

Seattle Waterfront LID Assessment Hearing

Seattle LID Public Comment Hearing

March 5, 2020



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Seattle Waterfront LID Assessment Hearing
BEFORE
HEARING EXAMINER RYAN VANCIL

Taken at 700 Fifth Avenue
Seattle, Washington

DATE TAKEN: MARCH 5, 2020
REPORTED BY: CRYSTAL R. McAULIFFE, RPR, CCR 2121

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Exhibit No.	Admitted
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1 SEATTLE, WASHINGTON; MARCH 5, 2020

2 9:07 a.m.

3 -o0o-

4 HEARING EXAMINER VANCIL: Okay. We'll call
5 to order this March 5, 2020, continuance of the Seattle
6 Waterfront LID Assessment hearing.

7 Today objections will continue for matters
8 started on the third. Those are 233 -- cases 233 and
9 from -- I can't read them all at this point. They are
10 not in order. So never mind. We won't go through all
11 those. There's about 29 of those. So it's the same
12 ones that we started on the 3rd.

13 Scheduled today will be a break at about
14 10:00. We have a lunch break from noon to 1:30, and
15 then another one about 3:00.

16 Please make sure all your cell phones are
17 turned off and that no one is talking, just one at a
18 time.

19 The hearing office is addressing, along with
20 other institutions in the city, issues around the
21 coronavirus, so I'll address that briefly here.

22 We'll have postings on the website and
23 hearing doors as the matters continuing. As this is an
24 ongoing continuing hearing, it's worth addressing here
25 for the party representatives present.

1 Hearings will continue as scheduled. That's
2 for today. That could change if we receive other
3 notices. It will be -- the City Council is convening a
4 special meeting today, so there could be a different
5 directive we get from the City. But for now, city
6 business is continuing with caution.

7 I simply ask that all participants continue
8 to use best practices hygiene. References on how to do
9 that, as King County health is providing us the best
10 information on it at this time. So please avail
11 yourself of that. I ask that nonessential personnel not
12 attend hearings so that we limit the number of
13 individuals who are in the hearing room.

14 The hearing will remain a public hearing,
15 but we will put a posting on the door reminding
16 individuals that this hearing is recorded and it's easy
17 enough to view videos. And so I also ask counsel to
18 keep this in mind with witnesses.

19 You have to prosecute your own case. And so
20 if you need a witness here to observe or be aware of
21 what's happening, I understand that. But keep in mind,
22 the opportunity is there to view videos. And so --
23 unless they really have to see live testimony, please
24 keep them from the hearing room and avail yourselves of
25 that opportunity to view the videos.

1 Let's see. I also ask the parties to --
2 particularly appellants in this -- or objectors in this
3 case to work directly with my legal assistant,
4 Mr. Edlund-Cho for opportunities for Skyping in
5 witnesses. If that -- not just the individual we have
6 today, but if there are individuals who don't absolutely
7 have to be here, we do do Skype.

8 It's -- obviously we're seeing already today
9 a mixed quality since we don't always know what end
10 users have for their capacity. But I would ask a review
11 of any plans to call witnesses and identify individuals
12 who can appear in that manner.

13 Any questions?

14 MS. THOMPSON: No.

15 HEARING EXAMINER VANCIL: All right. In
16 that case we'll proceed.

17 Actually, before we do that, one thing.

18 Is the lower right hand view the view of the
19 individual who's going to be called as a witness?

20 I'm asking you, Galen. Is that the witness'
21 view?

22 GALEN: I suppose so. The camera is
23 supposed to move depending on who's speaking.

24 MR. SCOTT: Yes, that's my view.

25 HEARING EXAMINER VANCIL: Okay. Maybe if we

1 could move it slightly more so that we can get counsel
2 and the hearing examiner in so the witness can observe
3 those who are participating here that are most necessary
4 for him to see.

5 Back of the room is not necessary, so the
6 objective -- objector counsel, City Council, and the
7 hearing examiner need to be in the view. Keep going.
8 Keep going. Right there.

9 MR. EDLUND-CHO: Okay.

10 HEARING EXAMINER VANCIL: One last
11 recommendation. In the course of best practices, some
12 people are using masks. I'm not sure how we'd address
13 that with individuals who have to, like myself and
14 counsel, who need to make objections and be heard
15 through the system.

16 But I certainly would encourage those who
17 are staffing the hearing, in particular the translator,
18 videographer, and legal assistant, if you want to wear a
19 masks that's perfectly acceptable in the hearing room.

20 Please proceed.

21 MR. STILLWELL: Thank you.

22 For the record, Jacob still well from
23 Perkins Coie on behalf of objector appellants. And I
24 will begin -- I have a quick question. It was my
25 understanding today we had docketed from 9:00 to 2:00.

1 Is it actually another full day from 9:00 to
2 5:00, however?

3 HEARING EXAMINER VANCIL: Yes, it is --
4 there was originally a matter scheduled from 1:00 to
5 2:00.

6 MR. STILLWELL: Okay.

7 HEARING EXAMINER VANCIL: And so there was
8 going to be a longer break for lunch. That matter has
9 been canceled.

10 MR. STILLWELL: Okay.

11 HEARING EXAMINER VANCIL: And so we've
12 gained a half hour. And so rather than reconvening at
13 2:00, we're reconvening at 1:30.

14 MR. STILLWELL: Great.

15 HEARING EXAMINER VANCIL: But originally we
16 did always have on the schedule 2:00 to 5:00.

17 MR. STILLWELL: Got it. Thank you.

18 Then I'll begin, before starting the next
19 specific matter, passing out for the record and for the
20 City, today's witness and exhibit list. And we'll begin
21 with matter CWF-0423 regarding the Century Square Retail
22 building.

23 First witness is -- I'm sorry. Also, for
24 sake of convenience, because I know we have a number of
25 properties, for the record I provided a summary of each

1 one just to help with matters with the appeal number,
2 building, parcel number, that sort of thing, just to
3 help keep track of who's -- who's up.

4 And so for the first witness for Century
5 Square Retail, objectors would like to call Ben Scott on
6 Skype.

7 HEARING EXAMINER VANCIL: Mr. Scott, can you
8 hear me?

9 MR. SCOTT: I can. Yes, sir.

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

12 MR. SCOTT: Benjamin Scott.
13 B-e-n-j-a-m-i-n. S-c-o-t-t.

14 HEARING EXAMINER VANCIL: And do you swear
15 or affirm the testimony you provide in today's hearing
16 will be the truth?

17 MR. SCOTT: I do.

18 HEARING EXAMINER VANCIL: Thank you.

19 MR. STILLWELL: And for Mr. Scott's
20 testimony, I also have for the record a list of
21 Mr. Scott's clients. He is representing a number of
22 different objectors, as with our witnesses on Tuesday.

23 However, he is doing a property-by-property
24 presentation, so his presentation will -- for example,
25 today I'll directly examine him on Century Square Retail

1 specifically. He wrote a report specifically for that
2 property.

3 But, again, just to keep that matters
4 organized, here's a list of his specific clients because
5 he is not representing all objectors.

6 Finally, before we get going, I have a copy,
7 for the record, of Mr. Scott's report for Century Square
8 Retail. This was attached as an exhibit to the
9 objection that was filed. And for ease of reference,
10 though, we have copies for today's record.

11 HEARING EXAMINER VANCIL: All right. We'll
12 mark each of the items submitted for the record with
13 exhibit numbers. Exhibit 20 will be the property
14 summary, 21 will be the list of clients, and 22 will be
15 the report.

16 MR. STILLWELL: Thank you very much.

17 * * * * *

18 BENJAMIN SCOTT, witness herein, having been
19 first duly sworn on oath,
20 was examined and testified
21 as follows:

22 DIRECT EXAMINATION

23 BY MR. STILLWELL:

24 **Q. Mr. Scott, would you please state your name for**
25 **the record?**

1 A. Benjamin Scott.

2 **Q. And can you please discuss your educational and**
3 **professional background?**

4 A. I graduated with a mathematics degree from the
5 University of Washington in 2005. I began taking
6 actuarial exams and worked in the capacity as a
7 consulting actuary for a number of years.

8 In 2011, I entered the field of property tax
9 consulting where I have worked ever since. In that
10 capacity, I've taken a number of IDALIO (phonetic)
11 courses. A number of BOMA courses. I've taken various
12 courses in the field.

13 In terms of designations, my only formal
14 designation is Candidate for Associateship in the
15 Society of Actuaries. So outside this realm, but in an
16 actuarial capacity.

17 **Q. What is your current employment?**

18 A. I'm a consultant with Northwest Tax -- Northwest
19 Property Tax Consultants where I've been doing tax
20 appeals work.

21 **Q. How long have you been there?**

22 A. About nine years now.

23 **Q. And in your course of employment, do you have**
24 **familiarity with the types of reports in this case, the**
25 **Macaulay Special Benefits Study?**

1 A. Yes. In my day-to-day practice, I have a
2 tendency to review mass appraisal reports, typically
3 compiled by the assessor and review them for individual
4 property characteristics.

5 **Q. And before Northwest Property Tax Consultants,**
6 **what was your previous employer?**

7 A. It's an actuarial consulting firm known as
8 "Milliman."

9 **Q. And how long were you there?**

10 A. Six years.

11 **Q. And did you -- did you review in full the**
12 **Macaulay study in this matter?**

13 A. I read through it. When it comes to review, I
14 looked at the individual properties in terms of the
15 metric comparison notes listed in its Appendix and
16 Addenda.

17 I compared that with the original -- the
18 original benefit estimate in my capacity of assisting
19 clients in trying to give them the best information as
20 possible.

21 **Q. And did you perform a review of the Century**
22 **Square Retail Building that is subject to the Proposed**
23 **Final Assessment in this matter?**

24 A. I did. I think you have that as an Exhibit 22.

25 **Q. Yes. Would you please describe the property in**

1 **question, the Century Square Retail Building?**

2 A. Yep. So Century Square Retail is a two-story
3 property located immediately across Fourth Avenue from
4 Westlake Plaza. It's two stories in a downtown core
5 location just by being in an 85-foot zoning base.

6 The property is -- according to recent rent
7 rules was at about 32,000 square feet of rentable area.
8 It is primarily retail with a second floor atrium
9 housing a spa. It fronts Fourth Avenue and it's on the
10 corner there. So this is essentially the northeastern
11 corner.

12 **Q. What information did you rely on to conduct your**
13 **analysis of the building?**

14 A. I looked at -- I visited the property. I have
15 visited the property and considered its rent rule; I
16 considered comparable rents from surrounding properties;
17 I considered sales and the general knowledge of the
18 area; and then I looked at the details of the study with
19 respect to the property itself.

20 **Q. Thank you.**

21 **Now, turning to the Macaulay study itself.**

22 **What is your understanding of the -- what is the**
23 **purpose of conducting an analysis of the special**
24 **benefits study?**

25 A. On Macaulay's part? I'm sorry.

1 **Q. On your part. I'm sorry.**

2 **When providing your review, what is it you were**
3 **trying to accomplish?**

4 A. So my consideration of the Macaulay report was
5 assuming it was a mass appraisal.

6 I think we've heard testimony previously that
7 there is some question there that one can't appraise the
8 study and then determine the factors affecting
9 individual properties. The question becomes whether or
10 not that mass appraisal specifically applied to the
11 individual property itself.

12 This is a common practice, and so I looked at
13 the details in the study concerning the property in
14 question.

15 That ranged from everything from its bad
16 characteristics, in terms of the net square footage, the
17 gross square footage, the correct zoning, the correct
18 analysis of highest and best use, things of that nature,
19 to verify that the study was accurately attributing
20 value to the subject property.

21 **Q. Thank you.**

22 **So now turning specifically to your report, on**
23 **the first page, the bottom paragraph under Section A,**
24 **"Proximity to Amenities."**

25 **In your conclusion, how does the proximity to**

1 **the LID amenities affect the Century Square Retail**
2 **Building?**

3 A. Specifically what I mention here is the
4 discussion of the sidewalk improvements. That's the
5 most proximate improvement under the LID program to the
6 subject property.

7 That, I think, is the most relevant to this
8 property. It's adjacent to, as I indicated, the
9 Westlake Park.

10 And so the development of parks down Pine
11 Street -- if we go further down to the Overlook Walk,
12 for instance, I think it's going to have less of an
13 impact.

14 The assumption then would be that pedestrians
15 would essentially bypass the adjacent park and go to
16 another park.

17 So I think the most proximate improvements are
18 the streetscape improvements along Pine.

19 **Q. And you mentioned in your discussion of**
20 **proximity to amenities the Irvine Minnesota Inventory**
21 **count, abbreviated "IMI."**

22 **What is that?**

23 A. The IMI is a 168 [sic] criteria, essentially
24 survey of streetscape improvements.

25 So, essentially, it's created to be

1 standardizable. So among observers filling out such
2 questionnaires, there's little difference.

3 So what it is, is kind of an accepted -- excuse
4 me -- method of sort of quantifying the streetscape
5 improvements on a pedestrian basis.

6 **Q. And how does the improvements in the -- how does**
7 **the proposed improvements through the LID impact the IMI**
8 **on the Century Square Retail?**

9 A. In the case of -- when we consider Fourth and
10 Pine, the immediately adjacent streetscape, this is
11 where the question of the over -- this goes back to the
12 universe.

13 So the IMI for the specific -- the specific
14 segment -- and in this case I had surveyed 44 segments
15 within the LID, So this is 44 blocks, in the before
16 condition. The subject at Fourth and Pine was
17 essentially what we would call a "Level 1." So it was
18 less -- slightly less than one standard deviation above
19 the mean. So it's slightly better than average.

20 In the after condition with the improvements,
21 when we applied the other improvements to the remainder
22 of the IMI in the waterfront LID, its status actually
23 goes down. So it goes from a .96 above the mean to a
24 .88 above the mean. So it actually reduces, because the
25 other streets are being improved.

1 **Q. Thank you.**

2 **Can you speak to the impact of the proximity of**
3 **the Century Square Retail Building to the improvements**
4 **along the waterfront?**

5 **What relationship do they have?**

6 A. The distance, I think, is relatively -- it's
7 relatively large.

8 So, essentially, to reach those improvements,
9 more of those will pass not only most of the transit
10 hubs, the properties adjacent, and up above the transit
11 tunnel, for instance, but you would also bypass,
12 essentially, a lot of other more proximate improvements.

13 To reach the Overlook Walk, for instance, one
14 would have to go -- travel, essentially, the three to
15 four blocks down into the market and then down. So that
16 distance is --

17 **Q. Thank you.**

18 **Turning now on the next page of your report,**
19 **subsection (b) at the top, "Restrictions on Property."**

20 **Did you discover, in your research of the**
21 **building, any development restrictions on Century Square**
22 **Retail?**

23 A. I did. And this has been long-standing
24 knowledge since the 1980s when the property was
25 essentially assignable for redevelopment. The property

1 is limited in its development to a much lower height
2 than is allowed under the zoning. And this is due to
3 the shadow concerns on Westlake Park which is an
4 environmental concern.

5 MR. STILLWELL: And, Mr. Scott, before you
6 continue, I'm going to introduce to the exhibit of a
7 section of Seattle Municipal Code 25.05.675, which
8 discusses areas of downtown where shadow impacts may be
9 mitigated by the City and expressly including Westlake
10 Park and Plaza.

11 BY MR. STILLWELL:

12 **Q. Thank you, Mr. Scott.**

13 **Please continue.**

14 **A. Of course.**

15 So what you do see there in the -- so this is in
16 the City code. When it says "shadows impacts may be
17 mitigated."

18 The mitigation basically means that the City
19 is -- can, at will, say -- or under consideration say
20 you can't build as high as you think you can because we
21 think the shadows on the park are a factor.

22 This has long been an issue for the property. I
23 believe in the 1980s you can see this is a -- I
24 submitted a -- there was a -- a master's dissertation
25 where different redevelopment considerations were

1 undertaken for the subject property.

2 And what that found was that the shadow impacts
3 were going to be a great concern in terms of development
4 potential for the property.

5 That restriction on the shadows was brought more
6 into bear by the neighboring tower which was developed
7 which then had to have shadow impacts mitigated,
8 including, I believe, a fee to the City.

9 So the property cannot be built to -- consistent
10 with its zoning in terms of the type and the incentive
11 height allowances. It changes the highest and best use
12 of a downtown property that's only built to two stories
13 pretty dramatically.

14 **Q. And what documentation or evidence did you rely**
15 **on for your conclusion that the tunnel is also**
16 **restricting development?**

17 A. The -- so the tunnel does undercut the subject
18 property.

19 As we know, the tunnel travels under Third
20 Avenue and then turns to go up Pine. It does so right
21 under the subject property.

22 I think you have a copy of the Kirk M.I.T.
23 thesis, hopefully.

24 MR. STILLWELL: Yes.

25 And for the record, I'd like to introduce a

1 citation in Mr. Scott's report as to King County
2 Assessor's data from 2009, where we see -- there's a
3 note from the Assessor saying the "improvement," meaning
4 Century Square Retail, "is built over the bus terminal
5 which may restrict redevelopment. The improvement had
6 retail on both upper floors. And the basement can't be
7 used because of the bus tunnel, therefore, limiting its
8 value."

