22 the transcript. And, particularly, for the audience, no
23 talking.

24 All right. Let's turn to the motion from
25 Mr. Victor Moses. And that is Case No. 375. Mr. Moses

1 submitted an e-mail that I'm considering a motion in
2 part, a motion to compel discovery for participation in
3 a deposition. I believe Mr. Moses is here today.

4 MR. MOSES: I'm here.

5 HEARING EXAMINER VANCIL: I've heard your
6 argument in the e-mail. So I don't necessarily need
7 more input from you on that. I understand what you're
8 asking.

9 The City -- typically, when there's a
10 motion, there's an opportunity for a response; and, of
11 course, in the short timeliness, the City doesn't have
12 the time to write a response.

13 But what I understand from the e-mail motion
14 is that Mr. Moses -- I haven't been participating in
15 depositions, but I understand that at least he's stating
16 that there's been a deposition scheduled for tomorrow,
17 February 27th or maybe the 28th; that he's had some
18 communication with the City about that, but there was
19 some indication that he would not be allowed to
20 participate.

21 That I -- I do recall from February 4th that
22 he asked about it; although, he was directed at that
23 time, along with all other parties that they needed to
24 handle discovery on their own, because I was not
25 ordering any discovery at that time until I got a motion

1 like the one I've got in front of me now.

2 It does state in the e-mail that he wants to
3 be allowed to depose Robert Macaulay from the City, and
4 he anticipates he may have an expert but he doesn't
5 know.

6 So that's what I've received in the motion
7 so far.

8 And if I could hear from the City.

9 MS. THOMPSON: Yes. We have been in contact
10 with Mr. Moses, and our understanding from him is that
11 he has since retained Peter Shorett as an expert
12 witness.

13 And the City's position, as stated on
14 February 4th, was an objector who is putting on an
15 expert witness of their own would be entitled to depose
16 the City's expert.

17 You know, having understood now that
18 Mr. Moses has retained that expert, we have no objection
19 to him participating in the deposition of Mr. Macaulay
20 which is scheduled for one day beginning tomorrow.

21 He will, you know, need to work out the
22 details of his participation with the other objectors
23 who have been working with City's counsel to schedule
24 that deposition.

25 HEARING EXAMINER VANCIL: All right. It

1 sounds like I don't necessarily need to make a ruling on
2 that portion of what he's requested, then.

3 I will simply comment for the record that
4 the City's approach to handling the deposition is
5 similar to what the Hearing Examiner would do for
6 cross-examination.

7 I hope to have an order out later, the end
8 of this week, if not, maybe next week, concerning
9 cross-examination of the same witness.

10 While there's an opportunity in -- a general
11 opportunity afforded in an assessment hearing to
12 cross-examine witnesses in a case here, there's also a
13 burden on parties to -- who are objectors to put on a
14 case.

15 And where we have 400 objectors -- some are
16 certainly putting on a case. Some are planning to do
17 that and they have a right to proceed with that.

18 Others, who may be seeking to cross-examine,
19 simply haven't put on a case will not even be afforded
20 an opportunity to cross-examine.

21 They've submitted a comment. They submitted
22 an objection. They've got a right to do that. But if
23 you're not -- you know, you can't -- what I need to
24 avoid is 400 people saying I have a right to
25 cross-examine the City's appraiser because I want to

1 cross-examine and that's how I'm going to put my case
2 on. That's not how to put your case on.

3 So if you need it as a part of a case, it's
4 going to be afforded as an opportunity.

5 And I'll describe that in more detail at
6 the -- in my order. But it will be approached in the
7 same manner as well with timing.

8 There's been two days set aside for
9 cross-examination. Here, there's been an opportunity
10 for deposition that, frankly, in being granted, is
11 extraordinary -- maybe not extraordinary and huge -- but
12 certainly out of the norm in the sense that for
13 assessment hearings, it's not -- it's not common. It's
14 not unheard of. But it's not common.

15 And in this case, requests for depositions
16 all came in after the start of the hearing as well. And
17 they should have been addressed and scheduled before the
18 hearing even started on February 4th.

19 So the opportunity that the City is
20 affording and providing at the Hearing Examiner's
21 request is generous. They have set aside a day to do
22 that. They took the Examiner's direction to act in good
23 faith and they did. They set aside a day for that.
24 That's the time that's been allotted for this
25 deposition.

1 It will be up to the objectors to organize
2 their time within that; who's going to get to ask
3 questions and such. It will -- I certainly will not
4 entertain any motion to extend the depositions beyond
5 what's already been scheduled. That's a good effort
6 already. And that's all for the purpose of preparing
7 for cross-examination for those parties that will be
8 participating in it at the end of the hearing.

9 I think we've addressed that matter. And so
10 I understand you will be participating tomorrow.

11 MR. MOSES: May I make a comment?

12 HEARING EXAMINER VANCIL: What's it
13 regarding?

14 MR. MOSES: It's just regarding scheduling.

15 My expert has informed me that he will not
16 be available on the 10th. He is already scheduled to
17 testify on either the 12th or 13th for Perkins on
18 another issue.

19 And so I would like to submit -- I will
20 provide the report. We will have time to get that done
21 after deposition.

22 But that we could delay his testimony until
23 sometime on either the 12th or 13th when he's here.

24 And you'll have time to review the report.
25 If you have questions for him, you can ask him at that

1 time. And it -- I don't think it's going to take more
2 than five or ten minutes for him to make his comments.

3 HEARING EXAMINER VANCIL: So what I
4 understand from Mr. Moses' comments is that he's been
5 scheduled for March 10th.

6 The only objector who's been scheduled after
7 the fact from February 4th, when I said it was cut off,
8 but I understand there was confusion on his part on how
9 this works so he's been granted a date for presenting
10 his objection on March 10th at 1:00 to 2:30 --

11 MR. MOSES: Yes.

12 HEARING EXAMINER VANCIL: -- accommodating
13 the time he's requested.

14 And that he does indicate that he's got an
15 expert witness who will be appearing for another case on
16 a different date.

17 And so for matters of efficiency, which
18 we've seen similar to Mr. Willier's, there's some work,
19 which I appreciate the objectors engaging and to work
20 together so we have some efficiency having a single
21 expert appear at the same time.

22 And so the City will have an opportunity
23 to -- (a) the objectors will have an opportunity to
24 have their -- and I'll state this now, that your hearing
25 essentially will be continued from the March 10th date

1 to when your expert appears for that limited purpose to
2 have that additional testimony provided by your expert.

3 And similarly, the City will have an
4 opportunity at that time to cross-examine not only on
5 the case at hand that he originally shows up for, but
6 any comments he makes on your case as well.

7 MR. MOSES: Thank you very much.

8 I appreciate the City's cooperation in this.

9 HEARING EXAMINER VANCIL: All right. Let's
10 proceed, then with objectors.

11 MS. TERWILLIGER: The objectors call Melody
12 Lanthorn.

13 HEARING EXAMINER VANCIL: Good morning.

14 THE WITNESS: Good morning.

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

17 THE WITNESS: Melody Lanthorn. M-e-l-o-d-y.
18 L-a-n-t-h-o-r-n.

19 HEARING EXAMINER VANCIL: And do you swear
20 or affirm the testimony will you provide in today's
21 hearing will be the truth?

22 THE WITNESS: Yes.

23 DIRECT EXAMINATION

24 BY MS. TERWILLIGER:

25 **Q. Good morning, Ms. Lanthorn.**

1 **How are you?**

2 A. Morning. Good.

3 **Q. My understanding is that you are the general**
4 **manager of the Courtyard Marriott in Pioneer Square; is**
5 **that right?**

6 A. Yes. That's correct.

7 **Q. What are your responsibilities?**

8 A. I oversee a \$20 million business for the
9 operations, the sales, the facility management, the
10 entire facility.

11 **Q. And how long have you held that position?**

12 A. For one year.

13 **Q. And do you have personal knowledge of the**
14 **hotel's operations and their clientele?**

15 A. Yes.

16 **Q. Okay. How many days a week do you work in the**
17 **hotel?**

18 A. Five to six. Sadly.

19 **Q. How many years have you been in the hospitality**
20 **business?**

21 A. I've been with this current company for 32 years
22 and 37 years total in the industry.

23 **Q. Okay. Are you familiar with the City's proposed**
24 **improvements to the waterfront?**

25 A. I am.

1 **Q. And how are you familiar with them?**

2 A. Through -- I sit on the Board of Directors for
3 Pioneer Square Business Alliance, and they've had a
4 guest speaker come to our board meetings to present the
5 waterfront changes.

6 **Q. Okay. And have you seen drawings or outlines of**
7 **maps showing where those changes are going to be made?**

8 A. I have.

9 **Q. Do you believe the Courtyard Marriott is going**
10 **to enjoy any special benefits from the proposed**
11 **improvements?**

12 A. No.

13 **Q. Why not?**

14 A. I think that it will create more traffic. And
15 there's already a lot of traffic and confusion on the
16 streets down there.

17 I also think it will take away from the
18 resources that we have for the public. Right now the
19 parks that are around our current property aren't very
20 well maintained or taken care of. And they have people
21 hanging out in them that doesn't necessarily bode for
22 attracting additional business.

23 So I really don't think that having yet another
24 large park near us will -- will help us. Our customers
25 don't come to really visit the parks. They usually are

1 here to go to a convention at the convention center, go
2 to their office building. A lot of legal business comes
3 our way because we're close to the courthouse. We're
4 also close to the stadium, so we get a lot of people for
5 that. But we wouldn't necessarily have somebody drive
6 in to go to the parks, so it won't generate additional
7 revenues or help build our room rates up.