9 And in addition, the M.I.T. thesis Mr. Scott
10 references, I will introduce as well as an exhibit.

11 Mr. Scott has, fortunately, since it's an
12 M.I.T. thesis, excerpted only a few pages and
13 highlighted the areas that specifically discuss how the
14 shadowing and the tunnel create sort of a perfect storm
15 restricting development of this property.

16 BY MR. STILLWELL:

17 **Q. I'm sorry, Mr. Scott.**

18 **Please continue.**

19 A. Thank you. So what -- what both the assessor
20 became aware of is that the tunnel restricts the usage
21 of the property as it stands. It reduces the amount of
22 basement that can be used. The tunnel also restricts
23 how you could build upon the property.

24 So if everything was the same as neighboring
25 zoning, one could build farther away from Westlake Park

1 to avoid the shadow impacts. What this site
2 unfortunately experiences is the undercut of the tunnel,
3 which means right where you'd have to build high to
4 avoid the shadows, you are stuck above the tunnel and
5 can't build, so.

6 **Q. Thank you, Mr. Scott.**

7 **Now, in your review, did the Macaulay report**
8 **take these restrictions into account when estimating the**
9 **before value or the special benefit?**

10 A. I did not observe that it did. The specific
11 characteristics do not seem to consider the basement
12 restrictions in terms of usage. I mentioned the rent
13 role reports of 32,000 square feet.

14 Mr. Macaulay appears to rely on the Assessor's
15 data without concern to the notes which modify that data
16 and along with what the Assessor's valuation of it.

17 **Q. And by "notes," you mean the exhibit that was**
18 **just introduced from the assessor?**

19 A. Correct.

20 **Q. You are talking about those development**
21 **restrictions?**

22 A. Correct.

23 **Q. Thank you.**

24 **If these restrictions were taken into account in**
25 **the Macaulay study, how would they have impacted the**

1 **Special Benefit Assessment or the building's pre-LID**
2 **market value?**

3 A. They would have been reduced, essentially. The
4 number of square footage. The number of square feet
5 that were generating rent is higher in the Macaulay
6 report than your typical market analysis would consider.

7 One would be cognizant in these restrictions
8 and, therefore, reduce the rent generating square
9 footage; that will reduce the market value.

10 **Q. And, I'm sorry, because I asked you a compounded**
11 **question.**

12 **How would it impact the special benefit**
13 **estimate?**

14 A. Both the before and after.

15 My reading of the Macaulay study should suggest
16 that he takes the values before he modifies the rent
17 generation and the vacancy assumptions to arrive at his
18 after value.

19 Reducing a factor in both will reduce both.

20 **Q. Thank you.**

21 **In your assessment of the property, did you find**
22 **examples of comparable buildings around Westlake Center**
23 **area that are not subject to development restrictions**
24 **that are also included in the Local Improvement**
25 **District?**

1 A. I did. There are a number of them, I think,
2 that are relevant here.

3 For instance, I think of the -- on the next
4 block over, if we want to say "next block over," I mean,
5 if we go up Fourth to the other side of Pike Street,
6 there's a corner property there with, essentially, a big
7 base property. It's also much taller. So it was not
8 restricted -- under the same zoning, has not had the
9 development restrictions that the subject property has,
10 so you can -- they did -- can and did build much higher
11 than the subject property.

12 In this case, I would look at this 1411 Pike
13 Street -- I'm sorry. 1411 Fourth Street in the
14 neighborhood of the Joshua Green building. This is what
15 we're really talking about.

16 This is where, not only did the development
17 restrictions allow for the "Ber-gone" and they allowed
18 this property to be built to a much higher extent.

19 They are also allowed to take advantage of the
20 sidewalks. The subject is restricted in its use of the
21 sidewalk, because the sidewalk is technically part of
22 the Westlake Park. So one can't encroach on it.

23 So the Joshua Green Building, for instance,
24 received a 1.86 percent of value benefit. Century
25 Square Retail got 2 percent of its value as a benefit.

1 Despite the Joshua Green having on the ground floor a
2 cafe that is able to utilize the sidewalk for cafe
3 tables outside, that will experience an increased
4 benefit due to the improvements of the sidewalk there.

5 It also, of course, has the office above, which
6 can be utilized for rent generation. Similarly, 301
7 Pike, which is the garage property. So that's -- it's
8 on Third and Pike, for instance.

9 Those pedestrian amenities will be improved
10 dramatically in the after. They are relatively low
11 quality pedestrian amenities.

12 According to the IMI scale, they were in the --
13 I show them as, essentially, Level 1. And they will
14 move from Level 1 to Level 2. So a relatively dramatic
15 improvement there.

16 The Ross Building, however, was ascribed a
17 special benefit of \$639,000. The subject is at
18 \$711,000.

19 **Q. And so considering those two examples which, for**
20 **the record, are also discussed in your report on the**
21 **final two pages, considering those examples against**
22 **Century Square Retail, what is your professional**
23 **conclusion about how the special benefits are allocated**
24 **amongst the properties in the Westlake Center area?**

25 A. I think they are essentially inequitable. And

1 considering the development restrictions on the subject
2 property, it seems to be ascribed a special benefit that
3 is higher than I think makes sense in the face of
4 comparable properties and competing properties.

5 It won't leverage the benefit other properties
6 will be able to do in the face of the LID improvements.

7 MR. STILLWELL: Thank you, Mr. Scott.

8 I have no further questions.

9 HEARING EXAMINER VANCIL: One question I
10 have is did -- Mr. Scott, did you determine -- you
11 indicated that there was an -- in your assessment that
12 there was an inequity.

13 Did you determine what should have been the
14 correct number?

15 MR. SCOTT: I did not. I would put it on
16 the order of the reduction in line with the Ross
17 Building, and that's a property that is relatively well
18 positioned to take advantage of the LID.

19 It's a relatively similar size subject
20 property, and it incurs a benefit of the \$639,000. I
21 would put that as a ceiling on the subject property. I
22 don't think that it would be in excess of that.

23 HEARING EXAMINER VANCIL: And you called it
24 the Ross Building. Which address or how else can I
25 identify that besides the name?

1 MR. SCOTT: The Ross Building is 301 Pike.

2 If you have a second, I'm happy to --

3 HEARING EXAMINER VANCIL: No. That's
4 adequate. Thank you.

5 Cross?

6 CROSS-EXAMINATION

7 BY MS. THOMPSON:

8 **Q. Good morning, Mr. Scott.**

9 I wanted to turn back to your experience and
10 professional background for a moment.

11 **Are you an appraiser?**

12 A. No.

13 **Q. So it's safe to say, then, that you've never**
14 **been retained to prepare a mass appraisal?**

15 A. No. I am not qualified to prepare a mass
16 appraisal.

17 **Q. And have you ever been retained to prepare a**
18 **special benefit study?**

19 A. I have not.

20 **Q. What was the scope of your assignment for**
21 **preparing your report?**

22 A. The scope was to essentially review the mass
23 appraisal report compiled by Mr. Macaulay for
24 consideration of individual properties.

25 This is in line with my day-to-day job, which is

1 essentially reviewing mass appraisal reports and
2 considering their application to the individual
3 property.

4 This is where -- in the property tax world, once
5 a mass appraisal is compiled and an assessment is
6 established, an appeal of that assessment brings it into
7 a single property appraisal question. And that's
8 essentially what I was engaged to do here.

9 **Q. So part of that task, if I understand your**
10 **testimony is to look at specific information about the**
11 **property at issue and sort of cross-check that against**
12 **what's been prepared in the mass appraisal; is that**
13 **correct?**

14 A. Yes.

15 **Q. And does that involve making a judgment about**
16 **market value?**

17 A. It involves generating an opinion on market
18 value.

19 **Q. And you mentioned that you -- in your past work,**
20 **you worked as an actuary.**

21 **Could you just describe for the record what an**
22 **actuary does?**

23 A. In terms --

24 **Q. Sorry to interrupt.**

25 **We cut out just a little bit. If you could**

1 **start over with your answer.**

2 A. An actuary in base terms attempts to quantify
3 risk.

4 **Q. Okay. So that -- in that role you weren't**
5 **assessing or forming opinions about market value of real**
6 **property?**

7 A. Not of real property, no. I could elaborate on
8 that if you would like.

9 **Q. I think that's fine. Thank you.**

10 **So you -- you mentioned earlier that as part of**
11 **your review in this matter you reviewed the ABS study**
12 **and the addenda and looked at specific properties**
13 **comparing the special benefit that was calculated in the**
14 **final ABS study to the preliminary special benefit**
15 **calculated; is that right?**

16 A. Yes, I did. I looked at the original study to
17 communicate with my clients about what they should be
18 expecting, and then the final to inform them as to how
19 that might have changed.

20 **Q. And were there properties whose amount of**
21 **special benefits decreased between the preliminary and**
22 **the final report?**

23 A. There were.

24 **Q. Were all of them decreased?**

25 A. No.

1 **Q. Were any of them increased?**

2 A. Yes.

3 **Q. So I want to talk specifically about the -- your**
4 **review of the Century Square Retail property.**

5 **You talked about the City of Seattle having**
6 **shadow restrictions on this property, or at least part**
7 **of the property; is that right?**

8 A. Correct.

9 **Q. And you mentioned this concept of mitigation for**
10 **creating shadows.**

11 **Is it your testimony that Century Square Retail**
12 **cannot build above a certain level under the law or is**
13 **it that they would have to pay a fee in order to do so?**

14 A. If you return your attention to the exhibit that
15 was the -- this other -- I'm sorry.

16 **Q. Oh, I was going to say -- I believe --**

17 **Are you referencing the municipal code sections?**

18 A. Yes.

19 MS. THOMPSON: That's Exhibit 22 for the
20 record.

21 HEARING EXAMINER VANCIL: And we didn't mark
22 it at the time. So it's actually going to be 25.

23 MS. THOMPSON: Twenty-five. Okay.

24 MR. SCOTT: Okay. If you look below that
25 highlighted area, there should be a subsection (e), I

1 think, which talks about mitigating measures; very
2 specifically what may be allowed in terms of mitigation.

3 What you don't -- what -- the typical
4 requirements there are not fees in lieu, for instance,
5 there are things in the nature of relocation on the
6 site. Things of that nature. So it's essentially you
7 need to modify your plan to -- (disruption in Skype
8 feed) -- is my understanding.

9 BY MS. THOMPSON:

10 **Q. And you also talked about the impact of the bus**
11 **tunnel or the light rail tunnel on the useable square**
12 **footage of the building.**

13 **And my question about that is I think that what**
14 **I heard you say is that they -- at Century retail --**
15 **Century Square Retail, they cannot build up because of**
16 **the tunnel; is that right?**

17 A. So if you look at the -- this was the
18 Exhibit 22, the Kirk discussion of that.

19 So if one were to be able to build to avoid the
20 shadows on the property, you'd have to do it far from
21 the Westlake Park.

22 The distance from Westlake Park that you would
23 have to essentially leverage is the piece that's on the
24 tunnel turn. So you can't -- so, for instance, this
25 would go back to the mitigation.

1 One might have to mitigate by relocating a
2 development on the site. So to do that, you would maybe
3 move it to the northwest corner of the site. To do
4 that, however, you are building on top of the tunnel
5 which essentially makes it -- rules out any development
6 of any substantial height essentially.

7 **Q. Okay. So your testimony is that the existence**
8 **of the tunnel in that area would restrict the amount of**
9 **floors, for example, that you could build up, and**
10 **that -- is that right?**

11 A. Yes. And I apologize for interrupting.

12 So it says -- I think the Kirk study, the quote
13 that was highlighted, was "Does the tunnel undermine
14 precisely where the highest parts of the development
15 must be located to avoid shadowing Westlake Park."

16 **Q. So is it a structural stability issue building**
17 **over the tunnel?**

18 A. That's one concern. There's also -- highest and
19 best use questions. One of the tests is, is it
20 financially feasible?

21 And so, is it worth building in the event that
22 it's going to be very expensive to, say, mitigate any
23 impacts to the public right-of-way that exists a number
24 of feet below your construction.

25 I think -- (disruption in Skype feed) -- clear

1 in recent years --

2 **Q. Sorry. We just cut out a little bit. I'm just**
3 **trying to make sure we get all of your testimony on the**
4 **record.**

5 **I think the last thing I heard you say was about**
6 **the financial considerations of building over the**
7 **tunnel.**

8 **A. So -- yes.**

9 So financially feasible is one of the tests for
10 highest and best use.

11 So if, in theory, one could construct on the
12 tunnel -- if it's too expensive to do so, then it
13 doesn't pencil out.

14 We've seen, essentially, I think -- we've seen
15 recent examples of construction in the face of the
16 filled-in tunnel. For instance, the Battery Street
17 Tunnel, which is now filled in, that's an enabled
18 development to essentially begin along Third and
19 Battery, is one of the properties that is now being
20 redeveloped since the tunnel has been filled in. That
21 property hadn't been redeveloped at the time of that
22 tunnel for the same reasons.

23 **Q. But the light rail tunnel does extend throughout**
24 **a main part of downtown underneath large buildings;**
25 **correct?**

1 A. Yes. That's correct.

2 **Q. So it's not impossible for Century Square Retail**
3 **to build up over the tunnel?**

4 A. Like I said, it's not impossible. The subject
5 property, it is on an entrance to the tunnel, to the
6 Westlake Station. That is actually -- it cuts into the
7 subject property itself, so there's the stairwell, the
8 escalators. It's also over the turn. And the turn
9 makes it a little bit more complicated. This is not a
10 straight run of tunnel under the subject property.

11 **Q. And so part of your opinion, as I understand it,**
12 **is that ABS did not consider factors such as the shadow**
13 **restriction and the basement square footage, for**
14 **example, in its study and that those factors would**
15 **affect the assessments to this property; is that right?**

16 A. Yes.

17 **Q. So if you learned that ABS did, in fact, take**
18 **those factors into account at arriving at their**
19 **assessment for Century Square Retail, would your opinion**
20 **change?**

21 A. Yes. If they had considered that and noted it,
22 my opinion would have changed.

23 **Q. And I think the Hearing Examiner asked you a**
24 **similar question, but I just wanted to double-check.**

25 **Did you calculate a special benefit for Century**

1 **Square Retail?**

2 A. Not directly.

3 MS. THOMPSON: Okay. Thank you.

4 No further questions.

5 HEARING EXAMINER VANCIL: One other question

6 I had for you, Mr. Scott, is did you quantify the
7 value -- you've identified a couple of restrictions for
8 the property both in height and ability to utilize or
9 develop beneath the structure.

10 Did you quantify the value of those
11 restrictions?

12 MR. SCOTT: I did -- I have not. The
13 quantification of these restrictions would be a little
14 bit outside the scope of my engagement for this process,
15 in my belief.

16 HEARING EXAMINER VANCIL: Thank you.

17 **REDIRECT EXAMINATION**

18 **BY MR. STILLWELL:**

19 **Q. Just a few questions on redirect, the first**
20 **being, is an appraisal license required to prepare**
21 **appraisal reviews?**

22 A. It is not.

23 **Q. And do you believe it is necessary to have**
24 **conducted yourself a mass appraisal study or to have**
25 **worked on one in order to conduct a review of a mass**

1 **appraisal study?**

2 A. I hope not. In my experience, it is not.

3 **Q. Okay. And how did your actuarial experience**
4 **inform -- or how does it inform your current work**
5 **conducting appraisal reviews?**

6 A. In my actuarial capacity, I quantified risk and
7 calculated, essentially, the present value of future
8 payouts with modifications.

9 One view of real estate is that income-producing
10 properties is essentially the current -- the present
11 value is the discounted value of the future stream of
12 payouts generated by that property.

13 The two are relatively similar and the
14 mathematics are almost the same. It is simply the
15 number of variables around what changes those payouts.

16 **Q. Thank you.**

17 **Last question, getting back to the discussion**
18 **about development over the transit tunnel.**

19 **If -- if Century Square Retail owners or**
20 **operators had to engage in a more costly development**
21 **that didn't necessarily pencil out in order to build on**
22 **top of the transit tunnel, as was discussed earlier, and**
23 **did so essentially when it wasn't necessarily**
24 **economically feasible for the owners but their only**
25 **option considering the other restrictions, would a**

1 **Special Benefit Assessment need to take into account**
2 **those types of cost burdens?**

3 A. Absolutely. Highest and best use is a
4 consideration here. The -- the costs necessary to
5 essentially redevelop a property need to be considered
6 in that determination.

7 So if -- this goes to, for instance, a vacant
8 piece of land is -- the value of a vacant piece of land
9 is the value of the dirt.

10 But if it has a development planned, cost of
11 that development is relevant. And if that develop is
12 made more costly by restrictions on the site, those are
13 very relevant to, for instance, the purchaser or
14 developer of that property.

15 So those costs -- the market would value those.

16 MR. STILLWELL: Thank you very much.

17 I have no further questions.

18 HEARING EXAMINER VANCIL: Thank you,
19 Mr. Scott.

20 MR. SCOTT: Thank you.

21 MR. STILLWELL: And so another -- I guess a
22 point of organization today, Mr. Scott will be
23 testifying again on behalf of other properties.

24 HEARING EXAMINER VANCIL: Okay.

25 MR. STILLWELL: Considering what would be

1 easiest, technologically, he could either sort of go on
2 mute or we could call him back.