8 **Q. So will you be able to increase your room rates**
9 **after the LID improvements are completed?**

10 A. No.

11 **Q. Do you expect an impact upon on your occupancy?**

12 A. No.

13 **Q. Can you give me a breakdown of what sorts of**
14 **guests come to the Courtyard Marriott, just generally,**
15 **corporate versus other kinds of things?**

16 A. Yep. So we're very seasonal. But if I was to
17 say annually what the percentage of business is, it's
18 about 45 percent business travel -- 20 percent a group
19 or convention type business, and the -- the balance of
20 it would be leisure; meaning that you're maybe going on
21 a cruise or you're here to go to a concert or a football
22 game, something that's happening at the stadiums.

23 **Q. Does the Courtyard Marriott advertise proximity**
24 **to the waterfront?**

25 A. We do not.

1 **Q. Do you advertise proximity to other locations in**
2 **Seattle?**

3 A. We do.

4 **Q. And can you give me an example of some of those.**

5 A. The Chihuly Glass Museum is on our website. The
6 Seattle Center is on our website. The stadiums is on
7 our website.

8 **Q. And are -- do you think your guests are**
9 **influenced by the proximity of the waterfront?**

10 A. No.

11 **Q. Do you know whether the LID improvements will be**
12 **visible from any of the rooms at the Courtyard Marriott?**

13 A. They won't. We see -- I do have -- so we have
14 262 rooms and about a third of my inventory has a view.
15 A really gorgeous view, but we don't quite see the
16 front, even with the viaduct down. We see -- can't even
17 really see the ferry terminals. But what we do see are
18 the ferries pulling out, and we can see West Seattle and
19 we can see out in the Sound. But we can't see right
20 along the waterfront.

21 **Q. Okay. And you touched on this briefly, but can**
22 **you tell me, do you have any concerns about the proposed**
23 **improvements to the waterfront?**

24 A. I guess the concern that I would say I would
25 have is that right now we have a lot of disturbance

1 in -- around our building. And we don't have the
2 support that we would like to have from the City -- from
3 the police department, specifically.

4 So we have a lot of havoc with people trying to
5 get in the building that don't belong in the building,
6 people trying to use our bathrooms that aren't guests,
7 and drug use in our back alley, as well as prostitution
8 and drug sales.

9 So typically when we call the police, we call
10 when it's really important. We don't just call, because
11 we would be calling every day. But we call when one of
12 our associates is in harm's way or a guest or we have
13 somebody in the building.

14 But the police response time is poor. It is --
15 it varies between not coming at all to 45 minutes to an
16 hour and a half.

17 So recently we had an altercation with one of
18 our associates, and the person ended up being taken away
19 in an ambulance. But it took an hour and twenty minutes
20 for the person to get here. And I did have security
21 personnel on, but we couldn't remove the person from the
22 building.

23 **Q. And you mentioned security.**

24 **Does Courtyard Marriott employ security or any**
25 **other -- take any other -- admitting any other**

1 **investments to address your existing concerns?**

2 A. Currently, we have a security officer on site
3 from 3:00 p.m. in the afternoon until six o'clock in the
4 morning.

5 I am considering going to 24 hours, just because
6 of the changes that have happened and some of the things
7 that have happened with our associates.

8 We did just install the associate alert device,
9 which is a new law that happened in January. So each of
10 the people that work in a private area or an area where
11 they might be encountered by somebody who was
12 threatening, a nonguest, they have a little alert button
13 that they can put (verbatim). That was \$30,000. But
14 that's a law. So we would have done that whether or not
15 we were in the neighborhood.

16 We also just -- we are in the process of
17 installing \$46,000 worth of fencing to cover up a
18 stairwell that we have that's a fire exit. But we're
19 going to put a big gate over it. Because right now
20 people go down the steps and they use drugs and do bad
21 things down there.

22 And then we also have an alcove where people
23 sleep, and we're going to gate that off.

24 And then I just installed razor blades at the
25 top of our back loading dock, because we've been having

1 people jump over the fence to steal our food and
2 beverages when they are getting delivered.

3 Like, the delivery truck will come and there's,
4 like, a five-minute gap between our staff being able to
5 get down there. And so we've been having people hop the
6 fence, throw, like, a case of orange juice back over the
7 fence and then run with it.

8 So those are some of -- some of the things that
9 I've encountered in my short year at the property.

10 **Q. Do you or your staff provide direction to guests**
11 **who are interested in taking a walk or taking a run in**
12 **the area?**

13 A. We do. But -- so other properties I've worked
14 at we have running maps. And you would just say, here
15 you go, guest, you know.

16 But at this property, we have chosen not to have
17 running maps, because we don't want any liability if
18 anything was to happen to someone.

19 So we usually suggest they use our fitness
20 center as a first call of action if they are looking for
21 a good workout.

22 If they are going to go on a walk, we just
23 advise people to be careful.

24 **Q. And do you anticipate coming up with a running**
25 **map or making any changes to that practice after the --**

1 **after the LID improvements are completed?**

2 A. No, not at this time. I mean, that's a ways off
3 but not right now.

4 MS. TERWILLIGER: No further questions.

5 CROSS-EXAMINATION

6 BY MS. THOMPSON:

7 **Q. Good morning.**

8 A. Morning.

9 **Q. So you were just speaking about the issues that**
10 **you've encountered in your year at the hotel.**

11 **How do you think that the LID improvements would**
12 **affect those issues that are already existing at the**
13 **property?**

14 A. I think that unless the police department gets
15 bigger, that they'll be even more stretched.

16 So I feel like if there's problems that are
17 happening down in the waterfront area, that then that's
18 one less police officer that can come help us when we're
19 in trouble.

20 Like, I've been to the police department twice
21 since I started working here because we pay our TOT
22 taxes, and we write a check for close to \$2 million for
23 the TOT taxes, but in turn aren't really getting the
24 services of support back.

25 The fire department comes really quick if we

1 need to call them. And that usually is only because if
2 we have rarely like an elevator issue, the fire
3 department is immediately alerted to that.

4 But with the police, that's a different kind of
5 thing. So I think the park could take away from our
6 support that we have, unless part of that includes
7 additional staffing for the police resources.

8 **Q. And just for the record, what does "TOT" stand**
9 **for?**

10 A. I'm sorry. Tourism -- it's tourism occupation
11 tax.

12 **Q. Okay.**

13 A. So it's a percentage of revenue. So in a peak
14 year, our hotel did \$24 million of sales, total sales
15 including rooms, meeting space, restaurants. And
16 10 percent of that goes to the City as part of the taxes
17 that we're assessed as being in hospitality.

18 And those are -- usually in other cities I've
19 worked in, they go to the fire and the police to help
20 pay salaries.

21 **Q. And so you just mentioned a \$24 million sales**
22 **revenue in a peak year. What year was that?**

23 A. That was in 2017.

24 **Q. Okay.**

25 A. Since -- well, this past year there was

1 24 percent new supply that opened in Seattle, which has
2 made a lot of havoc on our sales. Our occupancy is
3 still very strong, but it's -- there's a lot more
4 competition, so rates have eroded.

5 So this past year we only did -- we also had a
6 renovation impact a little bit. We only did
7 17.4 million.

8 And this year we are forecasting and hoping and
9 budgeted to do 18.2 million. But our room rates are \$25
10 down over our peak years, while our occupancy is pretty
11 flat.

12 The big Hyatt has a lot of rooms.

13 **Q. And those figures, those dollar figures, that's**
14 **just revenue in sales, it doesn't -- does that account**
15 **for expenses?**

16 A. No. That's not profit.

17 **Q. No, okay.**

18 A. Yeah. No.

19 **Q. Not that?**

20 A. That is just straight sales.

21 So then there's the labor, which is our top
22 cost, and then there's heat, light, and power. There's
23 insurance premiums, and then there's all the minimum
24 wages that are very high in Seattle.

25 So the profit levels at our Courtyard aren't at

1 the same levels of Courtyards that I've worked at in
2 other places. Specifically in California, because of
3 the high hourly rate that we pay. Which I understand
4 this is an expensive place to live. I get all of that.
5 But the profits just aren't as grand here.

6 **Q. And do you -- are you aware whether the**
7 **Courtyard has hired an appraiser to appraise the**
8 **property in connection with the LID hearings?**

9 A. I -- I wouldn't know. I'm -- so I'm in
10 management, and we're a paid operator to run the
11 building. But our ownership group most likely, if any
12 of that happened, would do that.

13 So Marriott is a management company. We don't
14 own things.

15 **Q. Okay.**

16 A. And that's who I work for is the management side
17 of it.

18 MS. THOMPSON: Thank you.

19 No further questions.

20 MS. TERWILLIGER: None from me.

21 HEARING EXAMINER VANCIL: Thank you.

22 THE WITNESS: You're welcome.

23 HEARING EXAMINER VANCIL: What do we have
24 next?

25 MS. DuCOMB: We have a SEPA presentation

1 hearing.

2 HEARING EXAMINER VANCIL: Okay.

3 (Clarification by the court reporter.)

4 MS. KOLOUŠKOVÁ: Good morning, Mr. Hearing
5 Examiner. Duana Koloušková. I'm present on behalf of
6 the objector speaking this morning.

7 If I might have a moment just to get a
8 little organized. I appreciate that. Thank you.

9 Thank you, Mr. Hearing Examiner, and --

10 MS. DuCOMB: These are marked but not
11 admitted.

12 MS. KOLOUŠKOVÁ: Okay. Thank you.

13 While I'm coordinating with my cocounsel, if
14 I may, I'd like to introduce myself and explain my role
15 in this matter.

16 I have been retained by what I'll call the
17 set of objectors.

18 Am I being picked up well enough on this
19 mic?

20 COURT REPORTER: I don't know.

21 MS. KOLOUŠKOVÁ: Oh, I mean for your
22 purposes.

23 COURT REPORTER: That's not my mic.

24 HEARING EXAMINER VANCIL: And this isn't the
25 mic she's listening to.

1 MS. KOLOUŠKOVÁ: That is not the mic she's
2 listening to. That's what I needed to know.

3 Thank you.

4 HEARING EXAMINER VANCIL: We have two
5 recording systems. We have our own resource system up
6 here, and then we have the transcriptionist's.

7 MS. KOLOUŠKOVÁ: Thank you.

8 And, yeah, I tried to get here early enough
9 to kind of figure out how the acoustics are in here.

10 HEARING EXAMINER VANCIL: Right. Not so
11 good.

12 MS. KOLOUŠKOVÁ: No worries. Thank you,
13 Mr. Examiner.

14 And so I have been retained by our client
15 group specifically to take a look at how SEPA, State
16 Environmental Policy Act, has been handled for purposes
17 of both this Local Improvement District process and the
18 underlying set of improvements that basically found --
19 form the foundation for the assessments that the
20 examiner is looking at.

21 Mr. Examiner, we've provided to you written
22 materials already in the record and we have several
23 exhibits that we would be moving to enter. And I will
24 address some of those in my comments today, and I would
25 request the examiner accept that I would like to have a

1 blanket admission of exhibits that I cite to in my
2 materials. And I would be happy to provide a follow-up
3 list at the end of my comments if the examiner so
4 desires.

5 HEARING EXAMINER VANCIL: Noted. And what
6 we'll do is we will need to -- the exhibits will come in
7 one at a time.

8 MS. KOLOUŠKOVÁ: One at a time.

9 HEARING EXAMINER VANCIL: Yeah.

10 MS. KOLOUŠKOVÁ: Okay. I will go ahead and
11 do my best.

12 HEARING EXAMINER VANCIL: Gives the City an
13 opportunity to object.

14 MS. KOLOUŠKOVÁ: Fair enough.

15 MS. THOMPSON: I would also at this time
16 just ask to clarify, are you presenting legal argument
17 or --

18 MS. KOLOUŠKOVÁ: I was just about to --

19 MS. THOMPSON: -- fact issues here?

20 MS. KOLOUŠKOVÁ: Thank you.

21 I was just about to make that statement.

22 Thank you.

23 I am retained on behalf of the objectors as
24 an attorney. I am providing legal argument. I am not a
25 fact witness and do not intend to testify whatsoever as

1 to the veracity of any facts. Those are being provided
2 for through documentary exhibits and testimony by other
3 witnesses.

4 So I don't believe that I need to be placed
5 under oath unless this examiner has a different
6 impression of that. Thank you very much.

7 HEARING EXAMINER VANCIL: Could you please
8 spell your name?

9 MS. KOLOUŠKOVÁ: Yes. My name is Duana
10 Koloušková. My first name is D-u-a-n-a. And my last
11 name is Koloušková, K-o-l-o-u-s-k-o-v, as in "Victor,"
12 -a.

13 I am a licensed attorney to practice law in
14 the state of Washington. I've been practicing law for
15 more than 20 years.

16 Entirely my career has been devoted to
17 evaluation of land use issues, land development, And the
18 State Environmental Policy Act.

19 If you need a personal injury lawyer, I tell
20 my clients I'm not the person to go to.

21 Mr. Examiner, I understand that the Examiner
22 has provided us some time to provide legal argument on
23 the topic of whether the State Environmental Policy Act
24 has been complied with, for purposes of this final
25 assessment role.

1 And as part of my comments, I plan to
2 address the Examiner's jurisdiction in this matter as we
3 anticipate that's a critical consideration for the
4 Examiner to even open the door to review our concerns.

5 But before I do that, I do want to lay the
6 stage with a couple -- or a few exhibits that we believe
7 are critical to our objection in this regard.

8 As the City itself is well aware, the City
9 performed some limited SEPA review for certain of the
10 Local Improvement District improvements in 2016, based
11 on the 2013 DS. That is the AWPOW FEIS -- we live in a
12 land of acronyms -- that is set forth in Exhibit 7 of
13 objectors' list of exhibits, and I would move to enter
14 that exhibit into the record.

15 MS. THOMPSON: I believe that exhibit's
16 already been admitted.

17 HEARING EXAMINER VANCIL: All right. It
18 has.

19 MS. KOLOUŠKOVÁ: Thank you.

20 HEARING EXAMINER VANCIL: So it sounds like
21 maybe you weren't prepared with exhibits.

22 It's already Exhibit 6.

23 All right. So what --

24 MS. KOLOUŠKOVÁ: Are we --

25 HEARING EXAMINER VANCIL: -- we have --

1 MS. KOLOUŠKOVÁ: I do have a list.

2 HEARING EXAMINER VANCIL: -- right now,
3 30 -- 40 or more -- we're all the way up even beyond
4 that. Fifty-nine is what we're on. So we've already
5 got exhibits admitted.

6 MS. KOLOUŠKOVÁ: Those are admitted? Okay.

7 HEARING EXAMINER VANCIL: Well, I'm talking
8 about our exhibit numbers.

9 We're not using the objectors' numbers.

10 MS. KOLOUŠKOVÁ: Right. Okay.

11 HEARING EXAMINER VANCIL: So if you
12 reference Exhibit 7 --

13 MS. KOLOUŠKOVÁ: Got it. Thank you.

14 HEARING EXAMINER VANCIL: -- I don't know
15 what you are talking about. And tell us you are talking
16 about Hearing Examiner Exhibit 7.

17 MS. KOLOUŠKOVÁ: Thank you.

18 HEARING EXAMINER VANCIL: So you will have
19 to work with co-counsel to identify what's been admitted
20 already and what you intend to admit new along with your
21 testimony.

22 MS. KOLOUŠKOVÁ: Okay. Thank you very much.

23 MS. DuCOMB: So do you have Exhibit 7 as the
24 FEIS? That's what we have.

25 HEARING EXAMINER VANCIL: Yes.

1 MS. DuCOMB: Okay. That one's admitted.

2 MS. KOLOUŠKOVÁ: Okay.

3 HEARING EXAMINER VANCIL: And if you intend
4 for me to follow along on any those, you need to let me
5 know.

6 MS. KOLOUŠKOVÁ: I --

7 HEARING EXAMINER VANCIL: But I don't know
8 whether you are just going to keep going. It sounded
9 like maybe you are just going to be giving me testimony,
10 but I've got them all right here if you need me to be
11 looking at them.

12 MS. KOLOUŠKOVÁ: I do not plan to ask the
13 Examiner to look particularly at any of these exhibits;
14 although, there are a couple that I would pinpoint a
15 page number to if the Examiner will review when he's
16 putting together his recommendations.

17 But I don't plan to get into them in any
18 depth. I think it's just setting the stage for purposes
19 of the legal argument. Thank you.

20 So after that FEIS was concluded, there were
21 petitions for review submitted and extensive settlement
22 agreements reached which the objector had listed as
23 Exhibits 57 and at 58.

24 And so I would move to have those in the
25 record as well as part of the evidence of what SEPA

1 review has been provided.

2 But, again, now I'm not sure how to
3 reference those in terms of numerical order or if those
4 are just going to be new numbers assigned.

5 HEARING EXAMINER VANCIL: So what I need to
6 ask you to do --

7 MS. KOLOUŠKOVÁ: Yes.

8 HEARING EXAMINER VANCIL: -- if you are in
9 your testimony going to be referencing one of the
10 objectors' exhibits numbers -- there were 1 through 57,
11 I believe. Those numbers don't mean anything for the
12 record.

13 MS. KOLOUŠKOVÁ: I understand. I
14 understand.

15 HEARING EXAMINER VANCIL: And so some of
16 those have already been introduced.

17 MS. KOLOUŠKOVÁ: Okay.

18 HEARING EXAMINER VANCIL: You need to work
19 that out with your co-counsel.

20 MS. KOLOUŠKOVÁ: Yeah.

21 HEARING EXAMINER VANCIL: I can't do that
22 for you.

23 MS. KOLOUŠKOVÁ: No, I understand.

24 MS. DuCOMB: Yeah. She has your numbers
25 here.

1 And so your exhibit number, No. 57 and 58,
2 which I believe we marked and tabbed yesterday for your
3 records but you had not yet admitted.

4 HEARING EXAMINER VANCIL: Everything was
5 admitted at the end of our --

6 MS. DuCOMB: Okay.

7 MS. KOLOUŠKOVÁ: Great. Okay.

8 HEARING EXAMINER VANCIL: No. These were
9 the SEPA ones that were reserved.

10 MS. DuCOMB: Right. Correct. Right.

11 MS. KOLOUŠKOVÁ: Okay.

12 HEARING EXAMINER VANCIL: Okay. So we've
13 got 400 objectors. I really need you to let me know
14 what you are doing with your exhibits.

15 MS. DuCOMB: Yeah.

16 HEARING EXAMINER VANCIL: I can't keep track
17 of all of them. So we've got two of them that you are
18 seeking to admit now.