3 Galen, is there something that would work?

4 MR. EDLUND-CHO: Yes, he can just do that.

5 MR. STILLWELL: He can just do that?

6 MR. EDLUND-CHO: Yes.

7 MR. SCOTT: Will that work? I will just
8 turn it all off.

9 MR. EDLUND-CHO: That's what he did. Yes.

10 MR. STILLWELL: Okay. Great. Thank you,
11 Mr. Scott.

12 Objectors would next like to call Gary
13 Carpenter.

14 HEARING EXAMINER VANCIL: Before we get
15 started with that witness, we have Exhibits 20
16 through 25 to be admitted yet.

17 MR. STILLWELL: Yes, I'm sorry. These are
18 documents. We didn't expressly get to them in the
19 testimony. But for the record these are documents that
20 Mr. Scott relied on in his study. Some of the concepts
21 were discussed here, just not referenced expressly.

22 HEARING EXAMINER VANCIL: Sorry. Okay.

23 So you've got additional documents to add to
24 Exhibits 20 to 25?

25 MR. STILLWELL: Yes.

1 HEARING EXAMINER VANCIL: I'm just asking
2 about admitting 20 to 25. The fact that you hand them
3 forward does not mean they are admitted.

4 The documents that are handed forward are
5 marked with an exhibit number and then it's customary
6 for counsel to ask for documents to be admitted to the
7 record.

8 MR. STILLWELL: I see. I apologize.

9 HEARING EXAMINER VANCIL: Sometimes I remind
10 parties of that.

11 MR. STILLWELL: Yes, that would be helpful.
12 Yes, please.

13 Well, I guess I'll add the final document
14 that's on the exhibit list as well.

15 This is a document entitled "Landscaping and
16 Urban Planning," again, referenced in Mr. Scott's
17 report, concepts discussed in testimony.

18 And counsel would request that these
19 exhibits be admitted to the record.

20 HEARING EXAMINER VANCIL: Okay. Let's make
21 sure that everyone has the same numbers and exhibits
22 since we got a bit out of order.

23 The Seattle Waterfront LID Assessment
24 Hearing property summary was marked Exhibit 20.

25 The list of clients was marked Exhibit 21.

1 The report was marked Exhibit 22.

2 The King County Assessor data was marked
3 Exhibit 23.

4 A paper by Christopher Kirk was marked
5 Exhibit 24.

6 We do not normally accept or admit as an
7 exhibit code, because it's the law and it speaks for
8 itself. But in this case, it is highly specific to the
9 testimony provided. And so I will, just for the sake of
10 having a clear record, admit -- or allow 25. It's the
11 code section that was cited.

12 And then we have 26 and 27.

13 Twenty-six is the impact on "Property Values
14 of Distanced Parks and Open Spaces" article.

15 And 27 is the Property Values, Parks and
16 Crime, A Hedonic Analysis" in Baltimore, MD, Maryland.

17 Are there any objections to Exhibits 20
18 through 27?

19 MS. THOMPSON: No objection.

20 HEARING EXAMINER VANCIL: Exhibits 20
21 through 27 are admitted.

22 We'll proceed with the next witness.

23 (Exhibit Nos. 20 - 27 admitted.)

24 MR. STILLWELL: Thank you.

25 Objectors would like to call Mr. Gary

1 Carpenter who's present.

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

4 MR. CARPENTER: Gary Carpenter. G-a-r-y.
5 C-a-r-p-e-n-t-e-r.

6 HEARING EXAMINER VANCIL: And do you swear
7 or affirm the testimony you provide in today's hearing
8 is the truth?

9 MR. CARPENTER: I do.

10 HEARING EXAMINER VANCIL: Thank you.

11

12 GARY CARPENTER, witness herein, having been
13 first duly sworn on oath,
14 was examined and testified
15 as follows:

16

17 DIRECT EXAMINATION

18 BY MR. STILLWELL:

19 **Q. Mr. Carpenter, you've already stated your name**
20 **for the record.**

21 **Are you the representative for the Century**
22 **Square Retail Building?**

23 A. Yes. I'm a general partner of two general
24 partners that control the property since the early
25 1970s.

1 **Q. And what is your interest in the property?**

2 A. I'm an owner and a ground lessee to the actual
3 owners which are a trust in Seattle.

4 **Q. And what is the lease term for your ground**
5 **lease?**

6 A. The lease term has been extended a couple times
7 by myself and my partner. It is now going to expire in
8 2029 after 100 years.

9 **Q. Thank you.**

10 MR. STILLWELL: And, for the record, counsel
11 would like to introduce two amendments to the ground
12 lease. Again, for sake of brevity, since they were
13 rather long, simply Amendment No. 2 to the lease. This
14 is where the most recent version of this ground lease
15 that discusses the term, so counsel will just be
16 establishing that Mr. Carpenter has interest
17 through 2029.

18 HEARING EXAMINER VANCIL: Marked as 28.

19 MR. STILLWELL: And the next is Amendment 4
20 to the lease. This is the most recent amendment from
21 March 3, 1988, and it is when the current
22 representative, Fourth Avenue Associates Limited
23 Partnership, became the long-term ground lessee for the
24 property. And so I'll submit those for the record.

25 HEARING EXAMINER VANCIL: Marked as

1 Exhibit 29.

2 MR. STILLWELL: Thank you.

3 BY MR. STILLWELL:

4 **Q. And so, Mr. Carpenter, what is your position in**
5 **Fourth Avenue Associates?**

6 A. Well, as I mentioned, I am a general partner in
7 the property, so my responsibilities relate to the
8 overall leasing, upkeep, management, and any potential
9 modifications to the property.

10 **Q. Do you have any experience owning, buying,**
11 **selling, or managing other properties in the Seattle**
12 **area?**

13 A. I do.

14 **Q. What is that experience?**

15 A. Probably from the late '70s I was in the real
16 estate business. I'm a CPA from my earlier years, but
17 joined real estate partners at that time.

18 And I probably over my career, through my recent
19 retirement three years ago, I've developed tens of
20 millions of square feet of retail and office and
21 residential product.

22 **Q. And please describe the Century Square Retail**
23 **Building in your capacity as the manager?**

24 A. Yes. Century Square Retail -- and not to be
25 confused with the Century Square Office Building next

1 door, which I also developed, is a two-story building
2 built in 1920. It was designed specifically as a retail
3 location and has been for the last hundred years.
4 There's been no other usage. It's been retail totally
5 during that time.

6 A variety of tenants over that period of time,
7 obviously. And currently is fully occupied on all the
8 space on the street level and second level. The
9 basement is unusable, as some of the other discussions
10 have indicated, for various reasons.

11 **Q. Turning -- thank you.**

12 **Turning now to the assessment at hand.**

13 **When did you receive notice of the Special**
14 **Benefit Assessment?**

15 A. In December.

16 **Q. And that was the final proposed --**

17 A. Yes. Uh-huh. I should say I was aware that it
18 was underway, but I had not received the final.

19 **Q. And how did you become aware that the final**
20 **special benefits study was available?**

21 A. It was mailed to me.

22 **Q. How long did you have to prepare your objection?**

23 A. Oh, I think I've had the benefit of maybe six
24 weeks of time.

25 **Q. And during that six weeks, did you ever review**

1 **the Macaulay study?**

2 A. I briefly reviewed it, yes.

3 **Q. By "briefly," do you mean you read a summary of**
4 **the text or do you mean briefly --**

5 A. I read the summary of the text, yes.

6 **Q. Did you review any other documents associated**
7 **with the LID to prepare for the objection?**

8 A. Yes, several different documents. And certainly
9 the work that Ben Scott has done on the property as
10 well.

11 **Q. So are you familiar with Mr. Scott's report that**
12 **was admitted as an exhibit during this assessment?**

13 A. I am, yes.

14 **Q. Are you familiar with these types of studies?**
15 **"These types" being both the Macaulay study and**
16 **Mr. Scott's appraisal review.**

17 A. Yes.

18 **Q. And is that from your capacity as lessee of**
19 **Century Square Retail, that you've become familiar with**
20 **these types of studies?**

21 A. As lessee, as well as numerous other properties
22 where the same issues or similar issues that have come
23 up, yes.

24 **Q. What are the types of properties besides Century**
25 **Square Retail that you've managed or owned?**

1 A. Well, I mean, too numerous to mention. We'd run
2 out of time. But I would think -- I've been in the
3 business for about over 40 years.

4 The most obvious for the local city would be I
5 developed with my partner, U.S. Bank Centre, which
6 includes three levels of retail and a million square
7 feet of office.

8 Century Square was developed by my partner and
9 I, along with the retail.

10 And then numerous other properties both in
11 Seattle and Bellevue, specifically. But we are -- our
12 reach was across the United States as well.

13 **Q. Do you focus on retail? Or do you have all**
14 **types of uses?**

15 A. All types. Every type. Hotels included.

16 **Q. From reviewing the mass appraisal, did you gain**
17 **an understanding of how the City's appraiser came to his**
18 **conclusion of the pre-LID value of your property being,**
19 **I guess, 35,500,000-something?**

20 A. Well, I don't know if I can say that I know the
21 details of how he came about -- that created that value.
22 I certainly am not an expert on mass appraisals, so I
23 can't speak to that necessarily.

24 **Q. In your experience, both with the Century Square**
25 **Retail Building, specifically, but also in the general**

1 **real estate market in Seattle, what was your opinion of**
2 **that assessment number.**

3 A. Well, I was actually, not to be dramatic, was
4 shocked to see the value laid on our property just
5 because I know the property, and I know that it's --
6 it's restricted for many different reasons, as we've
7 discussed already.

8 But where it really rose to the top for me was
9 to recognize a comparable building that was a part of
10 the LID group that had a value that was significantly
11 lower than our two-story building which has
12 restrictions.

13 And when I say "significantly," it was -- our
14 property, on a square-footage basis, was as much as
15 184 percent of a 15-story office building and retail a
16 block away.

17 **Q. Did the City ever request information from you**
18 **about your property prior to sending you the proposed**
19 **Final Benefit Assessment?**

20 A. No.

21 **Q. Were you ever asked to provide feedback on the**
22 **preliminary assessment?**

23 A. No.

24 **Q. Did anyone from the City ever request site**
25 **access to your property for purposes of preparing the**

1 **Final Benefit Assessment?**

2 A. No.

3 **Q. Or the study?**

4 A. No.

5 **Q. So we spoke during Mr. Scott's testimony about**
6 **the development restrictions. I wondered if you could**
7 **comment in your role as the long-term ground lessee and**
8 **operator of this building.**

9 **What's your understanding of the development**
10 **restrictions on this property?**

11 A. Well, they are severalfold. One, it's important
12 to understand that when the downtown light rail system
13 was -- was excavated through the city in its
14 construction, these -- the entity at that time that was
15 building that condemned our -- 30 feet of our north
16 corner of our property for the access -- the ingress and
17 egress for the public elevator systems/escalator systems
18 to allow them to construct the Westlake Station, which
19 we're adjacent to. So we had a taking of effectively
20 our rights of the property to accommodate that.

21 I will say we were paid for it. But we were --
22 it was not our choice. It's an indication of disvalue
23 at that time. And that stays there to this day for that
24 access.

25 It basically shut off our ability to deliver

1 goods and services to the property because there was no
2 access to the alley any longer. The alley was critical
3 to bring goods and services in for our retail tenants.

4 And so most of the delivery for the retail since
5 then has been done off the street on early hours or late
6 hours of the day to accommodate traffic.

7 It also sealed off our ability to make any usage
8 for the basement of the property, which is relatively
9 vacant with the exception of our own storage that we put
10 down there.

11 And so that particular Westlake development and
12 light rail system, basically eliminated several access
13 abilities for our property and obviously will stay that
14 way.

15 **Q. So, in your view, were the restrictions on your**
16 **property associated with the transit tunnel limited to**
17 **just your ability to build higher or were there other**
18 **restrictions with regard to operating the building?**

19 A. Well, if you're referring to the fact that it --
20 redeveloping the building, you mean?

21 Are you talking about a redevelopment of that
22 property?

23 **Q. Yes. I guess what I -- well, I'm sorry.**

24 **What I'm getting at is -- there is --**

25 **Mr. Scott's testimony was about primarily the bus**

1 **tunnel's restrictions being that you can't build up.**

2 A. Right.

3 **Q. And so I'm wondering, sounds like you were**
4 **saying that there were, in addition to redeveloping mass**
5 **and volume of the building, there might be some**
6 **operational restrictions as well with regard to access**
7 **providing goods and services from the ground level.**

8 A. Yeah.

9 **Q. I was wondering if you could just speak about**
10 **some of those other restrictions besides just your**
11 **limitations on building up?**

12 A. Well, it's primarily the inability to access the
13 property just by a Fourth Avenue entrance. There is no
14 other access to the property to allow us to modify the
15 property or to change its usages or to provide for
16 alternative uses. It is pretty much restricted to what
17 you have there. It's an inability to do anything else.

18 **Q. Is it your understanding that the LID**
19 **improvements are going to do anything with regard to the**
20 **building access?**

21 **Are they involved in building access at all?**

22 A. Well, I think there's going to be some street
23 improvements on Pine which are adjacent to the condemned
24 area for the Westlake Tunnel. I think they are going to
25 redo some of those amenities along Pine Street but has

1 no particular value to us, because those -- that area
2 was redone by the Westlake Park and tunnel to its
3 highest and best use, using all the materials and the
4 ability to provide for a public access to the Westlake
5 Tunnel.

6 So if there's new stuff that is going to be put
7 there is simply going to be replicating what's already
8 there; so of no value to us, certainly, and no access to
9 the property.

10 **Q. Thank you.**

11 **Are the waterfront improvements necessary to the**
12 **functionality of Century Square Retail Building?**

13 A. Not at all.

14 And I should point out, never has been. The
15 Westlake corridor in that area have never been a draw
16 for the retail at the corner of Fourth and Pine.

17 **Q. What are the immediate benefits? The immediate**
18 **benefits to your property of the proposed improvements,**
19 **either the waterfront or to Pike and Pine.**

20 A. Well, my professional opinion as an owner of the
21 property and a real estate developer, there's none as
22 far as I'm concerned. This property works off of the
23 core of the city of Seattle. They derive their
24 customers that go to those stores from that area.
25 There's parking in that area associated with it.

1 So the benefit -- I can't perceive the benefit
2 making any significant change to who comes to that area,
3 whether it's from the Westlake Park or from a
4 waterfront.

5 **Q. In the interim period of time, the five years**
6 **between assessment and when the City anticipates**
7 **completing the improvements, what impact do you think**
8 **the construction development happening on Pike/Pine, how**
9 **will that impact your property?**

10 A. I suppose it will be just a typical nuisance for
11 construction, but it won't -- it won't really modify the
12 patrons that go to that store, because these are
13 street-level improvements. There's no radical change to
14 the current layout of the -- of that area.

15 **Q. Okay. And after the five years, assuming the**
16 **improvements are complete, how -- what increase in**
17 **value, if any, do you think the final improvements will**
18 **have, the improvements been on Pike and Pine, to your**
19 **property?**

20 A. I would say none, because they are simply going
21 to replicate what's there.

22 **Q. Thank you.**

23 **In your opinion and with your familiarity of the**
24 **building in the surrounding area, will -- will there be**
25 **any negative impacts to the improvements either on Pike**

1 **and Pine or the waterfront?**

2 A. You know, I would say no. I say this is a
3 standalone building retail. I would say no, there won't
4 be any negative benefits that I can specifically say.

5 **Q. Does your property now benefit from tourism?**

6 A. Well, certainly with no factual information for
7 you, I would say no -- from the waterfront tourism, I
8 would say no.

9 From tourism in Seattle where people are in the
10 core of the city; certainly there's some benefit there.

11 **Q. And with your knowledge of the -- of the area**
12 **and these properties, understanding there's no data**
13 **necessarily for you to maybe look at for this question.**

14 **But do you see any connection between foot**
15 **traffic and tourism around the waterfront with foot**
16 **traffic and patronage around the Westlake Center area?**

17 A. No.

18 **Q. Are they connected at all in your opinion?**

19 A. No, I think not. I mean, we're a good eight
20 blocks from the proposed park. It's all up hill.
21 Always has been.

22 I think the choices of people that want to shop
23 in the retail core, I don't think that necessarily
24 there's an interest -- there's any interest from being
25 on the waterfront to climb those stairs and come up

1 those corridors.

2 It's much easier to simply take a bus into the
3 city of Seattle or park your car in the variety of
4 parking stalls and parking facilities that are right
5 there in that Westlake area.

6 **Q. In your opinion, will the waterfront**
7 **improvements have any bearing on the fair market value**
8 **of the Century Square Retail Building?**

9 A. No.

10 **Q. How about the Pike/Pine improvements?**

11 A. No. I'd say that -- they are going to replicate
12 what's already there.

13 **Q. Do you have -- I think you spoke earlier about**
14 **this, but do you have any familiarity with the special**
15 **benefit assessments for other properties in the Westlake**
16 **Center area?**

17 A. Yes. I think I've read the information that's
18 been presented already, yes.

19 **Q. Do you feel, given your knowledge and experience**
20 **with the real estate market in Seattle, did you feel**
21 **that the Century Square Retail's Special Assessment was**
22 **comparable or proportional to those other properties?**

23 A. Well, no, I don't believe it was.

24 **Q. Why is that?**

25 A. Well, I think I've seen the valuations that were

1 placed on the other properties.