19 MS. DuCOMB: Yes.

20 HEARING EXAMINER VANCIL: All right. I do
21 need to pull those out then, so we can hear if there's
22 any objections at this stage.

23 These are exhibits numbers again, what?

24 MS. DuCOMB: Those are Hearing Examiner
25 Nos. 57 and 58.

1 HEARING EXAMINER VANCIL: Okay. Thank you.

2 MS. DuCOMB: Yeah. And 56, I believe, was
3 already admitted.

4 MS. KOLOUŠKOVÁ: All right.

5 MS. DuCOMB: That's the fourth -- that's the
6 SEPA interrogatory which has not been admitted
7 or tabbed.

8 (Off-record discussion.)

9 HEARING EXAMINER VANCIL: All right. So,
10 yes, No. 56 was admitted, and you are asking now about
11 57.

12 Any objection to the admittance of 57?

13 MS. THOMPSON: Yes. We object to the
14 admission of the SEPA-related documents. The SEPA
15 compliance issues that are being raised in argument are
16 not relevant to this proceeding, which is limited in
17 scope to whether the City's final benefit study
18 assessment to particular parcels should be adjusted.

19 And there's already a pending lawsuit that
20 raises issues regarding compliance with SEPA. And this
21 isn't the forum for formation arguments, which is what
22 these arguments are.

23 HEARING EXAMINER VANCIL: So my guess is
24 this is part of what your testimony is going to be
25 addressing with argument. My suggestion is rather than

1 seeking to admit before you've made your argument, that
2 we hear your argument and then seek admission and then
3 address this at that time, because I -- the City's made
4 its argument, but your response is essentially going to
5 be the argument the City represented.

6 MS. KOLOUŠKOVÁ: I think that's a fair
7 summary. And to be clear, I am not testifying. I am
8 providing legal argument. And I do not plan to testify
9 as to these specific exhibits, just as that term keeps
10 kind of raising its head in conversation.

11 So, yes, let me then -- let me put a pause
12 on the exhibits. And I will revisit my request for
13 admission of those when I complete my legal arguments.

14 HEARING EXAMINER VANCIL: Okay.

15 MS. KOLOUŠKOVÁ: And I appreciate very much
16 everyone's understanding of my sort of popping in, in
17 the middle of these proceedings and trying to kind of
18 figure out what my bearings are here.

19 And I also appreciate the City's comments
20 and questions as to essentially why are we raising the
21 SEPA arguments in this venue. And the City is correct
22 that we have also raised these issues with respect to
23 our pending case in King County Superior Court.

24 However, City code is very clear under
25 Chapter 20.04 that objectors must raise any and every

1 objection to the final assessment role that they may
2 have. And if they do not raise that to this hearing
3 examiner and if this examiner does not make a
4 recommendation, those objectors may be precluded from
5 raising those issues upon appeal in the future.

6 So it is somewhat disingenuous for the City
7 to say, well, you can't raise this issue now in its
8 argument and response and yet, say, but you may be
9 precluded in the future from raising this issue if we
10 stop you from raising it now.

11 The Hearing Examiner's role in a local
12 improvement district final assessment process is quite
13 different, respectfully, from the Hearing Examiner's
14 role in, say, an administrative appeal scenario or an
15 original jurisdiction open record hearing for a plat or
16 a master use project or some other entitlement process.
17 And this hearing examiner, we understand wears those
18 different hats depending on the type of proceeding
19 presented to him.

20 Here, the examiner is charged with hearing
21 all objections, ensuring that the record is adequate,
22 and that the City has provided the essential information
23 for the private property owners affected by these
24 assessments to be able to present their objections and
25 concerns. The Examiner must then issue findings and

1 recommendations to counsel.

2 This is not an appeal forum, nor is this an
3 opportunity to argue with respect to any sort of other
4 entitlement permanent process. We recognize those
5 processes are separate.

6 However, as this examiner is charged with
7 determining whether all the evidence has been
8 sufficiently collected and the merits of the objections,
9 the objectors have no choice but to raise all of their
10 concerns and ask the hearing examiner to issue
11 recommendations on those.

12 And, in fact, we do not believe that the
13 City can artificially limit the objectors' legal
14 arguments and testimony before this examiner or the
15 examiner's recommendations on this point, as that would
16 impermissibly also limit appeal issues in the future.

17 And, again, this all goes back to quite
18 separate regulatory authority that the examiner operates
19 under versus some other forum that the examiner often
20 operates pursuant to.

21 So turning, then, to the question of whether
22 SEPA is at -- whether SEPA review is a pertinent
23 consideration for the final assessment hearing process,
24 I'd like to first remind the hearing examiner, as I
25 anticipate he's quite well aware, that SEPA is not

1 intended to be a box to be checked off as part of a
2 ministerial process of permit review. We have a long
3 history of case law providing that SEPA needs to be
4 addressed, reviewed, and thoughtfully considered at the
5 earliest possible stage of the planning process.

6 Now, the City has argued in its materials --
7 and one example of that is in its responses to
8 interrogatories which is set forth in Exhibit 59 -- that
9 that the LID process is categorically exempt.

10 HEARING EXAMINER VANCIL: Sorry. That's --

11 MS. DuCOMB: Let's pause for a minute
12 because he doesn't have that.

13 MS. KOLOUŠKOVÁ: Yep. I just wanted to
14 finish my sentence.

15 HEARING EXAMINER VANCIL: You are going to
16 be referring to --

17 MS. KOLOUŠKOVÁ: And I'm going to refer
18 to --

19 HEARING EXAMINER VANCIL: If you will be
20 referring to objectors' exhibits, it will helpful if you
21 identify it as objectors' exhibit numbers or something
22 along those lines, because if you simply refer to it as
23 an exhibit and then someone reviewing the record is
24 going to get that confused between the actual record and
25 your own record.

1 MS. KOLOUŠKOVÁ: Thank you.

2 I am referring to Objectors' Exhibit 59, and
3 this will I anticipate be the only exhibit that I get
4 into.

5 HEARING EXAMINER VANCIL: I don't believe I
6 got a copy of that.

7 MS. DuCOMB: I'll get you the tab number.
8 It should be Tab 43 in our notebooks.

9 (Off-record discussion.)

10 HEARING EXAMINER VANCIL: All right.

11 Now, in retrospect, what I'm understanding
12 counsel is trying to do is identify this by number that
13 it was going to be marked with -- is that correct? --
14 59?

15 MS. DuCOMB: Correct.

16 HEARING EXAMINER VANCIL: Well, she did.
17 Let's let her do it. So that will be marked 59. We'll
18 get to admissibility at the end of the testimony.

19 So when I said objectors' number, what I
20 meant was the 43. I didn't -- I can't -- I honestly
21 don't know what you are referring to --

22 MS. KOLOUŠKOVÁ: Thank you.

23 HEARING EXAMINER VANCIL: -- when you say
24 "exhibits," so I can't just be figuring it out. I want
25 to make sure it is clear for the record.

1 MS. KOLOUŠKOVÁ: And I hope we won't need to
2 do this too many more times. I apologize to the
3 examiner for a little bit of inefficiency here.

4 Within those responses on page 14, there is
5 an Interrogatory No. 44, and in that interrogatory, the
6 City explains that it is -- its response that the
7 formation of Waterfront LID No. 6751 is categorically
8 exempt from SEPA and refers to WAC 197-11-800(16).

9 However, Mr. Hearing Examiner, as we've
10 argued in our briefing, that categorical exemption,
11 197-11-800(16), is quite different than other SEPA
12 categorical exemptions that this Examiner may be
13 familiar with.

14 That exemption provides that an LID is
15 exempt unless that LID constitutes a final agency
16 decision to undertake construction of a facility or
17 structure.

18 That's quite different than, for example, a
19 categorical exemption for minor new construction. Let's
20 say a short plat for four units where there is
21 absolutely no SEPA review whatsoever.

22 This categorical exemption says certain LIDs
23 may never receive SEPA review. That may be because the
24 underlying projects themselves are exempt based on
25 another provision of 197-11-800 or because they are an

1 emergency. Neither of those circumstances are the case
2 here.

3 Or the LID may be exempt because it's not
4 yet a final agency action. Again, we posit not the case
5 here.

6 Instead, Mr. Hearing Examiner, this
7 categorical exemption does not operate as an umbrella
8 for the City to delay, defer, or completely avoid
9 environmental review of the set of LID improvement
10 projects that are being used to assess this large group
11 of private property owners with a very significant
12 assessment value.

13 Instead, the question is not is the LID
14 itself entirely categorically exempt? The question is
15 are we at the point of a final agency decision that, in
16 fact, triggers or requires SEPA to be completed before
17 that decision is made.

18 And we believe, Mr. Hearing Examiner, that
19 answer is yes.

20 From the case law that we have cited to in
21 our briefing, a final agency decision is not the very
22 last permit or the building permit or the grading permit
23 or the stormwater permit. That is one of the last
24 decisions to be made by a given department in
25 construction of a project.

1 To the contrary, a final agency decision is
2 that point in the project where a decision maker is
3 going to be making a decision that will result in what
4 the Magnolia Court has termed essentially a snowball
5 effect.

6 Where there is going to now be so -- there
7 is going to be a level of inertia that is generated by,
8 for example, this council's decision such that the
9 project is likely to carry forward irrespective of the
10 environmental review that is performed later and may
11 well render review of a reasonable range of alternatives
12 meaningless if that is delayed until after the council's
13 decision.

14 I'm referring to the Magnolia Neighborhood
15 Council versus Seattle case.

16 And in that case, interestingly enough, the
17 City of Seattle argued we don't have to do SEPA review
18 until we get to the point where we're going to be zoning
19 and performing entitlement work for the project; similar
20 to what I might argue to this Hearing Examiner if I was
21 representing a private property developer.

22 And the Court said, no, no, the Magnolia
23 Neighborhood Council is correct that long -- years
24 before that, if you, City, are going to be making
25 funding commitments along with the federal government

1 related to how a property might be used, that is the
2 time when you need to conduct SEPA.

3 When you're making those commitments that
4 might, at a certain point after that, snowball or have
5 such inertia that you feel bound to continue with the
6 project irrespective of what the SEPA analysis might
7 reveal.

8 HEARING EXAMINER VANCIL: Counsel, you've
9 made reference to briefing.

10 Am I going to get that?

11 MS. KOLOUŠKOVÁ: Yes.

12 MS. DuCOMB: We provided the pre-hearing --
13 or the hearing brief on Monday.

14 HEARING EXAMINER VANCIL: Okay.

15 MS. KOLOUŠKOVÁ: Yes. Thank you.

16 And all citations that I'm referring to are
17 in that briefing.

18 HEARING EXAMINER VANCIL: Okay.

19 MS. DuCOMB: And we did, Your Honor, update
20 it today to change the exhibit numbers to match your
21 set.

22 HEARING EXAMINER VANCIL: Okay.

23 MS. KOLOUŠKOVÁ: So the question under
24 Magnolia and the question under SEPA is not, are you
25 conducting SEPA at some point, City, for purposes of the

1 given projects, but are you conducting it at a time when
2 it has meaning and value?

3 And I would posit to the Hearing Examiner
4 that the categorical exemption, that language that
5 relates to the LID, is entirely consistent in -- or I
6 guess, inherently consistent with the rest of SEPA that
7 says, the purpose of this categorical exemption is not
8 to simply say no SEPA review.

9 It is to say if that LID is coming forward
10 at the point where decisions are now going to be made
11 with a snowballing effect, that there is going to be
12 inertia for the project, that is then the final agency
13 decision for purposes of the LID. And because these
14 projects fall under -- have no other categorical
15 exemption, this is then the time that SEPA must be
16 completed before that council decision.

17 And the -- and the way that the City's
18 review of this project plays out is almost a perfect
19 example of why that categorical exemption is written as
20 it is, and why that categorical exemption is not simply
21 setting up SEPA to be a checklist item for ministerial
22 review long after funding commitments have been made.

23 And yet, in this case, with this -- with
24 these improvements, the City is going to essentially do
25 exactly that if this examiner does not look more closely

1 at the record.

2 HEARING EXAMINER VANCIL: Let me ask. You
3 were referencing the categorical exemption and WAC
4 197-11-800, but it's --

5 MS. KOLOUŠKOVÁ: Sixteen.

6 HEARING EXAMINER VANCIL: Sixteen?

7 MS. KOLOUŠKOVÁ: Yes.

8 Mr. Examiner, this final assessment role is
9 the last decision point that the City Council will have
10 related to these LID projects as a whole.

11 Once we get done with this process, the City
12 will proceed to stormwater review, construction review,
13 maybe a shoreline permit, individually for these
14 projects.

15 But there will be no other point whereby the
16 City Council's going to look at this project as a whole
17 and make those policy decisions related to the projects.

18 I would suggest, Mr. Hearing Examiner, that
19 it almost boggles the mind to say that we can go forward
20 to the City council and demand that property owners
21 commit millions of private dollars to a project where
22 there has been absolutely no SEPA review whatsoever of
23 two of the major project components, being the Pier 58
24 Waterfront Park component and the Pike/Pine streetscape
25 improvements. None whatsoever.

1 And some review of old versions of the other
2 LID components, and in fact in that EIS, the City
3 recognized, we should be doing cumulative review of all
4 of these projects together.

5 But then, apparently, whether it's because
6 of budget or time pressures or staffing, has changed its
7 mind and said, well, actually, we can put SEPA off until
8 we get to construction or building permit stage.

9 That is not what this categorical exemption
10 provides for, Mr. Hearing Examiner, and that is
11 certainly not what WAC 197-11-055 mandates. This is not
12 the earliest stage in the planning and permitting
13 process.

14 And to argue that SEPA can wait until after
15 this City council demands that property owners commit
16 millions of dollars towards a project because there's
17 not enough information yet for SEPA, defies logic,
18 frankly.

19 If there is enough information to demand
20 that property owners commit millions of dollars to a
21 project, then there has to be enough information to
22 conduct SEPA. There's just no two ways around that.

23 And if this is not the final agency
24 decision, then what possibly could be?

25 Under SEPA, the definition of a project

1 action includes expressly decisions to fund activities,
2 197-11-704.

3 Again, there can be no argument but that the
4 purpose of an LID final assessment hearing is to provide
5 funding commitments.

6 Again, how can we ask property owners to
7 commit money to a project and yet say it's not ready for
8 environmental review or argue that the cumulative
9 impacts of those projects should not be addressed until
10 months or maybe years later.

11 By that point, the inertia will be much too
12 strong. There will be far too many decisions made for
13 SEPA to have meaningful review and for that cumulative
14 impacts analysis to have any meaning or value
15 whatsoever. There will be no opportunity for counsel to
16 come back and revisit these decisions. These funding
17 commitments will have been made.

18 The final point I'd like to make,
19 Mr. Hearing Examiner, is that there has -- to the best
20 of our abilities, we have searched for any sort of
21 rational basis or legitimate public purpose to delaying
22 SEPA for certain of the projects, and sort of
23 piecemealing it out the way that this process is doing.

24 And to wait for -- to wait to conduct SEPA
25 review for -- for example, the water -- the Pier 58

1 Waterfront Park and Pike/Pine improvements until some
2 time unknown -- excuse me -- after the Council makes its
3 decision on this LID, and despite trying to understand
4 what that purpose or planning rationale might be, we
5 find nothing.

6 The City has responded that, again, in
7 Exhibit 59, Objectors' Tab 43 on page 14, that now it
8 generally will begin SEPA when a proposal reaches
9 30 percent design, but provides no reason for that; no
10 policy or regulation that supports such an assertion;
11 and no explanation for how it could have done SEPA,
12 performed a complete FEIS and entered into settlement
13 agreements related to some of the projects but yet do
14 absolutely no SEPA whatsoever for the other half of
15 these projects and still complete assessments.

16 There's just no logic to this process under
17 SEPA and, certainly, drastically violates the idea of
18 conducting the SEPA at the earliest possible time.

19 So in sum, Mr. Hearing Examiner, if the
20 examiner allows this process to move forward with the
21 recommendation of approval in light of these SEPA
22 violations, there can be almost no doubt that the
23 inertia at that point will be so strong that the Council
24 will have no choice but to keep -- and the City will
25 have no choice but to continue the projects moving

1 forward and use SEPA merely as a box to be checked off.

2 Furthermore, there will be both planning --
3 I guess, I should say otherwise, the process risks
4 planning delays, confusion as to what plans might change
5 when, and would create a pretty significant question as
6 to the validity of this LID process overall.

7 If the answer is SEPA could affect these
8 final assessments a year or two after the Council makes
9 its final decision and we'll just come back and deal
10 with it then, then what -- what was -- what is the
11 legitimate public purpose in having such an inefficient
12 process and demanding property owners to commit the
13 funds that they are committing without having any
14 actually security that the complete review process has
15 been made in advance of, again, demanding them to make
16 those financial commitments?

17 So I thank you, Mr. Hearing Examiner, for
18 hearing me out.

19 I do want to make sure we move to admit the
20 exhibits. I really I apologize for some of the
21 confusion on that. It makes for a little bit of an
22 awkward presentation.

23 And I will take a moment with my counsel to
24 make sure that we have covered the exhibit entries.

25 Thank you.

1 HEARING EXAMINER VANCIL: Counsel, you've
2 referenced WAC 197-11-800(16)?

3 MS. KOLOUŠKOVÁ: Yes.

4 HEARING EXAMINER VANCIL: In part, your
5 argument is relying on the language of the WAC itself.

6 Is there any -- in your briefing that -- I'm
7 not sure which exhibit that was. Is there any reference
8 to case law interpreting that exemption?

9 MS. KOLOUŠKOVÁ: There is virtually no case
10 law addressing that exemption.

11 However, the case law that we do cite to
12 addresses the very -- both the terminology that's used,
13 the roles of categorical exemptions and how SEPA needs
14 to be applied in light of these sort of staged
15 situations, recognizing that each LID and each of these
16 major project processes are pretty different. It's kind
17 of -- it's I would say almost impossible to find a
18 similar exactly same fact pattern throughout published
19 case law history.

20 There is an unpublished decision, which I
21 could supply the citation to, but it's from 2011 related
22 to the Fremont Council case against the City of Seattle.
23 But other than that, the bottom line is that this
24 categorical exemption has had very little judicial
25 scrutiny. And, frankly, Mr. Hearing Examiner, I think

1 that's because the point of this categorical exemption
2 is pretty express; which is, it doesn't remove the
3 projects themselves from SEPA review.

4 It's really trying to look at, if you've
5 got, for example, a pretty simple utility LID, I, as a
6 property owner, then can't use SEPA to maybe get in the
7 middle of that because the LID itself is not exempt.