2 And to have larger buildings, more capacity to
3 develop property, which we don't have, it's -- it's
4 totally backwards that our property on a square-footage
5 basis would be assessed what it was comparatively to
6 those properties which were assessed -- excuse me --
7 assessed less than ours on a square-footage basis.

8 MR. STILLWELL: Thank you.

9 No further questions.

10 HEARING EXAMINER VANCIL: Cross?

11 CROSS-EXAMINATION

12 BY MS. THOMPSON:

13 **Q. Good morning.**

14 A. Good morning.

15 **Q. What type of retail stores are in the building?**

16 A. In the Century Square Retail Building?

17 **Q. Yes.**

18 A. There are soft goods, items -- for example,
19 Abercrombie & Fitch clothing, Dr. Martens, Vans®, the
20 spa in the second level. That's been the usage of this
21 property since the 1920s.

22 It's been always retail. A variety of kinds of
23 retail. But currently it's soft goods and items like
24 that, yeah.

25 **Q. So by "soft goods," you mean, like, clothing**

1 **stores or shoe stores --**

2 A. Right.

3 **Q. -- things of that nature?**

4 A. Right.

5 MS. THOMPSON: No further questions.

6 HEARING EXAMINER VANCIL: Any redirect?

7 MR. STILLWELL: None.

8 HEARING EXAMINER VANCIL: Thank you.

9 You may step down.

10 All right. You have a -- is it Mr. Scott

11 that's coming back?

12 MR. STILLWELL: Yes.

13 HEARING EXAMINER VANCIL: Okay. We'll take
14 a break until 10:30.

15 MR. STILLWELL: Thank you.

16 (A break was taken from 10:18 a.m. to 10:34 a.m.)

17 HEARING EXAMINER VANCIL: Return to the
18 record.

19 Objectors.

20 MR. STILLWELL: Thank you.

21 Objectors would like to begin our discussion
22 for the Harbor Steps. We are mindful that the Harbor
23 Steps have four separate parcels, each with a different
24 appeal number.

25 I can read those for the record, and I've

1 provided for the record a similar property summary.

2 If it's okay with the Examiner and with
3 Counsel for the City, we were thinking it might be
4 easiest -- our witnesses are prepared to talk about
5 Harbor Steps as a single unit.

6 And if we could incorporate the testimony
7 for each of the cause numbers, if there's a way to do
8 that, that might be sort of easier than going parcel by
9 parcel.

10 HEARING EXAMINER VANCIL: I mean, if you're
11 going to -- if you would make the same testimony per
12 parcel for all four, then speaking to them as a whole,
13 yeah, that is -- that's fair.

14 MR. STILLWELL: Okay. Wonderful. And the
15 reports that will be provided for the record as well
16 treat the property as one.

17 And so, for the record, Harbor Steps
18 includes the southeast tower, which is Parcel No.
19 197620076, which is Cause No. CWF-0427.

20 The southwest tower is Parcel No.
21 7666202465; and that's Cause No. CWF-0440.

22 The northeast tower is Parcel No.
23 1976200075; and that's Cause No. CWF-0426.

24 And, finally, the northwest tower is Parcel
25 No. 1976200070; and that's Cause No. CWF-0425.

1 HEARING EXAMINER VANCIL: And for 426, what
2 was the common reference name of the segment? Or you
3 had southeast tower, southwest tower. 426 was?

4 MR. STILLWELL: I'm sorry, are you asking
5 for the cause number?

6 HEARING EXAMINER VANCIL: No. I've got the
7 cause number, and I don't want the parcel number.

8 I'm asking you -- for each one of them you
9 indicated, for example, one it was the southeast tower,
10 that is 427, the southwest tower is 440, the northwest
11 tower 425. Is there some common parlance, reference
12 name for 426?

13 MR. STILLWELL: Oh, I'm sorry. Northeast
14 tower.

15 HEARING EXAMINER VANCIL: Thank you.

16 MR. STILLWELL: Yes. I'm sorry about that.

17 HEARING EXAMINER VANCIL: Okay.

18 MR. STILLWELL: And then, for the record, I
19 will also introduce the one-pager that has these -- this
20 data.

21 HEARING EXAMINER VANCIL: That will be
22 Exhibit 30.

23 MR. STILLWELL: And objectors would like to
24 recall Mr. Ben Scott via Skype.

25 HEARING EXAMINER VANCIL: Is he going to

1 call?

2 MR. STILLWELL: I believe he -- yes.

3 MR. SCOTT: Hi.

4 HEARING EXAMINER VANCIL: There he is.

5 This is a new camera system, so we're still
6 working out bugs, obviously. But it seems to ostensibly
7 move per speaker but not very quickly. It gets stuck.

8 So I want to make sure that the witness can
9 observe those who are asking questions.

10 Looks good. Thanks.

11 And, Mr. Scott, you remain on oath from
12 earlier.

13 MR. STILLWELL: And the objectors would like
14 to introduce Mr. Scott's report -- appraisal review
15 report for the Harbor Steps.

16 HEARING EXAMINER VANCIL: Marked as
17 Exhibit 31. All right.

18

19 BENJAMIN SCOTT, witness herein, having been
20 previously sworn on oath,
21 was examined and testified
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. STILLWELL:

25 **Q. Good morning, Mr. Scott. Thanks for being back**

1 **with us.**

2 A. Sure thing.

3 **Q. Did you conduct an appraisal review for Harbor**
4 **Steps that is subject to the Proposed Final Assessment?**

5 A. I did.

6 **Q. And is that review the report just admitted into**
7 **evidence? Into the record. I'm sorry.**

8 A. I believe so, yes.

9 **Q. Please describe the Harbor Steps property.**

10 A. So Harbor Steps, it's a total of four towers
11 built on a relatively large retail pedestal that sort of
12 circumvents a very large, what the architects call, the
13 "grand staircase."

14 I think you have the Urban Land Institute case
15 study of that that describes it in very great detail, I
16 think.

17 But, essentially, it is a total of 758
18 residential units on top of almost 82,000 square feet of
19 retail square footage. It spans between First Avenue
20 and Western Avenue.

21 It was long ago commissioned as a connection
22 between downtown and the waterfront as well as Pike
23 Place Market and Pioneer Square. And so it -- the
24 development included the stairs known as the Harbor
25 Steps as well as the residential and retail components

1 of the towers.

2 **Q. Thank you, Mr. Scott.**

3 MR. STILLWELL: And for the record,
4 Mr. Scott is referencing an Urban Land Institute case
5 study on the Harbor Steps which goes into this history.
6 He references it in his study, and we've highlighted
7 portions of the study that are relevant for the
8 proceedings.

9 HEARING EXAMINER VANCIL: Marked as
10 Exhibit 32.

11 BY MR. STILLWELL:

12 **Q. Mr. Scott, what information did you rely upon in**
13 **conducting your assessment -- or I'm sorry -- your**
14 **appraisal review of Harbor Steps with regard to the LID**
15 **assessment?**

16 A. I think I previously discussed I walked the LID
17 improvements, including the sidewalks. I visited the
18 property. I walked it. I looked at its rent roll and
19 operating expenses as well as information in the market
20 at large, including overall vacancy, rents, et cetera.

21 **Q. How does the Harbor Steps' current location**
22 **impact its potential to benefit from the waterfront**
23 **improvements?**

24 A. In theory, relatively greatly. In practice, it
25 puts it at a competitive disadvantage. I mentioned that

1 the property was originally designed to connect the sort
2 of four corners of the downtown core at that point, so
3 connect downtown to the waterfront; connect Pioneer
4 Square to Pike Place Market. And then with that public
5 staircase, the grand staircase, which has the tiered
6 retail, was designed to leverage the community using
7 those stairs or walking through Post Alley between the
8 two poles there.

9 And so with this location there, it -- it is
10 really -- essentially, the waterfront LID is replacing
11 that as the connection. It is moving the connections
12 north and south. It's improving the connection between
13 downtown and the waterfront and improving the
14 waterfront.

15 So Harbor Steps, which at great expense to
16 Mr. Bullitt, was developed with that in mind, is
17 essentially now the City saying, "That's such a good
18 idea, we'll do it everywhere else."

19 That essentially puts the property at -- not a
20 great position to leverage improvements that are
21 happening elsewhere.

22 **Q. So turning specifically to the improvements**
23 **for this -- for the LID project, how will the Union**
24 **Street pedestrian improvements affect Harbor Steps?**

25 A. The Union Street improvements are -- that's the

1 improvement of the stairway along the -- it's adjacent
2 to the Four Seasons. And I think if you are going to
3 look at pages 5 and 6 of my report for the -- there is
4 some imagery there.

5 **Q. Is this the first page of pictures --**

6 A. Yes.

7 **Q. -- in your report?**

8 A. Correct.

9 HEARING EXAMINER VANCIL: And that report,
10 again, is Exhibit 31.

11 MR. SCOTT: The top image is the existing
12 conditions at Union Street. So that is -- and this
13 image is taken directly from the presentation on the
14 waterfront.

15 What you can see is essentially a parking
16 lot. At the far end there's a very steep narrow
17 stairwell. It is not ADA compliant.

18 And then behind the tree at the top right
19 there, just past that entrance, is another relatively
20 steep narrow stairwell up to the Four Seasons. That's
21 the existing condition.

22 On the next page of that compares with, say,
23 Harbor Steps which is the next image. I'm sorry.

24 On the next page this is the potential for
25 the redesign. And so what you see is a vast improvement

1 in Union Street connection here. The stairs are --
2 they've been brought out.

3 Essentially, they are directly accessible
4 from the waterfront, so you are not crossing the parking
5 lot. As someone who has carried a toddler on his back
6 up those stairs in the existing condition, this is a big
7 amenity improvement.

8 That improvement, of course, is a block
9 north of Harbor Steps. And so instead of the -- facing
10 the Harbor Steps, having a bunch of that traffic, you
11 are going to move it to the Union Street connection.

12 Also, the view on that final image, that
13 Union Street connection is now visible from the
14 waterfront essentially.

15 Harbor Steps is a block away. And so it's
16 at the -- behind buildings. So it's much more -- the
17 view from University where you would travel up Harbor
18 Steps was much more consistent with, say, the before
19 conditions of Union Street.

20 So once you get a block away from the
21 waterfront, Harbor Steps looks very nice. The Union
22 Street connection is its after condition now is
23 immediately visible. It's embodied. It has -- there's
24 proposed public art, et cetera. It's a big difference.
25 It's going to draw pedestrians away from Harbor Steps,

1 and it's an option of moving between the waterfront and
2 downtown.

3 BY MR. STILLWELL:

4 **Q. And in your opinion, by moving pedestrian**
5 **traffic away from Harbor Steps and towards the Union**
6 **Street connector, how will that impact the Harbor Steps**
7 **property value?**

8 A. I think that reducing the number of people who
9 travel in front of your retail establishments has a
10 tendency to affect their sales, which has a tendency to
11 affect their rents.

12 So as people don't walk by your property
13 anymore, you're -- it's not as appealing.

14 **Q. And turning now to Pioneer Square, how will the**
15 **Pioneer Square improvements impact Harbor Steps**
16 **properties?**

17 A. Pioneer Square, of course, is -- Harbor Steps
18 was designed to connect Pioneer Square to Pike Place
19 Market.

20 Pioneer Square is a retail, you know, and a
21 tourism hub.

22 The improvements that are proposed to Pioneer
23 Square are dramatic in terms of streetscape
24 improvements. This is -- I return to the IMI,
25 the improvementness of it, essentially the streetscape

1 scale.

2 In the case of South Main, for instance, the
3 improvements are so dramatic that the study that I
4 included from Lineberger, which talked about increasing
5 levels and how that increases rents, the dramatic
6 improvement of that streetscape is going to improve
7 rents. And those, of course, don't happen in a vacuum.

8 Essentially, you are going to have the promotion
9 of the retail center in Pioneer Square and improving all
10 of those amenities.

11 Since they don't happen in a vacuum, there's
12 only a set amount of retail demand. It has to go
13 somewhere. And so that puts Harbor Steps at a relative
14 competitive disadvantage. It changes the center of
15 gravity for retail tenancy. And so pulling it south to
16 Pioneer Square will have a tendency to affect Harbor
17 Steps negatively.

18 **Q. And the Lineberger report you reference, is that**
19 **the walk this way report from the Metropolitan Policy**
20 **Program?**

21 A. It is, yes.

22 MR. STILLWELL: Introducing excerpt copies
23 of this report into the record.

24 BY MR. STILLWELL:

25 **Q. Can you please -- staying on that report,**

1 **because I think this is an important point, what will**
2 **the LID improvements do for Pioneer Square specifically**
3 **if you can speak to that unrelated to the Harbor Steps?**

4 A. So, specifically, I indicated that the IMI score
5 will be increased by at least one level for most of the
6 streets in Pioneer Square near the waterfront.

7 That level of IMI increase, we look at the study
8 that's included there. There's a table on -- and this
9 lists page 9 of that study.

10 HEARING EXAMINER VANCIL: We are now
11 referencing what's been marked as Exhibit 33.

12 MR. SCOTT: So that table. This is Table 3.

13 What you can see is -- that an improvement
14 of one level in the walk -- in the streetscape, this is
15 a 20 point in this case.

16 For our purposes, this is a much larger, so
17 it's a 12-point increase would be one level.

18 The average retail rent per square foot
19 increased by \$6.92 from an average of \$33.24. So what
20 you are seeing is according to this study, improvements
21 of this magnitude, the streetscape would have a tendency
22 to raise retail rents rather dramatically. Almost \$7 on
23 an average rent of \$33 per square foot.

24 So that's the kind of impact these
25 streetscape improvements might be considered to have in

1 the Pioneer Square neighborhood if we just considered
2 the streetscape improvements.

3 BY MR. STILLWELL:

4 **Q. And what impact does that dramatic increase in**
5 **improvement for Pioneer Square -- what impact does that**
6 **have on Harbor Steps and its retail facilities?**

7 A. As rents go elsewhere that signifies -- rents go
8 up as a function of demand for the space. So what the
9 demand is happening is the demand is going to be
10 perceived to be increased in the Pioneer Square area.

11 As you draw retail traffic away from the
12 property, what happens is it becomes relatively less
13 desirable. One would expect the rents to potentially
14 decrease or vacancies to increase at the subject
15 property in terms of their retail tenancy.

16 **Q. Thank you.**

17 **And what -- you spoke again about the IMI.**

18 **What is the IMI impact of the improvements --**
19 **the LID improvements to Harbor Steps?**

20 A. If anything, it will reduce it. They are a
21 relatively high consideration. But the Harbor Steps and
22 its frontage streets are not being improved in the LID.

23 So, once again, you make a property -- by
24 improving other frontages, you are essentially
25 relatively decreasing the status of the frontage there.

1 **Q. So what -- what impact does other properties**
2 **having an increased IMI than Harbor Steps having the**
3 **same or reduced IMI?**

4 **How does that impact the competitive nature**
5 **between those properties?**

6 A. The new -- the improved properties will be
7 relatively more desirable to Harbor Steps.

8 **Q. How will the LID improvements affect pedestrian**
9 **retail at Harbor Steps itself?**

10 A. I think given what we talked about in terms of
11 the improvements to the adjacent walkways and retail
12 tendencies, it's going to reduce traffic which is going
13 to have a tendency to reduce sales. Which means it is
14 less -- relatively less desirable to retail tenants,
15 which has a tendency to drag down rents or drag up
16 occupancy rates.

17 **Q. What is your understanding of the -- beyond**
18 **rates and -- and sort of market value, what is your**
19 **understanding of the -- the amenities that Harbor Steps**
20 **will enjoy from the LID improvements?**

21 A. I think they are relatively limited. The -- the
22 majority of the improvements are going to be either
23 focused on the waterfront, which is a block away. And I
24 think -- those improvements are relatively less
25 important to tenancy at Harbor Steps in terms of, say,

1 the multifamily portion, in terms of the retail
2 components, they are there as a function of pedestrian
3 traffic through the steps. The goal there is to
4 leverage the pedestrian traffic.

5 So the improvements, I think, as I -- I think
6 what I'm really suggesting is you're going to have a
7 tendency to reduce the pedestrian traffic which is going
8 to overall hurt the property.

9 With respect to the parks, that retail tenancy,
10 if anything, they're potentially harmed by that. This
11 is what we call -- Harbor Steps, as a -- as such a large
12 public space, is relatively difficult in terms of
13 perceptions of, I would say crime, homelessness,
14 vagrancy, issues that are concerns to certain tenants.
15 And I think the city -- people in the city at large have
16 become concerned with that.

17 I would also point out that there's -- excuse
18 me -- that the proximity to the park and with large
19 paved spaces -- and this goes -- the Lind study, large
20 paved spaces don't add a premium to the value. They
21 have a tendency -- he says that the park doesn't
22 introduce a view which is different from the rest of the
23 city.

24 **Q. I would like to state that when you reference**
25 **the Lind study --**

1 A. Hold on. I'm sorry.

2 **Q. -- and that's assessing the effects of parks on**
3 **surrounding property values.**

4 A. Correct. Yes, sir.

5 MR. STILLWELL: Introducing this into the
6 record as well.

7 HEARING EXAMINER VANCIL: Marked as
8 Exhibit 34.

9 BY MR. STILLWELL:

10 **Q. I'd like to stay on this point for a moment.**

11 **On the second-to-the-last page of this study,**
12 **which is page 87, at the bottom you've highlighted text.**

13 **Could you please read that highlighted section**
14 **and explain how park facilities with paved surfaces --**
15 **how that relates to this discussion?**

16 A. So it says the park features associated with
17 open grassy and large water view are preferred.

18 Park facilities with paved surface and concrete
19 structure on the other hand are more likely to have a
20 negative impact on property values. And this can be
21 because they are not introducing a view much different
22 from the rest of the city.