8 But here, the underlying projects, by no
9 means, are exempt. They are absolutely subject to SEPA
10 review and the LID should not be used as a means to
11 delay or avoid SEPA.

12 HEARING EXAMINER VANCIL: Thank you.

13 MS. KOLOUŠKOVÁ: Thank you.

14 HEARING EXAMINER VANCIL: All right. So we
15 have Exhibits 57, 58, and 59.

16 Can counsel state specifically what the
17 purpose of these documents is being submitted for?

18 MS. DuCOMB: For Exhibit 57 and 58, there is
19 an extraordinary amount of detail about the baseline
20 conditions and the plans to be built. And the
21 settlement agreements actually in and of themselves
22 change the plan and make some agreement with them.

23 And yeah, and 36, which was already
24 admitted, is just, like, one example for the overlook
25 walk, because it continues to evolve and continues to

1 change. And I think is yet again, according to
2 Exhibit 26, is going to be subject to more SEPA review
3 itself.

4 But in addition to just laying the
5 foundation about what amount of SEPA has occurred and
6 has not occurred, in addition to being fundamental to
7 what's being built and what the plans and specifications
8 are and the baseline condition, we find that those
9 exhibits are really critical on that point.

10 HEARING EXAMINER VANCIL: Okay. So I want
11 to make sure -- if you can summarize it maybe more
12 shortly.

13 Laying foundation for what SEPA has
14 occurred.

15 MS. DuCOMB: Yes.

16 HEARING EXAMINER VANCIL: What else?

17 MS. DuCOMB: And being the baseline
18 foundation for what the projects actually will consist
19 of.

20 HEARING EXAMINER VANCIL: And that's for 57,
21 58, and 59?

22 MS. DuCOMB: No. Just 57 and 58.

23 And then 59 is the -- sort of the status of
24 SEPA review. The statements by the City of what the
25 status is and what the plans are to deal with SEPA and

1 the permitting and approval of the various projects at
2 this point.

3 We referenced Exhibit 59 in our hearing
4 briefs. Actually, we referenced 57, 58, and 59 in our
5 hearing briefs.

6 HEARING EXAMINER VANCIL: All right. I
7 understand the City's objected to these. Do you have
8 anything further to add on that objection?

9 MS. THOMPSON: Well, I think that the
10 hearing examiner has already admitted the AWPOW FEIS
11 into the record.

12 I don't see why the petition for review of
13 adequacy of the EIS would add anything. If the FEIS is
14 the final EIS at issue and it's describing the baseline,
15 as you say, then I'm not sure why we need this
16 additional document.

17 And I would make the same argument about
18 Proposed Exhibit 58, which is an agreement, a settlement
19 agreement concerning the AWPOW. Again, there's no -- as
20 I understand it, there's no dispute that SEPA review has
21 been completed for the AWPOW portion of the project.

22 And if that's the case, then I'm not -- I'm
23 just not sure what these documents add that would be of
24 assistance to your review of the individual property
25 assessments.

1 HEARING EXAMINER VANCIL: All right.

2 Anything else?

3 MS. DuCOMB: Yeah, I would just add that it
4 is in dispute whether or not SEPA has been completed for
5 the various LID improvements that were included in the
6 Alaska Way Promenade Overlook Walk FEIS.

7 There are a number of not only internal
8 inconsistencies within the FEIS itself, but there was no
9 follow up whatsoever from the settlement agreements to
10 complete an SEIS, a Supplemental Environmental Impact
11 Statement.

12 And so we do have a number of concerns that
13 these documents are one of the only windows into what
14 the City has agreed to build, what the impacts of those
15 improvements are going to be, and that there has -- they
16 are at the end of it.

17 I mean, they form the basis. That's the
18 commitment to the LID. They are the foundation of what
19 we're talking about here. What is the plan? What are
20 the specifications? What are the impacts? Are they
21 negative? Well, then there's not a significant increase
22 in your property value if there's a lot of negative
23 impacts.

24 HEARING EXAMINER VANCIL: All right. So I'm
25 going to allow them to -- at least in a limited respect,

1 because I certainly -- I understand that there's
2 multiple objectors raising this issue. I'm not going to
3 decide it based on an objection in the hearing. I'm
4 going to allow objectors to make this argument, and then
5 I will review what case law there is, and -- and the
6 statutes that are applicable.

7 And so to the degree that these are being
8 admitted to lay a foundation for what SEPA has been
9 done, whether SEPA has been not done here, something
10 like that, I will allow it for that.

11 The concern I have is that there's been
12 something more than that described that I'm still not
13 quite sure what that is. I mean, you started just
14 talking about whether there's going to be negative
15 impacts or significant impacts or not. That's not at
16 issue here. This is not a SEPA deal.

17 MS. DuCOMB: Right. Right. Right.

18 HEARING EXAMINER VANCIL: And so I'm not
19 determining whether they're significant impacts or not.

20 I'm letting you make the argument as to
21 whether it's been done or not. If -- whether it's been
22 done or not, whether it needs to be done or not.

23 MS. DUCOMB: Right.

24 HEARING EXAMINER VANCIL: I'm not ruling on
25 the substantive SEPA review that we're all used to in

1 land use.

2 And so am I missing something?

3 MS. DuCOMB: The biggest example I would
4 point to is parking.

5 And so there were a lot of inconsistencies
6 and concern with the treatment and the evidence about
7 parking and parking impacts.

8 And one of the things that the documents
9 help do in light of, you know, Anthony Gibbons'
10 testimony that parking is so critical to the retail
11 environment and so critical to the petitioners who had
12 appealed, that -- that's an issue where there's a lot of
13 tension, there's a lot of confusion in the FEIS about
14 what's really happening.

15 And in the final -- or the final special
16 benefit study by Mr. Macaulay that was just released
17 last month, you know, he -- he mentions parking loss,
18 sort of skims over it, attributes some impact to it, but
19 doesn't go into any detail, doesn't itemize it, doesn't
20 categorize it, doesn't map it, doesn't really tell us
21 what's going on with the parking.

22 And so I just offer you that that is just,
23 like, one example that's kind of an important one that
24 the appraisers are using to base their testimony on.
25 And it's been a pretty significant bone of contention

1 with the retail and other people who depend on parking.

2 HEARING EXAMINER VANCIL: Okay. So I'm
3 going to admit them for the limited purpose of laying
4 the foundation for what SEPA review has occurred to
5 support the objectors' arguments that SEPA should
6 have -- should be done. And I'm not going to repeat
7 your argument for you, but to support your legal
8 arguments that have been presented today. But only for
9 that limited purpose.

10 These -- I don't want to get into fact,
11 supporting -- supporting of facts about what impacts
12 there may be from the project. Not only because I'm not
13 ruling on that for SEPA, but because these documents
14 aren't being submitted through a witness. They are just
15 coming in through legal argument. So they will support
16 the legal argument and that's it.

17 MS. DuCOMB: Thank you.

18 HEARING EXAMINER VANCIL: Anything else?

19 MS. KOLOUŠKOVÁ: Thank you.

20 HEARING EXAMINER VANCIL: Thank you. And
21 what else do we have?

22 MS. DuCOMB: I believe we just have a short
23 closing presentation.

24 HEARING EXAMINER VANCIL: Okay.

25 MS. DuCOMB: I think it's only 15 minutes or

1 20 minutes.

2 Do you want to do that after the break?

3 HEARING EXAMINER VANCIL: Yeah. Let's take
4 a break for that. Return at 10:30.

5 Is there anything else before we get to
6 closing from the objectors, procedurally? Or -- I
7 believe we've admitted all of the exhibits we have in
8 front of us.

9 Anything from the City?

10 MS. THOMPSON: Just going back to the
11 hearing brief that was mentioned earlier. I'm not sure
12 if that was admitted as an exhibit or just handed as
13 a --

14 MS. DuCOMB: Yeah. Sort of treated it like
15 a pleading and just turned it in. But if you want to
16 make it an exhibit.

17 HEARING EXAMINER VANCIL: I've got a lot of
18 papers, so I don't have any loose papers. I have
19 documents that were admitted as exhibits.

20 So I don't know at what form or what time
21 that was handed to me.

22 (Off-record discussion.)

23 MS. DuCOMB: We provided a paper copy on
24 Monday.

25 MS. TERWILLIGER: We also filed it Monday.

1 MS. DuCOMB: And then we filed it
2 electronically. And then this morning we updated it
3 electronically with the updated exhibit numbers.

4 HEARING EXAMINER VANCIL: Did you file it
5 electronically? Did you just e-mail it?

6 MS. TERWILLIGER: No. I think we --

7 HEARING EXAMINER VANCIL: Because we --
8 we're not actually using an electronic file system in
9 this case.

10 MS. TERWILLIGER: Okay. So we --

11 MS. DuCOMB: Okay. So I don't know that we
12 did that. I think we just e-mailed it.

13 MS. TERWILLIGER: Yeah. We sent it by
14 e-mail to the same place we sent our objection.

15 HEARING EXAMINER VANCIL: Probably just the
16 LID mass mailing site.

17 MS. TERWILLIGER: Correct. So maybe it
18 would be more accurate for us to send an e-mail to Galen
19 with the correct case numbers? Is that a good way to --

20 HEARING EXAMINER VANCIL: Well, did you hand
21 it in at some point?

22 MS. DuCOMB: We did physically hand one in
23 on Monday.

24 HEARING EXAMINER VANCIL: Okay. So we've
25 got to have it here somewhere. My guess is it was

1 marked with an exhibit number.

2 And you are not referring to Exhibits 1
3 through 3 that were part of your opening statement?

4 MS. TERWILLIGER: Correct. Correct.

5 (Off-record discussion.)

6 MS. DuCOMB: It does not have an exhibit
7 number. We did not have it tabbed in a notebook. And
8 I --

9 (Off-record discussion.)

10 MS. DuCOMB: Actually, I think we re-filed
11 it yesterday.

12 HEARING EXAMINER VANCIL: You weren't here
13 yesterday. So it just came in electronically, maybe?
14 We don't seem to have a physical copy up here. It's not
15 in your case file. It hasn't been admitted as an
16 exhibit, and it would be the first time in my experience
17 that we simply lost a document so -- and I don't recall
18 it coming in to me.

19 MS. DuCOMB: I just e-mailed you, Galen, the
20 correct -- the updated one with the correct exhibit
21 numbers.

22 HEARING EXAMINER VANCIL: You will need to
23 speak up.

24 MS. DuCOMB: I just e-mailed Galen the
25 updated hearing brief with the corrected exhibit

1 numbers.

2 HEARING EXAMINER VANCIL: Okay. So I don't
3 need to have that exhibit number. It will be admitted
4 into the case file as a pleading.

5 MS. DuCOMB: Okay.

6 HEARING EXAMINER VANCIL: But I dont have a
7 physical copy. We will print out a copy. And I
8 assume the City's received a copy as well.

9 MS. DuCOMB: Yes.

10 HEARING EXAMINER VANCIL: All right. With
11 that, then, we will return -- anything else that we need
12 to address?

13 All right. We'll return at 10:30 for
14 closing. Thank you.

15 (A break was taken from 10:15 a.m.
16 to 10:32 a.m.)

17 HEARING EXAMINER VANCIL: All right. We'll
18 return to the record to hear objectors' closing
19 argument.

20 OBJECTORS' CLOSING ARGUMENT

21 MS. TERWILLIGER: Thank you, Mr. Hearing
22 Examiner.

23 We've prepared a final closing slides
24 similar to those that were admitted as Exhibit --
25 Exhibits 1 through 3, and we would ask that they -- that

1 they get admitted by our --

2 HEARING EXAMINER VANCIL: We just need one.

3 And the City has a copy?

4 MS. TERWILLIGER: Yes. And this would be,
5 according to our calculations, Exhibit 60.

6 HEARING EXAMINER VANCIL: That's correct.

7 MS. TERWILLIGER: I'll also say that for
8 purposes of my closing statements, I'm going to be
9 making reference to Exhibits 31 and 42.

10 And I just wanted to ask before I start.
11 Exhibit 31 we substituted this morning a version that
12 has actual page numbers on it so that you are able to
13 follow it. So I want to make sure that that's the
14 version you have for reference so I can refer to
15 specific pages.

16 The Exhibit 31, did you swap out the one
17 that we provided this morning that has page numbers at
18 the bottom?

19 THE CLERK: Yes.

20 MS. TERWILLIGER: Okay. Great. Thank you.

21 So we wanted to close this morning where we
22 began, which is with Mr. Gibbons. You heard quite a bit
23 of his testimony, and it's clear that you were following
24 it and paying close attention, so I won't belabor the
25 points.

1 But, you know, Mr. Gibbons identified six
2 flaws in the Macaulay report. It does not measure or
3 address the general benefits from the project, and thus,
4 its purported calculation of the special benefits
5 necessarily includes and erroneously includes general
6 benefits from the project.

7 It does not -- Mr. Macaulay's report does
8 not accurately measure the before and after values, and
9 it's unclear whether he has calculated the improvements
10 that would already have to be made that are not part of
11 the LID and it assigns and does not measure special
12 benefits.

13 These are three flaws, just the first three
14 flaws that Mr. Gibbons testified. Each one is a fatal
15 flaw that falls outside the relevant professional
16 standards. This isn't the inequitable treatment of
17 vacant land and land values that could be fixed on a
18 property-by-property basis. These are three fatal
19 flaws, and we would suggest that this means the
20 appraisal is invalid and can't be used.

21 The -- as it pertains to the properties at
22 issue, I think it's telling that -- it's -- for me, it's
23 quite informative to look at the different maps and to
24 see how far we're talking about in terms of just
25 proximity to the improvements and the properties that

1 we're talking about.

2 So if you turn to Exhibit 31, pages 12 and
3 13 purport to show the before and after LID conditions.

4 And I just think it's telling to sort of
5 flip back and forth and see, you know, the sorts of
6 improvements we're talking about and the scale.

7 And Mr. Gibbons used these pages to prepare
8 his Exhibit 42, which is where I would like to turn
9 next.

10 The first two pages of Exhibit 42 purport to
11 show that King Street with and without the LID
12 improvements. And, again, these are the closest
13 improvements to the three First Avenue South properties
14 at issue here.

15 And as you can tell, the properties are not
16 even visible on this map. They are off the page. So
17 these improvements are not in close proximity. There's
18 going to be no improvement of the actual property at the
19 First Avenue South buildings.

20 And we heard from Mr. Ayers that we have no
21 reason to believe that there will be any special
22 benefits to the tenants currently residing in those
23 properties.

24 And the same is true for the next two pages
25 of 52, which purport to show the improvements that are

1 closest to the Courtyard Marriott property, 618 Second
2 Avenue.

3 Again, Mr. Gibbons described it that the
4 Columbia with LID, you put a star under the "C" and the
5 "O" in Columbia, that's approximately where the
6 Courtyard Marriott is located.

7 There aren't going to be any improvements
8 made to the Courtyard Marriott. It already has
9 sidewalks and trees.

10 And we heard this morning from Melody
11 Lanthorn, who, you know, is very skeptical and, in fact,
12 thinks that not only will the Courtyard Marriott not
13 enjoy any special benefits from the LID improvements,
14 she's concerned that the LID improvements will, in fact,
15 suffer a special burden or damages relating to the LID.

16 And you will recall that Mr. Gibbons
17 testified that that is sometimes a thing that happens,
18 that an LID can actually cause damages to some
19 properties, while at the same time specially benefitting
20 other properties. And we would suggest that, you know,
21 the Courtyard Marriott may well be one of those
22 properties.

23 As for 255 South King Street, which is the
24 Embassy Suites, again, looking at the last two pages of
25 Exhibit 42, the -- yeah, the Embassy Suites is not on

1 this map. The -- I would put a star on the "O" and the
2 "A" and the railroads so that you know where 255 South
3 King Street is.

4 And the other point to note is that this map
5 reflects improvements going further down King Street
6 than is actually described in the narrative of the
7 addenda.

8 So if you'll refer to Exhibit 60, page 10,
9 shows the different objectors' properties at issue.

10 And this -- this came from the -- did this
11 come from the addenda?

12 MS. DuCOMB: That is Exhibit B to the
13 ordinance, the formation exhibit.

14 MS. TERWILLIGER: Okay. To Exhibit 14.

15 But we have put the -- the red line there is
16 something that we added. Because according to the --
17 the text and the description of the actual improvements,
18 those improvements stop west of where they are reflected
19 on this map.

20 Page 9 of Exhibit 60, I think is
21 instructive. This also comes from the addenda, which is
22 Exhibit 31. And it's a -- it purports to show the
23 prioritized improvements that are being made to King
24 Street.

25 And it's very, very hard to read, but I can

1 represent to you that the 255 Embassy Suites property
2 is -- is the last property referred to on the right with
3 the square right above the compass.

4 But you'll see the LID improvements are in
5 the pink boxes. And it appears that we are talking
6 about -- about two trees and a curb bulb. And as you
7 know, the Embassy Suites's assessment is a significant
8 number that would not suggest a -- that it -- that it
9 would be required to pay for some curb bulbs and two
10 trees. The assessment is \$923,916.

11 And there is essentially no evidence.
12 Mr. Koonz (phonetic) testified, he does not believe --
13 he has no reason to believe there will be any special
14 benefit to the Embassy Suites or its guests resulting
15 from the LID.

16 Neither the Embassy Suites nor the Courtyard
17 Marriott advertise their proximity to the waterfront.
18 In fact, the folks from the Courtyard Marriott don't
19 even advise people to go to the waterfront.

20 So -- so we believe that there's just not
21 going to be any special benefit to these properties.

22 And, finally, we heard from Christine Cole
23 who talked about the fact that Embassy Suites has -- and
24 255 have already spent millions of dollars to improve
25 the public right of way, and they should be entitled to

1 an offset for those funds; particularly given the fact
2 that the improvements were, A, required by the City;
3 and, B, they are nearly identical to the sorts of
4 improvements that other property owners within the LID
5 are receiving.

6 And so our suggestion would be to the extent
7 there is a -- an assessment against 255, that it should
8 be offset by the several millions of dollars that 255
9 has already -- has already made.

10 And I wanted to turn it over to Ms. DuComb
11 who's going to talk about the last two sections of our
12 argument.

13 MS. DuCOMB: And so this part begins on
14 Exhibit 60, page 14, Your Honor.

15 This is a recap of the fact that the plans
16 and specifications are fundamental and missing as
17 Mr. Gibbons testified. These are critical to conducting
18 only appraisals with any accuracy.

19 The foundation and purpose of the waterfront
20 LID must be fulfilled.

21 The formation ordinance requires compliance
22 with the January 2019 plans and specifications. The
23 plans and specifications means a hundred percent design,
24 and they are not available. The City will acknowledge
25 that.