23 So Harbor Steps is, of course, a paved stairway.
24 The view of the waterfront amenities from the stairway
25 are going to be relatively occluded, and so all that

1 improvement is essentially -- it's not typically going
2 to be associated with a premium according to Lind's
3 documents.

4 **Q. So if amenities -- if the primary benefit of**
5 **amenities to a property are things like views and other**
6 **things that aren't structural, say, like with the Harbor**
7 **Steps which is already built out and has those**
8 **improvements, is there a reliance more on those types of**
9 **views for realizing its special benefit?**

10 A. Yes. I mean, that would be the other benefit to
11 the property. And in this case, I think what is
12 suggested is that's not much of a benefit. It is not a
13 benefit for the retail tenancy and it's not a benefit
14 for the multifamily tenants. They already have their
15 views and they are not frequenting nearby parks
16 particularly due to the profile of their tenancy.

17 **Q. Given your comments about the -- I'm sorry.**

18 **I would like to direct your attention to -- in**
19 **your report -- well, I can't find the text in front of**
20 **me exactly. Maybe you could point us to it.**

21 **But you discussed the concept of a disamenity in**
22 **your report. I was wondering if you could point to**
23 **where you discussed that in your report and then explain**
24 **that concept?**

25 A. So on page 2, the Section A, which is "Proximity

1 to Amenities."

2 So -- so -- I discuss it there. What is
3 mentioned there is the Crompton and the Troy studies.

4 Crompton was -- of course, Crompton is cited
5 in -- an earlier study by Crompton is cited by
6 Mr. Macaulay in his study. He has since -- Professor
7 Crompton has since revisited those studies given the
8 wealth of data and literature in the intervening period.

9 In 2020 he essentially revisited the property
10 that his original study did. And that was -- describes
11 that just amenity question.

12 I think I might have been -- that might have
13 been included in the previous testimony as an exhibit.

14 But the Crompton 2020 study, what it talks about
15 is the overwhelming studies overall found that there are
16 disamenities for being located next to a park.

17 And these are the -- and I'll quote from the
18 study there where such disamenities were attributed to a
19 variety of nuisances including congestion, street
20 parking, litter, and vandalism, noise and intrusive ball
21 field lights and groups engaging in morally offensive
22 activities.

23 So this is -- you like to have a park. But the
24 studies are finding is you like to have a park, but you
25 like it over there. You don't like it right next door.

1 That study repeated a figure that has a very
2 nice little piece of imagery which shows that the
3 premium -- the maximum premium of a park is a little bit
4 farther away than right next to it. And so that's what
5 that talks about.

6 The Troy study that is mentioned there, that's
7 an analysis of -- that sort of quantify that disamenity.
8 And it quantifies it in the face of perceptions of
9 crime.

10 If the perception is that crime is high, then
11 being next to a park is more disadvantageous and you
12 have -- in that study, they showed a relatively
13 extreme -- essentially a discount to properties that are
14 proximate to parks in face of perceived crime.

15 In this case they quantified it by a crime -- a
16 so-called crime index.

17 But what they found is that within about 300
18 meters of that park in the perception of prime -- of
19 crime, there's a relatively dramatic discount of
20 property. Property is less valuable for that proximity.

21 Harbor Steps, I think, is going to be subject to
22 some of those externalities; and then it's gonna have a
23 lot of a spillover issue.

24 **Q. And how does the Macaulay study treat proximity**
25 **to parks?**

1 A. It appears to treat it as just a solid benefit
2 across the board.

3 **Q. So does it discount at all for those**
4 **externalities that you were discussing?**

5 A. It does not. In my perception, looking at the
6 overall study, the higher -- the higher benefits are
7 more proximate to the park improvements.

8 **Q. And had those externalities being taken into**
9 **account, how would that have impacted, in your view, the**
10 **Special Benefit Assessment?**

11 A. The special benefit would have been reduced for
12 many of the properties more proximate, especially those
13 that front the parks and the waterfront improvements.

14 But -- as well as the -- the sort of pedestrian
15 access. So I do believe that the special benefit might
16 be overstated for properties that are within the
17 so-called disamenity zone that was found up to about
18 300 meters.

19 **Q. And in your review of the Macaulay study, did it**
20 **take into account the competitive disadvantage that**
21 **you're talking about with regard to the center of**
22 **pedestrian gravity moving more towards Pioneer Square**
23 **and Pike Place?**

24 **Does it discount for that externality at all?**

25 A. Not that I perceive. I show that it's viewed as

1 a net positive across the board.

2 **Q. And if the study had taken those externalities**
3 **into account, in your view, how would that have impacted**
4 **the Special Benefit Assessment?**

5 A. I believe -- in this property and in others, I
6 think it would have reduced the calculation of that
7 special benefit rather dramatically.

8 **Q. And my final question is, in your opinion, given**
9 **the different impacts that the improvements will have on**
10 **the different parts of the LID boundaries, what is your**
11 **view on whether the assessments were -- were**
12 **proportional to each other?**

13 A. I believe they weren't. So as I've indicated,
14 lots of improvements to competitor properties, I think,
15 are not being specifically valued.

16 As an overall sort of indication, Mr. Macaulay
17 valued Harbor Steps with special benefit of
18 approximately \$18,000 per unit.

19 And I used that as a unit of comparison for
20 other properties that are going to receive a -- what I
21 perceive to be a comparatively bigger benefit.

22 One such property is the -- was listed as the
23 Volta apartments. That has since been turned into
24 condominiums now known as "The Goodwin."

25 These are apartments that were located -- they

1 are located on Bell Street, so immediately adjacent to
2 where the Bell Street Park will be extended west.

3 So the Bell Street Park is a very nice,
4 pedestrian amenity, and it will move -- the improvements
5 adjacent to both -- if I fall back on my IMI scale, it
6 will move it from a Level 2 to a Level 3 streetscape
7 adjacent to those apartments. We've already seen what
8 that does to retail rents.

9 The benefit ascribed to the Volta property was
10 approximately \$4,000 per unit.

11 I think that's going to receive much more
12 extensive benefit than Harbor Steps will.

13 There are other properties that are being
14 developed nearby. The Cyrene Apartments. I -- there --
15 this is a new development, more proximate to the
16 waterfront amenities. They are also proximate to the
17 improvements along Western Avenue.

18 And in this case they will go from -- again,
19 back to the IMI. The streetscape will go from a Level 1
20 to a Level 2 with LID improvements. And that benefit is
21 less than that ascribed to Harbor Steps.

22 So it stands to improve its streetscape frontage
23 whereas Harbor Steps does not include that benefit and
24 that benefit is less than it was ascribed to Harbor
25 Steps.

1 **Q. And in your view, the -- the special benefit**
2 **assessments were disproportional for those reasons?**

3 A. They are. I have other examples of this as
4 well.

5 **Q. That's -- I think that's fine.**

6 MR. STILLWELL: I have no further questions.

7 Thank you, Mr. Scott.

8 HEARING EXAMINER VANCIL: Cross?

9 CROSS-EXAMINATION

10 BY MS. THOMPSON:

11 **Q. Hello, again, Mr. Scott.**

12 **Are you familiar with the USPAP standards?**

13 A. I am relatively familiar, yes.

14 **Q. Are the letters that you prepared in connection**
15 **with this LID Assessment prepared in accordance with**
16 **USPAP standards?**

17 A. They are not subject to USPAP standards, as I am
18 not an appraiser. They do not qualify as an appraisal
19 review. This is a review of property.

20 **Q. Thank you.**

21 **I believe earlier we've heard them described as**
22 **appraisal reviews.**

23 **So I wanted to clarify for the record that you**
24 **did not, in fact, prepare these in accordance with USPAP**
25 **Standard 3 or Standard 4; is that correct?**

1 A. That would be correct.

2 I don't believe I -- for the record, I would say
3 that I don't believe I have been in opposition of any of
4 the USPAP standards, nevertheless.

5 **Q. So I wanted to talk first about the Union Street**
6 **pedestrian connection improvements.**

7 **And so in the current condition your -- your**
8 **testimony just now was that at Union Street there is a**
9 **staircase; is that correct?**

10 A. Correct.

11 **Q. And after the LID improvements there will be a**
12 **staircase at Union Street; is that right?**

13 A. Correct, an improved one.

14 **Q. And the existing condition of Harbor Steps**
15 **includes a staircase; correct?**

16 A. Correct.

17 **Q. And that condition will remain the same after**
18 **the LID improvements; correct?**

19 A. Correct.

20 **Q. So with respect to the Union Street**
21 **improvements, we're talking about upgrades to an**
22 **existing condition, which is a staircase; is that right?**

23 A. I'm sorry. You cut out.

24 **Q. Sorry.**

25 **So the Union Street improvements are**

1 **improvements that upgrade an existing condition, which**
2 **is a staircase; is that right?**

3 A. Correct.

4 **Q. So at Union Street, there is already pedestrian**
5 **access from the waterfront up to the Four Season Hotel;**
6 **is that right?**

7 A. Yes.

8 **Q. And your conclusion assumes that these upgrades**
9 **to an existing staircase will divert pedestrian traffic**
10 **away from the Harbor Steps staircase; is that right?**

11 A. Yes. I -- I know I would divert.

12 **Q. And that opinion also assumes that pedestrians**
13 **using the Union Street improved stairs won't walk south**
14 **to Harbor Steps retail anyway; is that right?**

15 A. I think the assumption is that given the two
16 choices, relatively more will be diverted from Harbor
17 Steps.

18 So if the question is whether people will walk
19 up those stairs and down the Harbor Steps or vice versa,
20 I think one looks at the intermediary. Between those
21 two properties, there is essentially a high level --
22 relatively high level of retail amenities as it stands.

23 So we know that the center of gravity is being
24 shifted towards the waterfront and that Union Street is
25 immediately adjacent to Pike Place Market. So you can

1 walk out of Pike Place Market and then down or up those
2 steps. Harbor Steps is a block away.

3 I'm sorry if that didn't answer your question.

4 **Q. I'm just thinking about whether I could rephrase**
5 **it in a more specific way.**

6 **The way that I read your -- your letter is that**
7 **you've assessed how pedestrian traffic on Harbor Steps**
8 **staircase will be affected by the improvements to Union**
9 **Street stairs; is that right?**

10 A. I believe so. I've considered that, yes.

11 **Q. So in your opinion, improving the Union Street**
12 **stairs is going to cause pedestrians who are currently**
13 **using the Harbor Steps stairs to choose the Union stairs**
14 **instead and then proceed either up or down the stairs to**
15 **the waterfront or Pike Place Market?**

16 A. Yes. In my personal experience, I would make
17 that choice.

18 **Q. And so my question is, did you consider -- I**
19 **don't know if we would call it the lateral traffic**
20 **between the two points. And do you have an opinion**
21 **about whether people who are traveling to the waterfront**
22 **area, the Pike Place Market area, if the improvements to**
23 **the Union Street stairs would cause them to just stay in**
24 **that very specific area as opposed to walking up and**
25 **down First Avenue where there are lots of retailers and**

1 **different businesses that tourists frequent?**

2 A. I -- yeah. I'm sorry. The improvements to the
3 stairs that I think if you look at the improvements,
4 the goal -- this is the connection east/west. Right?

5 So if the question is, is it going to change
6 traffic on First Avenue?

7 I think the waterfront improvements, the whole
8 suggestion of the promenade, is that we're drawing
9 pedestrian traffic away from First Avenue, essentially.

10 And so -- well, is it possible that they will
11 walk up the stairs and then walk along First Avenue?
12 Absolutely.

13 Is the connection between the waterfront, which
14 is the site of most of these improvements and the
15 improvement of that connection to downtown going to
16 basically give pedestrians a choice between two -- well,
17 one stairway that was very nice and one stairway that
18 was not, now both are very nice.

19 Yes, that's going to reduce traffic, I think.

20 And the assumption that -- that, of course,
21 people will go up and walk along First Avenue laterally.
22 But given additional options, there's a set -- if we
23 assume the constant population of pedestrians, given two
24 equally good choices, they are going to essentially fill
25 both of those.

1 That's going to have a concomitant reduction in
2 the one that was already nice and experiencing a
3 majority of that pedestrian traffic.

4 **Q. Did you quantify the difference in value between**
5 **the before-and-after condition with respect to the stair**
6 **improvements?**

7 A. On Harbor Steps itself?

8 **Q. Yes, on the Harbor Steps.**

9 A. No. Mr. Macaulay attempted to do that.

10 As I indicated, it was a -- it was assumed to be
11 a net positive. His assumption was that I believe rents
12 would increase and vacancies would decrease. I did not
13 calculate that. I think that, as I've indicated, the
14 expectation is that potentially rents would decrease. I
15 did not calculate that.

16 **Q. And in your review, did you conclude that the**
17 **overall waterfront LID improvements which would include,**
18 **you know, the staircase upgrade, the waterfront park,**
19 **et cetera, that those improvements would increase**
20 **pedestrian traffic in the Harbor Steps area overall?**

21 A. I think the -- -- when I think about where
22 the pedestrian traffic is relatively likely to increase,
23 that's along the promenade, for instance, which is a
24 block away from the improvements.

25 As I indicated before, the Union Street

1 connection has better visibility from that promenade.

2 So I think that's how I did consider it. If we assume
3 that the population of the pedestrians will increase, if
4 you are getting a smaller share of the larger pie, has
5 your lot improved? I think the answer seems to be no in
6 this case.

7 **Q. So I want to talk now about the IMI scale that**
8 **you mentioned. And we now have a report.**

9 **This is the "Walk This Way" report that's been**
10 **marked as Exhibit 33.**

11 **And so earlier you were talking about the**
12 **improvements in the Pioneer Square area and how that**
13 **will affect the IMI scores of that neighborhood.**

14 **And just looking -- paging through this report,**
15 **it's -- it's talking about walkability and how**
16 **walkability has an -- an impact on economics, et cetera.**

17 **How -- how do you define "walkability"?**

18 **A. In that study, they define -- they use the IMI**
19 **score as a proxy for walkability.**

20 **Walkability -- and they discuss in here and**
21 **other people have discussed various scores of**
22 **walkability.**

23 **Walk Score is a -- is a famous one. That's the**
24 **one where you go to walkscore.com.**

25 **What they found, and that the IMI sort of gets**

1 around, Walk Score considers -- it's heavily weighted
2 towards the connection of amenities; so retail,
3 groceries, libraries, coffee shops, et cetera.

4 So something that's close to those is going to
5 have a high Walk Score.

6 Its IMI score may not be relatively high.
7 Because if you -- for instance, if you have no sidewalks
8 connecting you, the Walk Score might still be high, but
9 pedestrians are not going to make that trek, because
10 there's no sidewalk.

11 Seattle is relatively famous for having a lack
12 of sidewalks in certain neighborhoods where technically
13 the Walk Score is high, but people don't walk them
14 because of those lack of pedestrian amenities.

15 That study took as a proxy for walkability.
16 When they say "walkability," they quantify according to
17 the IMI score and then scale them according to your
18 average.

19 In this case, I did that -- I walked 44 segments
20 of the LID and considered their pedestrian amenities
21 according to the IMI. And that's where those scales
22 that I'm talking about come from.

23 So for Pioneer Square, it's relative -- on a
24 Walk Score basis, it's great. The connections to
25 amenities are very high. The pedestrian amenities

1 according to an IMI scale are relatively low given the
2 universe of sidewalk connections and pedestrian
3 amenities in the LID.

4 The after effect of the LID, those improvements
5 to the streetscapes make a relatively dramatic impact on
6 Pioneer Square's walkability, if we consider walkability
7 according to the IMI scale.

8 **Q. And did you also form an opinion about the**
9 **effect of the LID improvements on the Walk Score and the**
10 **IMI score of Harbor Steps?**

11 A. I -- the IMI score will be reduced at Harbor
12 Steps because in the -- as you improve the whole
13 population, the score of an individual property that
14 does not change will decrease.

15 The Walk Score will not change as a function of
16 any of these LID improvements. The Walk Score would be
17 affected by changes in tenancy. So if you add more
18 retail space -- so the Walk Score, to my
19 understanding -- and this is a proprietary algorithm, to
20 my understanding, the Walk Score will not change in the
21 before or after.

22 **Q. Did you calculate whether the IMI score of**
23 **Pioneer Square -- you said that it would be -- it is low**
24 **now, but it would be greater after the LID improvements.**

25 **Did you compare the IMI score of Pioneer Square**

1 **to the IMI score of Harbor Steps to see --**

2 A. Yes.

3 **Q. -- relative -- like, how do they compare after**
4 **the LID improvements?**

5 A. Sure. They were lower than Harbor Steps,
6 initially. They will be still slightly lower. The
7 difference is the change. Harbor Steps remains in a
8 level of 2.

9 So the change is -- there's no change. It's --
10 it's -- according to the Lineberger study, that would
11 put it -- and the Lineberger study, of course, won't map
12 to Seattle. But that would be essentially one --
13 Level 2 is one standard deviation below the mean.

14 Harbor Steps is in that category.

15 Pioneer Square at the time was a level -- before
16 condition is a Level 1 by and large. The improvements
17 will bring that up to Level 2.

18 So the improvement is one level. Harbor Steps
19 doesn't change in terms of its levels.

20 **Q. And going back to the Walk Score, as opposed to**
21 **the IMI, does Walk Score affect property values?**

22 A. It's been used as a proxy on occasion.

23 What we -- I think the data is not conclusive.

24 There was a study by -- there was a study based
25 on hotels and their influence on Walk Score, and that's

1 the proprietary number generated by walkscore.com.

2 What that found is in different places Walk
3 Score could be a function, but it was very specific to
4 property types and very specific to locations.

5 **Q. And what impact do street scrape -- streetscape**
6 **improvements -- pardon me -- have on the IMI score?**

7 A. So I mentioned there are 168 sort of variables
8 within the IMI score. These are -- the questions are --
9 it's things like, is it a one-way street, for instance?
10 Is there a curb bulb? Is the crosswalk properly marked?

11 So a higher IMI score has essentially -- it's a
12 suggested -- it's a more pleasant pedestrian experience.

13 So one would expect a higher IMI score to be
14 associated with essentially a happy walk, whereas a low
15 IMI score is an unpleasant walk.

16 What you have a tendency to find is that higher
17 IMI scores have higher pedestrian counts.

18 **Q. And after the LID improvements, assuming the LID**
19 **improvements are made, the IMI score for Harbor Steps**
20 **will still be higher than the IMI score for Pioneer**
21 **Square; is that right?**

22 A. Depending on the block, it will be
23 relatively consistent. There will become -- Pioneer
24 Square will go from much lower to relatively consider --
25 consistent with Harbor Steps.

1 I think -- the fact we're talking about levels 2
2 in this case, I mean, it's still one standard deviation
3 below the mean.

4 What that means is that in the universe of
5 sidewalk amenities within the LID, as they stand, Harbor
6 Steps is still -- despite all its quality amenities and
7 perceived nice walkway, it's still relatively low in
8 that universe.

9 **Q. So did you measure the difference in property**
10 **value to Harbor Steps as a result of the decrease in IMI**
11 **that you've projected?**

12 A. As I indicated, it wouldn't change -- it
13 wouldn't change from Level 2 to Level 2 [verbatim]. So
14 that, as a vague description, it's relatively the same.

15 What I did consider, I did not measure or
16 calculate, was the potential affect of changes in retail
17 rents.

18 **Q. You also stated earlier that properties in the**
19 **Pioneer Square area will be more desirable than Harbor**
20 **Steps as a result of the LID improvements; is that**
21 **right?**

22 A. That would be my perception.

23 **Q. Did -- in coming to that conclusion, did you**
24 **consider the factor of proximity to the waterfront?**

25 A. I did. If we considered the proximity of the

1 waterfront amenities in terms of the park, the parks are
2 farther north.

3 The main proximity, when I talk about Pioneer
4 Square, the connection to the waterfront is directly to
5 the, say, the ferry docks and things of that nature.

6 And so what you're not having is essentially a
7 big open park.

8 What you're primarily having are the streetscape
9 improvements and then the amenities in terms of parks
10 are actually further away in that case. They are in the
11 five to seven -- 500 to 1,000 meters distance in that
12 case.

13 Pioneer Square, I think, what you really observe
14 in terms of the LID amenity improvements, it's the
15 streetscape improvements there.

16 **Q. So, yeah, I understand your testimony just now**
17 **is that the LID improvement that is closest to Pioneer**
18 **Square are the streetscape improvements.**

19 **But my question is when making -- when drawing**
20 **your conclusion about the desirability of properties in**
21 **Pioneer Square versus the Harbor Steps property, did you**
22 **consider the fact that the Harbor Steps property is, as**
23 **you state in your report, 100 to 200 meters from the**
24 **water -- the nearest waterfront amenity?**

25 A. Yes, I did.

1 So what I said -- when I mentioned the distance
2 from the Pioneer Square improvements, what that means is
3 the negative externalities that I talk about that were
4 mentioned by Crompton and Troy.

5 Those are going to be relatively farther away,
6 which means they are not going to have those sort of --
7 they are not as likely to have the spillover effects
8 they are talking about there in Pioneer Square.

9 So the 1- to 200 meters that I'm talking about,
10 in terms of Harbor Steps, they are within that potential
11 disamenities zone of a park improvement for the
12 waterfront. Pioneer Square is outside of that zone, by
13 and large.

14 **Q. So you just mentioned the externalities that you**
15 **testified about earlier, which I believe were things,**
16 **like, homelessness and crime; is that right?**

17 A. Those are among the externalities that Crompton
18 discusses, yes.

19 **Q. And in your report you mentioned that Harbor**
20 **Steps currently has an issue with congestion; is that**
21 **right?**

22 A. In terms of traffic? I'm sorry. I'm not sure
23 of that. Congestion is one of the externalities that
24 might -- I mean, that's what -- Crompton talks about
25 congestion, so we can talk about the parking situation.

1 That's another factor that I think was not properly
2 characterized in the Macaulay study.

3 I didn't talk about it in detail there, but the
4 Crompton study appears to neglect, I think, the changes
5 to parking situations. Harbor Steps has private garages
6 for its tenancy primarily. Those secure garages have
7 been prone to security issues. Tenants have complained
8 about car break-ins in the secured garage.

9 When there's also -- the congestion has a
10 tendency to -- would have a tendency to block. One can
11 imagine more traffic on the street outside your garage,
12 that may be an annoyance to tenants. So congestion
13 currently is an issue. We know downtown traffic is
14 problematic.

15 **Q. So my question relates to pedestrian congestion.**

16 **So page 2 of your report under the waterfront**
17 **LID will not improve Harbor Steps' condition, Section A,**
18 **Proximity to Amenities.**

19 **Here, you've said that "Spillover affects, such**
20 **as congestion, street parking, litter, and noise have**
21 **been cited by Crompton. Many such affects already**
22 **present at Harbor Steps; privately maintained and**
23 **patrolled pedestrian plaza."**

24 **So my question is, is pedestrian congestion at**
25 **the -- the privately patrolled pedestrian plaza already**

1 **an issue for Harbor Steps?**

2 A. I would say traffic congestion on the streets
3 is. Pedestrian congestion is not really an issue,
4 typically. And that congestion in street parking of
5 course refers to the streetscape.

6 On the steps, litter and noise are an issue and
7 have been confronted by the Harbor Steps, essentially,
8 responsible for -- your security is responsible for
9 keeping trouble out of the steps and away from your
10 apartment and retail tenants.

11 And so congestion and street parking, I think,
12 are not -- those don't affect the pedestrians in my
13 experience.

14 **Q. But your opinion is that if the LID improvements**
15 **are built, pedestrian traffic will actually decrease at**
16 **Harbor Steps stairs; is that right?**

17 A. Yes, they will be given other competitive
18 choices. Pedestrians will.

19 **Q. So you also stated earlier in your testimony**
20 **that you believe that in the ABS study, ABS did not**
21 **account for the externalities related to being located**
22 **next to a park; is that right?**

23 **So if you were to learn that ABS did, in fact,**
24 **consider those externalities and changed the special**
25 **benefit allocated to Harbor Steps because of those**

1 **externalities, would your opinion about that change?**

2 A. Yes. If the report had considered that and you
3 could see that in the data, my opinion would change.

4 I think in the data, what you see, however, is
5 that the higher percentage values are the ones along the
6 Alaskan Way, for instance, or along Pike and Pine. So
7 the biggest value increases are directly adjacent to
8 those improvements.

9 **Q. And you also said earlier that you didn't see**
10 **that the ABS study took into account the competitive**
11 **disadvantage with respect to Pioneer Square and Harbor**
12 **Steps.**

13 **Would that opinion change if you learned that**
14 **the study did account for competitive disadvantages**
15 **related to the Pioneer Square improvements?**

16 A. It would -- if I learned that the study -- yeah,
17 had accounted for the -- yes, I would. I admit that the
18 study accounted for them.

19 **Q. And then you had talked about a property that**
20 **you looked at as a comparable property to examine sort**
21 **of the benefits that have been allocated, the Volta**
22 **property.**

23 **Where is that located?**

24 A. It's on -- it's west of First -- it's on First
25 and Bell essentially. It's in -- it's in the study, but

1 I'm not sure -- it's along Bell Street.

2 **Q. And you testified that the Volta property's**
3 **Special Benefit Assessment is lower than that of Harbor**
4 **Steps?**

5 A. Correct. It's at \$4,029 per unit. Harbor Steps
6 ranges from 14,790 per unit to 20,659 per unit.

7 **Q. And your opinion is that those two assessments**
8 **are inequitable or inconsistent based on the types of**
9 **buildings involved; is that right?**

10 A. The types of improvement under the LID. The
11 Volta is in a position to have an extensively improved
12 streetscape along its frontage on Bell Street.

13 They are going to turn it from what is a
14 relatively unpleasant sidewalk to a pedestrian park.

15 That's the type of thing that's going to have a
16 tendency to draw more traffic, for instance, ground
17 floor retail.

18 **Q. So you would expect -- would you expect that the**
19 **Volta property's Special Benefit Assessment be higher?**

20 A. Given the consideration of the LID improvements
21 to its immediate frontage; yes, I would think that it
22 would accrue a much greater benefit.

23 MS. THOMPSON: No further questions.

24 HEARING EXAMINER VANCIL: Mr. Scott, it
25 seems, based on your scope, that you studied the

1 proposed improvements from the LID and the vicinity of
2 the Harbor Steps properties; is that correct?

3 MR. SCOTT: Yes, sir.

4 HEARING EXAMINER VANCIL: Can you speak to
5 whether the LID proposes any improvements to University
6 Street between Alaskan Way and Western Avenue?

7 MR. SCOTT: I believe it does. The -- those
8 improvements are concomitant with the -- with the
9 extension of the promenade. But they do cease a block
10 from the -- from Harbor Steps.

11 So, essentially, they are not -- they don't
12 make it that block up. Union is -- if we look at the
13 map in -- the map in the benefit study addenda,
14 there's -- the purple outlines do not go up the
15 University Street, if you note.

16 HEARING EXAMINER VANCIL: Okay. So I'm
17 sorry. You first stated, you think, that they were.
18 But now you're saying that there are not proposed
19 improvements for that area; is that right?

20 MR. SCOTT: I'm trying to recall. The
21 improvements are to -- to Western there, right? I'm
22 sorry. To Alaskan --

23 HEARING EXAMINER VANCIL: Let me restate my
24 question.

25 The specific area I'm asking about is

1 University Street and whether there are proposed
2 improvements between Alaska and Western Avenue on
3 University Street south of the Cyrene building.

4 MR. SCOTT: I believe there are not.

5 HEARING EXAMINER VANCIL: Okay.

6 MR. SCOTT: I believe those are to the west
7 of Cyrene.

8 HEARING EXAMINER VANCIL: On Alaska Way?

9 MR. SCOTT: Correct.

10 HEARING EXAMINER VANCIL: Not on University?

11 MR. SCOTT: Correct.

12 HEARING EXAMINER VANCIL: Did you -- you
13 testified to various impacts that may result, as a
14 result of improvements.

15 Have you quantified the impacts of those
16 improvements proposed, for example, for Union which
17 you've indicated in your testimony will draw pedestrian
18 activity away from Harbor Steps to have a negative
19 impact on Harbor Steps.

20 Have you quantified the number of
21 pedestrians or the impact on value that that may have to
22 property on Harbor Steps?

23 MR. SCOTT: I did not quantify it, no.

24 HEARING EXAMINER VANCIL: Okay. Similarly,
25 have you quantified the impacts you suggested may happen

1 because of Pioneer Square improvements on Harbor Steps?

2 MR. SCOTT: I have not quantified them, no.

3 HEARING EXAMINER VANCIL: Okay. Have you
4 done any type of measurement of how those types of
5 impacts would impact the special benefit allocation and
6 its analysis?

7 MR. SCOTT: Not in detail.

8 HEARING EXAMINER VANCIL: Okay. Thank you.

9 MR. STILLWELL: I have nothing for redirect.

10 HEARING EXAMINER VANCIL: All right. Thank
11 you, Mr. Scott.

12 MR. SCOTT: Thank you.

13 MR. STILLWELL: Thank you, Mr. Scott.

14 MR. SCOTT: Okay.

15 MR. STILLWELL: Objectors are next going to
16 call Mr. Ed Leigh.

17 I understand it's 11:35. We can begin his
18 testimony as owner's representative. He's out in the
19 hallway with Mr. Lutz. I can go get him or we can break
20 and start his in the afternoon, whichever is preferable.

21 HEARING EXAMINER VANCIL: We've got time.

22 MR. STILLWELL: We've got time. Okay.

23 HEARING EXAMINER VANCIL: So what -- what's
24 your schedule for the day?

25 You've got Mr. Leigh. And how much time do

1 you anticipate on direct from him?

2 MR. STILLWELL: I believe about 30 minutes,
3 at most, with Mr. Leigh.

4 HEARING EXAMINER VANCIL: Okay.

5 MR. STILLWELL: And then we will have Brian
6 O'Connor, an expert testifying on behalf of Harbor Steps
7 as well.

8 HEARING EXAMINER VANCIL: And how much time
9 do you anticipate on direct for Mr. O'Connor?

10 MR. STILLWELL: Approximately half an hour
11 as well.

12 HEARING EXAMINER VANCIL: Okay.

13 MR. STILLWELL: And then those will be the
14 same three -- Mr. O'Connor, Mr. Scott, and Mr. Leigh --
15 who will also be testifying on behalf of Helios, a
16 residential zoned property. And I would expect similar,
17 if not shorter, testimony periods because we won't have
18 to cover foundational issues.

19 HEARING EXAMINER VANCIL: Right. Okay.

20 Let's go ahead with Mr. Leigh now, then.

21 MR. STILLWELL: Okay. I apologize. Before
22 I break, referenced in the exhibit list and in
23 Mr. Scott's report on Harbor Steps are -- and I believe
24 he might have mentioned them too in his testimony, two
25 additional studies for the record. "Walkability

1 Premium," and the final one is just the introductory
2 page to research paper from the journal --

3 HEARING EXAMINER VANCIL: Walkability
4 premium item will be marked 35. And research paper will
5 be marked 36.

6 MR. STILLWELL: I will go get Mr. Leigh and
7 Mr. Lutz.

8 HEARING EXAMINER VANCIL: And we have still
9 to be admitted Exhibits 28 through 36.

10 Any objections?

11 MS. THOMPSON: No objection.

12 HEARING EXAMINER VANCIL: Twenty-eight to
13 thirty-six are admitted.

14 (Exhibit Nos. 28 - 36 admitted.)

15 MR. STILLWELL: Thank you.

16 Mr. Lutz will be here shortly. And I
17 thought I would take the opportunity before Mr. Lutz
18 gets here to -- oh, actually, there are no exhibits for
19 this witness. Never mind.

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

22 MR. LEIGH: My name is Edward Leigh. That's
23 L-e-i-g-h. First name Edward, E-d-w-a-r-d.

24 HEARING EXAMINER VANCIL: Do you swear or
25 affirm the testimony provided in today's hearing will be

1 the truth?

2 MR. LEIGH: I do.

3 HEARING EXAMINER VANCIL: Thank you.

4 This is Mr. Lutz' witness?

5 MR. STILLWELL: Yes. He will be here in
6 just a moment.

7 [Pause]

8 MR. LUTZ: Good morning.

9 HEARING EXAMINER VANCIL: If I could ask
10 objectors, if they anticipate a delay or something in
11 between their witnesses, to let the Hearing Examiner
12 know so we're not sitting on the record.

13 MR. LUTZ: Apologies. We were trying to
14 follow your advice not to be in the room.

15 HEARING EXAMINER VANCIL: I appreciate you
16 following the advice, but we need to know what you're
17 doing --

18 MR. LUTZ: Okay.

19 HEARING EXAMINER VANCIL: -- so we're not
20 sitting here on the record.

21 MR. LUTZ: All right. So we would like to
22 call Ed Leigh.

23 MR. STILLWELL: He's sworn in.

24 MR. LUTZ: And he's all sworn in? Okay.
25 Perfect.

1
2 EDWARD LEIGH, witness herein, having been
3 first duly sworn on oath,
4 was examined and testified
5 as follows:
6

7 DIRECT EXAMINATION

8 BY MR. LUTZ:

9 **Q. Mr. Leigh, can you state your name for the**
10 **record?**

11 A. My name is Edward Leigh.

12 **Q. And where do you live?**

13 A. I live at -- in Seattle at 1301 First Avenue,
14 which is commonly known as Harbor Steps.

15 **Q. Okay. Now, we're here for the Harbor Steps**
16 **apartments.**

17 **So are you the representative for the taxpayers**
18 **for the properties that are subject to the Harbor Steps**
19 **assessment?**

20 A. I am. I am Vice President of Investments for
21 Equity Residential, which is the parent company of
22 Harbor Steps.

23 **Q. Okay. Can you talk about your educational**
24 **background?**

25 A. Sure. I have a bachelor's and a master's degree

1 in engineering from the University of Illinois and Texas
2 A&M University. And I worked in engineering for a few
3 years, and then went back for my Master's of Business
4 Administration at the University of Pennsylvania,
5 Washington -- sorry. University of Pennsylvania Wharton
6 School.