1 The plans and specifications and
2 construction will not be complete for several years and
3 remain subject to change, according to the City.

4 The plans and specifications are also
5 driving, in large part, the costs of the various
6 improvements and their value which is, in turn, driven
7 by percent of design.

8 So the preliminary City appraisal we know
9 relies upon percent of designs and costs to calculate
10 the special benefit. The final City appraisal relies on
11 percent of designs and costs to calculate increased
12 values.

13 Mr. Gibbons testified that the designs and
14 costs are fundamental to the appraisal and the City's
15 appraiser certifies that the appraiser is accurate in
16 this regard.

17 The City's design -- percent of design and
18 cost destination system that comes from CH2M Hill,
19 30 percent schematic design usually means about 5 to
20 7 percent designs.

21 And then the concept designs usually means a
22 design that's only about at the 2 percent level. And
23 that reflects project definition issues still to be
24 worked out. And we see that playing out definitely with
25 the overlook walk where major elements of the overlook

1 walk have since been removed from the program since the
2 formation and ordinance.

3 What we just figured out in the last week on
4 page 19, going over the timeline, is that SDOT appears
5 to have been fudging its percent of design.

6 In -- on the next page, in 2018, April of
7 2018, just prior to adoption of the resolution of intent
8 to go forward with the waterfront LID, the office of the
9 waterfront presented to the Seattle Design Commission
10 and represented that the overlook walk in particular was
11 at 30 percent design.

12 The Seattle Design Commission minutes
13 reflect quite the opposite, that the overlook walk --
14 despite all the effort and changes and work that's gone
15 into the overlook walk -- still remains only at a
16 concept design stage, which is about 2 percent design.

17 And the Seattle Design Commission noted a
18 number of challenges with the current design and
19 encouraged them to increase the elevator capacity,
20 improve upon the stairs, and work more on the restrooms
21 and the accessibility issues. And they also wanted to
22 see more tribal presence and participation in the
23 proceedings before the Seattle Design Commission.

24 Unfortunately, this was at the exact same
25 time that Mr. Macaulay was certifying his appraisal for

1 the preliminary appraisal. And while the truth, hid in
2 plain sight, that the overlook walk was still only at a
3 concept design level, Mr. Macaulay certifies that the
4 overlook walk is approximately 30 percent complete. But
5 we know today that that's not true; it wasn't true then;
6 and appears, going to page 22, it's still not true.

7 So Mr. Macaulay certifies in his appraisal
8 that the overlook walk is 30 percent complete, that the
9 Pike/Pine Streets are something less than 30 percent,
10 and Pioneer Square is something less than 30 percent.
11 But then the City in response to discovery has been
12 unable to verify that those numbers are true and has
13 simply taken the position that it's something less than
14 a hundred percent; they are not done and the real status
15 of the plans and specifications today remains unknown.

16 Moving on to slide -- or page 23, this is
17 the -- sort of the last section, which is, again, a huge
18 foundational element for the waterfront LID.

19 This six specific projects, when you really
20 pull back the curtain and you really dive into the
21 details, are not offering very much and certainly not
22 offering special benefits.

23 For -- to begin with, as Mr. Gibbons
24 testified, the central waterfront baseline is
25 extraordinarily significant without the LID

1 improvements. We replaced the seawall. We've removed
2 the viaduct. We've replaced Pier 62. There's a new
3 two-way bike facility. There's multiple new pedestrian
4 bridges where, according to the main corridor designs,
5 adding 823 trees, maintaining 453 parking spaces. We've
6 rebuilt the historic Washington boat landing. We've
7 built a habitat beach. And the main corridor itself was
8 completely restored at a cost of about \$370 million.

9 It's really grand what's going on down there
10 without the LIDs.

11 The promenade, in particular, is -- is a
12 puzzle for me. They're actually proposing to remove and
13 replace brand-new sidewalks with exposed aggregate
14 instead of the scored concrete that's going to
15 originally go in presumably this summer. They want to
16 replace 110 trees with Evergreens and 160 trees with
17 ornamental trees. And then swap out some -- one single
18 type of ground cover with shrubs and bulbs. And they
19 are only adding 16 trees. You know, that's what the
20 final benefit study says we're only adding 16 new trees
21 to the entire waterfront, 50 cedar benches, and then an
22 unknown number of decorative planters. And then they
23 are removing the on-street parking.

24 There's just not a lot of there-there, Your
25 Honor.

1 And as we've noted earlier, there are
2 significant code compliance issues with some of these
3 items, in particular, evergreens needing a lot more
4 space than they are going to be given.

5 The Union Street pedestrian connection,
6 already there's wall art and a pedestrian connection, a
7 metal staircase. And we're getting new art and a new
8 staircase. But what's really the add here is the
9 elevator. So Union Street adds an elevator. That's
10 essentially what's going on.

11 For the overlook walk, I think this one's
12 going to remain a mystery for a while. It continues to
13 evolve. It continues to shrink.

14 Unfortunately, it's -- while its elements
15 are shrinking and its project definition are shrinking,
16 what we just learned in the last week or two with the
17 adoption of the City's capital improvement program is
18 that the budget for the overlook walk has gone from
19 \$1 million to \$174 million while the elevators have been
20 removed, the restroom has been removed, and all the
21 staircases but one have been removed.

22 If you look on page 31, if you see that
23 dotted line, those -- that dotted line area is outside
24 the LID.

25 So one of the reasons that staircase -- it

1 appears in looking at the drawings -- won't make it into
2 the LID is because it can't make the grade necessary to
3 reach the bottom of the aquarium. So it is now
4 contingent upon construction of the aquarium, as is the
5 elevator.

6 There are, as we noted with the Seattle
7 Design Commission presentation, a significant code
8 compliance issues now with the overlook walk as a result
9 of this "diet" I referred to. ADA access has been
10 compromised, and Seattle Design Commission approval is
11 still pending.

12 Pier 58, on page 33, really, I think,
13 highlights how far away we are from knowing what we're
14 doing and how long we have to go.

15 And for -- in purposes of being able to do
16 your SEPA at the earliest point in time and keep all
17 options on the table, it is for me probably personally
18 one of the most frustrating elements of the project.
19 Because restoration of the shoreline and the natural
20 habitat have just been summarily removed from the
21 options. And it's just very unfortunate in this
22 environmentally friendly city that that's what we've
23 chosen to do.

24 Pier 58, by the City's admission, needs an
25 enormous number of environmental review and permits of

1 projects. That's Exhibit 26 in your exhibits, Your
2 Honor, and still lots of work to do there.

3 The Pike and Pine Street improvements aren't
4 as -- are clearly a mile or more away from the
5 properties here at stake in this arena.

6 But I would just point out that -- you know,
7 I think especially when you look at page 36, there's
8 just not a lot of difference between the
9 before-and-after scenario. We're taking existing
10 planters and we're putting them in the ground, and we're
11 decorating crosswalks and planting a couple trees.

12 It's not really something that you would
13 expect from a Local Improvement District that really
14 focuses on physical improvements and actual improvements
15 to an area. And these improvements, by no means, are
16 benefitting the properties in Pioneer Square.

17 And then I did want to just spend a minute
18 or two on the Pioneer Square streets. I think
19 Mr. Williger hit this -- hit this really well.

20 There's the improvement slated for there are
21 extraordinarily modest. The diagrams and the addenda
22 misrepresent or are inconsistent, I will say, to give
23 the City the benefit of the doubt about what they are
24 actually proposing to build and what they say they're
25 going to do. They show a diagram with dozens of trees

1 and new this and that. But when you get down to the
2 actual plan, it's two trees and a curb bulb for King
3 Street. So it's really modest. It's not something that
4 warrants million-dollars assessments, and it's not
5 something that's adding any special value whatsoever to
6 Pioneer Square.

7 In closing, there are also, as
8 Ms. Koloušková opined today, and as we've set forth in
9 our hearing brief, a handful of validity issues,
10 procedural defects, and other challenges with the LID
11 the way it's come together, and we're asking Your Honor
12 to find that those are things that do need to be cured
13 prior to adoption of the final assessment role, and
14 we're looking for a recommendation from Your Honor, like
15 with all these challenges and these objections, to make
16 sure this work happens before the final assessment role
17 is finally adopted by the City Council.

18 And that's it.

19 HEARING EXAMINER VANCIL: Thank you,
20 Counsel.

21 MS. DuCOMB: Thank you.

22 HEARING EXAMINER VANCIL: Anything further?

23 MS. DuCOMB: Not from us.

24 HEARING EXAMINER VANCIL: Anything from the
25 City?

1 MS. THOMPSON: No.

2 HEARING EXAMINER VANCIL: All right. I do
3 want to return back two notebooks with exhibits that we
4 did not use.

5 MS. DuCOMB: Sure.

6 HEARING EXAMINER VANCIL: Any objection to
7 Exhibit 60 being admitted?

8 MS. THOMPSON: None. Thank you.

9 HEARING EXAMINER VANCIL: Sixty is admitted.
10 I think everything has been admitted then.
11 Thank you.

12 We will conclude this portion of the hearing
13 and reconvene on March 3rd at 9:00 a.m. Thank you.

14

15 (Hearing adjourned at 10:55 a.m.)

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CERTIFICATE

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I, CRYSTAL R. McAULIFFE, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings before the Hearing Examiner on FEBRUARY 26, 2020 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 9th day of March, 2020.

CRYSTAL R. McAULIFFE, RPR, CCR #2121