7 **Q. Okay. Did you have a focus in your MBA studies?**

8 A. I did. I focused in finance.

9 **Q. Okay. So let's talk about your business**
10 **experience.**

11 **After you got done with your MBA, what did**
12 **you --**

13 A. I worked in business consulting for several
14 years in various industries; one of which was the real
15 estate industry.

16 After several years of that, I -- in 2006, I
17 joined Equity Residential. So I've been there since
18 then.

19 At Equity Residential, I worked at the corporate
20 headquarters in our operations group for several years
21 where I did lots of operational initiatives and worked
22 on how we manage our expenses and our income and all --
23 operational facets of apartment ownership.

24 In 2018, I moved to Seattle to take
25 responsibility for -- for our Seattle portfolio, which

1 is about 40 buildings, 9,000 residential units here in
2 Seattle, which extends up to Snohomish County.

3 The majority are in Seattle proper, but we also
4 have assets on the east side in Redmond and Bellevue in
5 various suburban locations.

6 **Q. Anything south or is it Redmond, Bellevue north?**

7 A. Nope. I think the International District is
8 about the furthest south.

9 **Q. Okay. So -- so what is your now responsibility**
10 **in terms of managing these assets here?**

11 **How do you -- how do your responsibilities and**
12 **your finance experience relate to that?**

13 A. Certainly, I have full responsibility for P&L
14 for our --

15 **Q. P&L?**

16 A. Profit and loss on our assets here in Seattle
17 that involves both capital expenditure. So I have to
18 approve capital expenditure for any of the buildings.

19 I'm also involved in any transactions that we
20 do, purchases or sales, in the region. So I have to be
21 involved with those and approve those.

22 But I have responsibility for -- for all 9,000
23 of our residential units in the region here.

24 **Q. Okay. And how does -- how do you -- how does**
25 **Equity go about valuing these properties?**

1 A. We do an internal exercise every year where we
2 look at expenses and income, and cap rates at comparable
3 transactions.

4 We have very good intel on all transactions
5 throughout the region, because we -- we honestly look at
6 every -- not every -- but any multifamily building that
7 would be something that would be interested in owning,
8 we go through the process of valuing it and
9 understanding the cap rates.

10 And then we use that knowledge in our own
11 portfolio to come up with an estimate of value every
12 year for those buildings.

13 **Q. So you are looking both at whether to buy**
14 **buildings that are for sale and taking that information**
15 **in and incorporating it into your own analysis of your**
16 **portfolio?**

17 A. Right. It helps us to keep track of the market
18 value of our own buildings. It helps us to, you know,
19 understand the economics of buildings that are on the
20 market. And it helps us to understand performance of
21 those buildings over time as we keep, you know, ongoing
22 estimates of market value.

23 **Q. Okay. And do you have experience with**
24 **appraisals in connection with your properties?**

25 A. I do. We don't typically use outside appraisers

1 to come up with our business value. But there are many
2 instances in the portfolio where we are working on an
3 easement with a governmental organization, and they will
4 pursue an outside appraiser to value that so that we can
5 enter into an easement agreement or something like that.

6 **Q. So apart from that sort of transaction, when you**
7 **are doing your own investment decisions, you are making**
8 **your own calculations of value?**

9 A. Yes.

10 **Q. Okay. And how does your finance background play**
11 **into that?**

12 A. It's very helpful.

13 You know, I think understanding the financial
14 concepts is just an essential part of doing my job. But
15 a big part is also understanding the market and
16 understanding the economics of -- of real estate in the
17 Seattle market, which is very specific. So you have to
18 have both those pieces.

19 **Q. Okay. One of the interesting aspects of this**
20 **assessment process is that the valuations are based on**
21 **the hypothetical scenario that park improvements --**
22 **well, first of all, that the viaduct is down, the WSDOT**
23 **plan for street improvements is in place as a before**
24 **valuation in 2019; and then the after for purposes of**
25 **the calculation is that the park improvements instead**

1 **are completed and in place --**

2 MS. THOMPSON: Objection. Lack of
3 foundation.

4 BY MR. LUTZ:

5 **Q. -- in 2019. I would like to assume that.**

6 **All right. Can you explain your understanding**
7 **of the before and after valuation that's used in the**
8 **appraisal process?**

9 A. Yeah. I mean, my understanding in discussions
10 and questions that I've had answered is that -- what the
11 Assessor did was determine a before value, which is --
12 includes the viaduct being removed, which happened this
13 past summer.

14 But also includes the -- the reconstruction of
15 the Alaskan Way over the corridor. But just not the
16 upgraded finishes and features of the park.

17 And so that scenario was used for the -- before
18 scenario and the after scenario has the park fully in
19 place. So that means, bike path, landscaping, finishes,
20 and open for business.

21 **Q. Okay. And -- and do you know when the -- when**
22 **those -- those alternative scenarios are assumed to be**
23 **in place?**

24 A. I think from -- from -- I think it's right now
25 or basically in the first year of the LID that those --

1 that those scenarios are assumed to both be concurrent.

2 **Q. Okay.**

3 A. Because that's when we are -- the LID will --
4 the taxes will start.

5 **Q. Okay. What is your involvement with this LID**
6 **process?**

7 A. I've actually been fairly involved. I was quite
8 involved in reviewing the preliminary assessment when it
9 came out.

10 We had -- I and another group of owners had
11 discussion with the City about the LID.

12 The -- most of the owners' biggest concern with
13 the LID, in addition to the, you know, the assessments
14 and how much that was, was -- will -- will the park be
15 maintained and operated well so that it is really an
16 amenity to the real estate around there.

17 Because a lot of -- a lot of the owners had
18 concerns that if it's not, it could actually be a
19 negative and could cause security issues, sanitation
20 issues, that type of thing. If there is not adequate
21 thought put into the -- thought and followthrough put
22 into the park.

23 And so I've actually -- am a member of the --
24 was nominated by the mayor as a member of the -- the
25 oversight, the park oversight committee which will be in

1 force as we start to build the park. To make sure that
2 the standards are met, maintenance and operations
3 standards and that we are kind of achieving what we hope
4 to with the park.

5 So I guess to go on from that, I was very
6 familiar with the preliminary assessment. When the
7 final assessment came out, I was actually quite
8 surprised, because the valuation of the -- the special
9 benefit for our properties had gone up significantly and
10 there was very little explanation of what -- what would
11 have caused that scenario.

12 So as I look through all of our properties, the
13 increases in the special benefit went up between 10 and
14 20 percent.

15 And I -- I didn't understand, I guess, why, you
16 know -- what the difference was between the preliminary
17 and the final and how that could -- could cause our
18 benefits to go up as much as they were assumed there.

19 In looking into it a little more deeper, a lot
20 of the valuations were increased substantially between
21 the preliminary study and the final study.

22 **Q. Okay. And by the way, we kind of jumped over**
23 **this, but could you describe and identify the four**
24 **parcels that --**

25 A. Sure.

1 **Q. -- that comprise Harbor Steps?**

2 A. Harbor Steps is four residential apartment
3 towers with apartments on the top levels and retail at
4 the ground level, substantial retail component.

5 But overall, it's 759 residential units split
6 into four towers.

7 The addresses are 1301 First Avenue, which is
8 Parcel No. 1976200075.

9 The Northwest Tower is 1306 Western Avenue, and
10 that's parcel 1976200070.

11 The largest tower is Southeast Tower at 1201
12 First Avenue; and the parcel number is 1976200076.

13 And the final is the Southwest Tower at
14 1212 Western Avenue, Parcel No. 7666202465.

15 **Q. Okay. And you said that it is 759 multifamily**
16 **units.**

17 **Is there any other -- are there any other**
18 **components of the --**

19 A. Yeah. The -- the four -- the four towers flank
20 a public right-of-way steps, which is an open space that
21 is privately owned and maintained by our company, but is
22 available for public passthrough.

23 So it's actually one of the -- right now, it's
24 one of the, I guess, most attractive points to pass down
25 from First Avenue down to the waterfront.

1 So we do get quite a bit of foot traffic through
2 Harbor Steps of -- of people that are moving, you know,
3 from the -- the central business district from the Pike
4 Place Market/First Avenue down to the waterfront.

5 **Q. And you have -- so back to -- back to the**
6 **question.**

7 **So in addition to apartment users, are there any**
8 **other users -- user types in the four apartments?**

9 A. Certainly. There -- there's retail in several
10 of the apartments -- or several of the towers. We have
11 a component of office space in one of the towers. We
12 have two office tenants there. We have several
13 restaurant tenants in some of the retail space and
14 services and hard goods retail.

15 So we have quite a collection of retail space at
16 Harbor Steps.

17 **Q. And what part of that, if you know, is sort of**
18 **serving the needs of tenants versus more citywide or**
19 **tourists?**

20 A. Yeah. I think our biggest retail spaces are
21 restaurants, so that absolutely services our tenants.

22 And I think people live at Harbor Steps because
23 they have access to both our restaurants on site and,
24 you know, restaurants and amenities throughout the city.

25 We have the -- the dry good retailers, clothing,

1 stuff like that. It is probably more the customer basis
2 is a little bit wider, so it probably includes tourists
3 and people working in the city as well.

4 **Q. Okay. And how long has Equity Residential owned**
5 **these apartments?**

6 A. We purchased Harbor Steps in 2005.

7 **Q. Okay. So let's -- we talked a little bit about**
8 **the -- your involvement with the preliminary study and**
9 **then negotiations of the security measures.**

10 **Let's talk about the current valuations, the**
11 **before valuations for the Harbor Steps parcels.**

12 **Do you agree with those assessments?**

13 A. No. The -- when we look at the before values,
14 they are considerably higher than we would expect to get
15 in any kind of reasonable transaction for the -- for the
16 property as a whole.

17 So we -- we don't agree that -- with the before
18 values.

19 **Q. Okay. Can you -- if you can elaborate, that**
20 **would be helpful.**

21 A. So I guess I would say that the -- the viaduct
22 coming down was a benefit for us. So when the viaduct
23 came down, it's not necessarily just access to the
24 waterfront, it was really more due to the noise of the
25 traffic.

1 Living in the high-rise towers, you would start
2 to hear traffic coming through quite loudly on the
3 viaduct at 5:00 in the morning. So that was kind of a
4 big detriment to -- to the location.

5 And as soon as the traffic on the viaduct -- as
6 soon as it was closed and traffic stopped, the whole
7 area became much quieter, much more pleasant.

8 So we have seen some benefit from the viaduct
9 coming down. I would say that there's some incremental
10 benefit to having better access to the waterfront. But
11 the main benefit to our property is that the noise has
12 subsided considerably in that area. We had --

13 **Q. Is the construction still an issue or is that --**

14 A. The construction is -- is a little bit of an
15 issue, but I think -- right now, like, for example, they
16 are working on moving the Alaskan Way way over, so it
17 makes it a little more difficult to get to the
18 waterfront.

19 But I really don't feel like people live in our
20 building -- their primary reason for living there is not
21 to have access to the waterfront. It's primary to
22 having access to the amenities in the city,
23 particularly, you know, Pioneer Square, First Avenue,
24 Pike Place Market. People that live there live there
25 because they have jobs. They want access to

1 transportation. They want, you know, a quiet place to
2 live in the city where they can have access to all these
3 amenities.

4 So I -- I would say that having the construction
5 on the viaduct is an incremental inconvenience to
6 people, but I don't know that they -- you know, it's not
7 like they are going to the waterfront every day. That's
8 more of a thing that I think people tend to go, you
9 know, on the weekends or, you know, every couple weeks
10 when they are getting out to enjoy the city.

11 It's not as important as -- as the amenities on
12 First Avenue, their jobs, things that people do every
13 day when they live in the city that -- that benefit us.

14 So I guess the final point I wanted to make on
15 that is that the property does have very good views, and
16 that wasn't really changed by the viaduct or the park.

17 We have great views of the waterfront, and a lot
18 of people also come there for the, you know, the
19 high-rise living experience with -- with views of the
20 city and views of the waterfront.

21 **Q. All right. And you -- you're talking on this**
22 **one from personal experience; right?**

23 A. Yes, I am. I --

24 **Q. You live in Harbor Steps?**

25 A. I live there. And I live in Harbor Steps. I've

1 lived there with my family for almost a year now, and we
2 love the views. We love being in the middle of the city
3 and having access to all these amenities. And we do go
4 to the waterfront. It is not a daily occurrence. It's
5 more of a weekend thing or -- or, you know, every couple
6 weeks we'll go down and walk along the path.

7 **Q. Okay. Talk about the tenant -- the type of**
8 **tenants you have in the apartments.**

9 A. Mm-hmm.

10 **Q. Are they -- you said they are mostly there to**
11 **work business.**

12 **How long do they typically rent for?**

13 A. We offer primarily 12-month leases. And there
14 are a lot of people that come -- move to Seattle, and
15 they want this kind of obvious place to live because
16 it's in the center of things. A lot of people will come
17 and live for a year.

18 Our average tenancy is probably somewhere
19 between one and two years. We do have a few long-term
20 residents.

21 But for the most part, you know, it's kind of a
22 stepping-stone as they move into -- as they, you know,
23 move to Seattle, learn their way around, enjoy the
24 downtown area and sometimes move out to, you know, a
25 neighborhood or a suburb depending on what their life --

1 life dictates.

2 **Q. Okay. Well -- and so if the average tenant is**
3 **there, what, a year and a half?**

4 A. I would say around that amount.

5 **Q. And so would you anticipate current tenants**
6 **paying more to rent your apartments based on the fact**
7 **that there's going to be a park there in 2024?**

8 A. No. I think very few -- very few people are
9 making their decision based on that. A lot of people
10 aren't aware of the schedule of the park. They know
11 it's coming. But, you know, they are -- when they --
12 when they come to look at Harbor Steps, they are looking
13 at what's there today. Not something down -- five years
14 in the future.

15 **Q. Okay. Did you have -- did -- did the City's**
16 **appraisal team ask to -- to interview you or inspect the**
17 **property as part of the --**

18 A. Not with respect to the LID.

19 **Q. Okay. So back to these values. You said it**
20 **was -- you said they were over -- that the -- that you**
21 **thought the values were too high.**

22 **Do you have -- have you quantified any amount by**
23 **which you think they are too high?**

24 A. It ranges. And it -- it -- the difference
25 between the preliminary and the final was a little bit

1 hard to comprehend too. Because between the final and
2 the -- or between the preliminary and the final, some of
3 the buildings went up in value -- in before value by
4 10 percent. Some of them went up by 20, 25 percent. So
5 it didn't really make a lot of sense, the changes from
6 preliminary to final, to us.

7 But, you know, I would say, typically, most of
8 the before values that we see in the LID are on the
9 range of 10 to 25 percent higher than what we would
10 expect those buildings to transact for.

11 **Q. And you said -- you said that the rents went --**
12 **the rents went up because of the viaduct going down. So**
13 **it's not like there hasn't been an increase in value?**

14 A. Right. Yeah. Right. If you were to look back
15 to Harbor Steps in 2018, you know, the values would have
16 been significantly less than that.

17 And part of that is just, you know, downtown
18 rents have been good. The viaduct going away has made
19 the area more attractive. So we did get increased rents
20 in 2019.

21 **Q. Okay. And can you talk about the drivers for**
22 **your -- for your apartment rentals over maybe the past**
23 **five years?**

24 **Well, you only came in 2018, but before that you**
25 **were managing finance.**

1 A. Yeah. Right. No, I have a fairly good
2 understanding of the, you know, recent history of the
3 market.

4 And I mean, the value of the buildings and the
5 rents are really driven largely by supply and demand,
6 which, in this case, is heavily due to the, you know,
7 tech job -- technology jobs in Seattle. There's been
8 just, you know, incredible growth of population in
9 Seattle, but also high paying jobs.

10 And that is really kind of the number one driver
11 that we think of is driving our rents forward.

12 Just, you know, an example of -- how -- how
13 quickly that relationship and how much of a driver that
14 is, is that -- there was a time in late 2017 where
15 Amazon was kind of -- which has a lot of jobs in the
16 city which was-- Amazon kind of announced they were
17 pulling -- they were putting some of their job hiring on
18 hold and slowing down until they kind of re-strategized.
19 And the effect on rents was immediate and quick. As you
20 see fewer people moving to town for those high-paying
21 tech jobs, the rents started to go down. And we
22 struggled throughout 2018 because of that.

23 Because what we had was the job growth was a
24 little bit slower and there were a lot of new product
25 coming online. And so that's -- that's what -- that's

1 the formula for slower rent growths in this business.

2 And as -- as the job -- the jobs pick up, the
3 job growth picks up in the city; that's when we see the
4 rent growth pick up.

5 **Q. And so has it again? I mean, you've gotten --**

6 A. It has. It has. Yeah, I think Amazon has a
7 record number of technology job postings right now,
8 like, 11,000.

9 And as we see people, you know, moving into town
10 for those jobs, that's where we start to see rent
11 increasing.

12 **Q. Okay. Speaking of that shorter cycle, can**
13 **you -- you said you started at Equity in 2006?**

14 A. Yeah.

15 **Q. Can you talk about the -- the five-year cycles**
16 **in the real estate market from 2006 to today?**

17 A. Yeah.

18 **Q. That you've experienced.**

19 A. Certainly, yeah. I -- I was fairly new in the
20 real estate industry back in 2006.

21 And we saw a downturn of -- you know, in --
22 2007/2008 with the housing crisis and the mortgage
23 issues with housing. And it really -- it did affect the
24 apartment business. Probably more than it should have,
25 because at that point in time, as rents were dropping,

1 as people were defaulting on mortgages, you know, real
2 estate companies were struggling just to, you know, make
3 their payments and stay alive.

4 So the focus was really much more on do I have
5 enough capital to keep operating and that I'm not going
6 to default on my loans? And the transaction market and
7 the liquidity of assets just kind of froze.

8 And at that point in time, you know, we're a
9 public company, our stock price declined over
10 50 percent. And, you know, it was just -- it was kind
11 of a scary time for the industry because you didn't know
12 if it was going to come back and how long it was going
13 to be.

14 Fortunately, for the apartment industry, all of
15 the, you know, mortgage foreclosures and people losing
16 their houses meant people moved to apartments and the
17 business recovered faster than other sectors of the
18 economy. But it still took people a long time to get
19 trust in the business.

20 So, you know, it wasn't until 2013 to 2016 where
21 we actually saw investment really start to ramp-up in
22 the apartment business. And, you know, then you saw
23 rents kind of increase disproportionately at that point
24 because there wasn't a lot of product built in the --
25 you know, after the downturn to around 2013.

1 **Q. And let me just stop you there.**

2 **So what you said, if I interpreted it right, you**
3 **just kind of -- you can amplify on it.**

4 **People were moving into apartments so the**
5 **apartment business was strong, but the investors were**
6 **still nervous, so you weren't getting --**

7 A. Right.

8 **Q. -- new supply until later?**

9 A. Yeah. And there's a long period of, you know,
10 when you start to develop a building and go through the
11 permitting process to when you actually bring that
12 building online, that creates these imbalances because
13 of this timing lag.

14 And so you can see very massive turnarounds in a
15 short period of time. And I think, you know, our
16 economy has been very good for the last five years. And
17 a lot of people in the real estate business are
18 concerned that, you know, any kind of negative event or
19 macroeconomic factor could turn that to the opposite
20 direction.

21 So I think those of us been around for a while
22 have seen how that can change very quickly, and you can
23 go from a great market to a market where everybody is
24 trying to cover their expenses.

25 **Q. Right. Well -- and, actually, back to your**

1 **2018, you talked about the -- the temporary pause in**
2 **rental rates because of the Amazon hiring pause?**

3 A. Mm-hmm.

4 **Q. Were there any other factors, supply and demand**
5 **in the apartment? You said people --**

6 A. Yeah.

7 **Q. -- didn't want to invest until 2016, so.**

8 A. Right. Yeah. Right.

9 So, I mean, part of that was, you know, you had
10 people investing in new construction for apartment
11 buildings, which really ramped up 2013 to 2016. Those
12 buildings started coming on line in 2015 and 2016.

13 So you have -- you had the -- the pull and the
14 push of less demand on the job site but also new
15 buildings coming on line in Seattle; and, ultimately, we
16 need those new buildings.

17 But very quickly you saw that -- that rents
18 dropped because new buildings coming on, a little bit of
19 a pullback in hiring and the economic conditions have
20 just flipped the other way.

21 **Q. Right. And so -- so in your experience, where**
22 **are we in this investment -- in the real estate cycle?**

23 A. We're -- we're definitely near the peak. Peaks
24 can go on for longer than people expect, and I think
25 that's happened so far. But I think almost every real

1 estate investigator is -- is, you know, aware that
2 there's bound to be a downturn in the next few years.
3 It could be this year. It could be next year. It could
4 be two years from now. And the good ones are -- you
5 know, the people that are wise are making -- making
6 provisions for that.

7 **Q. Call it a "rainy day fund"?**

8 A. A rainy day fund or not extending themselves too
9 far.

10 **Q. Right. And so that's within the next five years**
11 **is kind of that window you are looking at?**

12 A. Absolutely. Yeah.

13 **Q. Okay. So --**

14 **HEARING EXAMINER VANCIL: Mr. Lutz, how much**
15 **longer do you anticipate Mr. Leigh being in direct?**

16 MR. LUTZ: It could be as long as a half
17 hour. Probably more like 20.

18 HEARING EXAMINER VANCIL: Okay. We were --
19 the original estimate was to be 30 total.

20 MR. LUTZ: I'm sorry. Would you prefer that
21 we continue and --

22 HEARING EXAMINER VANCIL: I'm going to look
23 at that right now.

24 MR. LUTZ: Okay.

25 HEARING EXAMINER VANCIL: Let's continue

1 'til 12:30.

2 BY MR. LUTZ:

3 **Q. Okay. So let's talk about -- and you've**
4 **summarized -- you've talked about it in general in parts**
5 **of your testimony already. But let's talk specifically**
6 **about what special benefit, if any, Harbor Steps -- you**
7 **anticipate Harbor Steps will receive by the construction**
8 **of the new LID improvements?**

9 A. I guess I would say I do like the idea of the
10 park and I'm a supporter of the park. I think it's a
11 broad benefit to the City of Seattle and everybody that
12 lives here that will visit it.

13 When I look at our specific asset, I think
14 there's not a lot of special benefit to this asset for a
15 couple reasons.

16 One, I don't think multifamily apartment
17 buildings, you know, this is going to bring in tourists
18 and visitors. And it's great for a lot of industries --
19 hotels, restaurants -- but for our biggest business,
20 multifamily apartment building, it -- as a multifamily
21 apartment building, you know, we're driven by jobs, as I
22 explained.

23 Rents don't necessarily go up because we have a
24 tourist attraction a block away. And sometimes that can
25 be an -- actually a disamenity. If there's noise. If

1 it's not well cared for.

2 So I don't see a lot of benefit on -- to our
3 rental rates from the park. You would think that our
4 retail space would -- would get more traffic from a park
5 close by there. But the nature of this park is creating
6 more connections from Pike Market down to the
7 waterfront.

8 There's the Overlook Walk, a very expensive
9 structure that's going to make it much easier for people
10 to go from Pike Place Market down to the waterfront.

11 This is actually probably going to divert
12 traffic away from our property and our retail -- our
13 retailers.

14 It's because today one of the best connections
15 is to walk down First Avenue, cut through Harbor Steps,
16 get down to the waterfront.

17 People walking from Pike Market are going to
18 have the Overlook Walk, which is going to be a much, you
19 know -- a bigger connection. A clear connection in the
20 waterfront.

21 They are going to have the Union Street
22 connection, which is going to be improved. And so I
23 think it's likely that fewer people will actually make
24 it all the way down to Harbor Steps and cut through and
25 use our retailers. So we are concerned about our retail

1 space.

2 And like I said, we don't see a lot of -- a lot
3 of benefit on the rental rate side just because of the
4 park. And there's a potential for -- that it -- that it
5 can be a nuisance if it's not well cared for.

6 **Q. Right. So if you assume it is well cared for,**
7 **you would -- you are kind of assuming net neutral for**
8 **the apartments and potential detriment to the retail?**

9 A. Yeah, I think so.

10 **Q. Okay. I might be able to -- so let's talk about**
11 **2019 again. You've already said you didn't get any**
12 **rent increase -- you are not getting rent increases**
13 **because of the parks potentially coming in 2024.**

14 **What does an assessment -- a current tax**
15 **assessment do to the value of the Harbor Steps project?**

16 A. Well, a tax -- a debt owed immediately is an
17 immediate hit to value.

18 So, you know, if -- if we have an assessment
19 coming up that's 5 million, any buyer is going to look
20 at that and say I'm going to offer you 5 million less
21 than I would because of that -- that liability coming
22 up.

23 Now, the other option is to finance the --
24 finance the assessment over, I think, a period of 18 or
25 20 years.

1 **Q. You are talking about what the -- the offer you**
2 **have from the city is to do the financing over that**
3 **period?**

4 A. Right. Right.

5 So, you know, in that case, that adds kind of an
6 additional obligation which, is an ongoing cash flow
7 agreement that we would have agreed in to with the City.

8 So any buyer would look at that as, you know, an
9 increase to property tax expenses over that time and
10 reduce the value accordingly.

11 **Q. And have you made calculations of that potential**
12 **value loss?**

13 A. Yeah. Since the financing is fairly expensive
14 in this case, it actually kind of -- if we were to
15 finance it at that rate, it would add to the -- to the
16 value -- to the reduction in value of our -- of our
17 buildings there.

18 So for Harbor Steps, that's the four parcels.
19 We kind of assumed that -- about 6.5 million, if a buyer
20 were looking at that, where we agreed in that financing,
21 about 6.5 million would be the reduction in value.

22 **Q. And how did you calculate that?**

23 A. We looked at what the cap rate is that we would
24 expect to get on a building like Harbor Steps.

25 We -- we assumed 4.4 as the cap rate on Harbor

1 Steps because it is a -- it's not a liquid asset because
2 it's such a big asset. And it is a lot of -- it's a
3 20-year-old building. It has a lot of unknown capital
4 expense.

5 It has the steps going right down through the
6 middle which is a public benefit but a -- difficult to
7 maintain and expensive.

8 So any buyer is going to look at an asset like
9 that and not pay premium cap rates that they might for
10 an asset without -- that's a lot more simpler and not as
11 complex as that.

12 **Q. And we actually kind of veered into the cap rate**
13 **discussion. So is 4.4 -- do you understand how your --**
14 **how the LID valued your --**

15 A. I understand that the -- I don't know the exact
16 number, but I saw a lot of the cap rates that I've
17 been -- discussed with other owners that -- that
18 understand how the LID was calculated was that the cap
19 rates were around 4 percent for buildings like this.

20 So I would assume if -- if Harbor Steps was
21 valued at the 4 -- at a cap rate of 4, or 4 percent,
22 that would actually take about 7.2 million off of our
23 value.

24 **Q. Okay. So at -- so you're experiencing a current**
25 **value loss because of the LID of about six-and-a-half**

1 **million --**

2 A. That's -- that's what --

3 **Q. -- by your estimate?**

4 A. -- were planning on.

5 **Q. I'm sorry. Go ahead.**

6 A. Yeah. We would estimate at 6.5 million.

7 **Q. And translated to 7.2 if you did the analysis**
8 **the way --**

9 A. If you believe the cap rate used in the study.

10 **Q. Okay. And, again, you talked a little bit about**
11 **the retail being a little bit more challenged.**

12 **If you were doing something more sophisticated**
13 **with the cap rate for the retail would be the 4.4 or**
14 **would it be --**

15 A. We typically value retail on a 5.5 cap rate, so
16 that's significantly less valuable for the -- for the
17 income and space. And that's because retail in Seattle
18 is somewhat challenged right now. Restaurants are
19 having a hard -- harder time making ends meet.

20 There's more vacancy. The landlord has to put
21 out a lot more money in terms of -- just because of the
22 market, there's a lot of retail space out there for
23 rent. So a landlord would have to put out a lot of
24 money to the tenant to build out the space. And so, you
25 know, all those factors mean that the retail is not as

1 value -- not as valuable to us as the apartments on a
2 per-square-foot basis.

3 **Q. Okay. So do you feel there is an actual**
4 **measurable special value increase to Harbor Steps**
5 **attributable to the anticipated City LID improvements?**

6 A. I think there is a benefit to the entire
7 community.

8 And I think as -- as a property owner, there's
9 some -- there's some intangible benefit to, you know,
10 projects like this.

11 But it's very difficult to measure. I don't
12 think it is measurable. I don't expect it to be
13 substantial. And, you know, particularly on -- if we're
14 being assessed like this, I would like to understand
15 much -- with much more detail of what -- how the
16 assessments were calculated and -- and to have
17 confidence that it was done, not arbitrarily, but more
18 on a measured and definitive basis. So I'm skeptical of
19 the special --

20 MS. THOMPSON: Objective -- objection.
21 Nonresponsive.

22 HEARING EXAMINER VANCIL: Response to the
23 objection.

24 MR. LUTZ: I thought he answered my
25 question. I thought it was responsive.

1 HEARING EXAMINER VANCIL: In what way?

2 MR. LUTZ: I asked him what was the -- what
3 was his final -- well, okay.

4 What was his final view of whether there was
5 an actual measurable special value enhancement to the
6 property? And he described why he didn't feel that
7 there was other than intangible, and then he was
8 explaining why he felt that way.

9 HEARING EXAMINER VANCIL: Counsel?

10 MS. THOMPSON: He answered your question and
11 then continued to speak --

12 HEARING EXAMINER VANCIL: Direct your reply
13 to me.

14 MS. THOMPSON: Sorry.

15 The witness answered the direct question
16 that was asked of him, which asked: Do you believe
17 there is a measurable special benefit attributed to
18 Harbor Steps as a result of the LID improvements?

19 He answered that question and then went on
20 to discuss his views of the study that don't necessarily
21 relate to that specific question.

22 HEARING EXAMINER VANCIL: So your objection
23 is to the additional testimony.

24 MS. THOMPSON: Yes.

25 HEARING EXAMINER VANCIL: Sustained.

1 BY MR. LUTZ:

2 **Q. Okay. Let me ask it a different way and maybe**
3 **the opposite.**

4 **Can you talk a little bit more about Equity**
5 **Residential's view of agreeing to not oppose formation**
6 **of the LID and -- and -- and -- and your general view**
7 **with respect to --**

8 MS. THOMPSON: Objection. Lack of
9 foundation.

10 MR. LUTZ: I'm asking him to -- ask him --

11 BY MR. LUTZ:

12 **Q. Can you explain --**

13 **HEARING EXAMINER VANCIL: Are you responding**
14 **to the objection or --**

15 MR. LUTZ: Yes. I -- well --

16 HEARING EXAMINER VANCIL: -- rephrasing?

17 MR. LUTZ: I'm sorry.

18 HEARING EXAMINER VANCIL: You can either
19 respond to the objection or rephrase.

20 MR. LUTZ: Right. I can rephrase the
21 question.

22 BY MR. LUTZ:

23 **Q. Are you responsible -- are you primarily**
24 **responsible within Equity Residential for the management**
25 **and response to the proposed LID?**

1 A. Yes, I am.

2 **Q. And can you explain in more general terms, as**
3 **opposed to just whether there is an actual measurable**
4 **special benefit to this property, how -- how Equity**
5 **views the LID process and the proposed improvements?**

6 A. We -- we don't have a good understanding, and we
7 don't -- we haven't seen any evidence for the valuation
8 in -- in the -- in the LID assessment. We don't believe
9 that there is any benefit due to the park.

10 We feel like the primary benefit to our property
11 has been due to the viaduct coming down and due to the
12 job climate in Seattle. And -- and we support the park.
13 And we don't mind paying a special assessment to -- to
14 support it and to seek it built. We're not expecting a
15 direct return from that.

16 But we feel like the assessment that we were
17 given is not based on realistic values and is not
18 defensible in terms of estimating the value to our
19 property.

20 **Q. Okay.**

21 MR. LUTZ: I have nothing further.

22 HEARING EXAMINER VANCIL: How much time do
23 you need for cross?

24 MS. THOMPSON: I think we could do it in
25 five.

1 HEARING EXAMINER VANCIL: Go ahead. I would
2 like to give -- Mr. Leigh to not have to come back after
3 lunch.

4 MR. LEIGH: Thank you very much.

5 MR. LUTZ: With -- we would need to talk
6 about -- there are components of the Helios project
7 which he's also responsible for.

8 HEARING EXAMINER VANCIL: He's coming back
9 after lunch?

10 MR. LUTZ: He has to come back after lunch.

11 HEARING EXAMINER VANCIL: All right. Well,
12 let's try and wrap up this segment if we can.

13 MS. THOMPSON: Yes.

14 CROSS-EXAMINATION

15 BY MS. THOMPSON:

16 **Q. So you said that part of your job is to oversee**
17 **and track the value of the Harbor Steps buildings; is**
18 **that right?**

19 A. Yes.

20 **Q. And you mentioned that the rents for the**
21 **apartments in Harbor Steps went up after the viaduct**
22 **came down; is that correct?**

23 A. That is correct.

24 **Q. Have you internally run a valuation of the**
25 **Harbor Steps buildings after the viaduct has come down?**

1 A. Yes, we have.

2 **Q. And have you retained an appraiser for Harbor**
3 **Steps as part of this LID objection proceeding?**

4 A. Yes, we have.

5 **Q. Who is that?**

6 A. It's Brian O'Connor.

7 **Q. Has he prepared individual appraisal reports for**
8 **the properties?**

9 A. He has for Harbor Steps. I'm not sure what
10 the -- what the formal title of the report is. But he
11 has -- he has prepared an appraisal of the property.

12 **Q. So -- and when I say "appraisal of the**
13 **individual properties," I'm speaking about -- he's**
14 **determined what the market value of the properties**
15 **are --**

16 A. Yes.

17 **Q. -- is that right?**

18 A. Yes.

19 **Q. So you said that you have internally determined**
20 **the difference in market value between before the**
21 **viaduct and after the viaduct.**

22 **Did the value of the Harbor Steps properties go**
23 **up after the viaduct came down?**

24 A. They did. I would say it's not entirely due to
25 the viaduct coming down. But there's -- you know, other

1 factors in supply and demand that have caused an
2 increase in rents.

3 **Q. You also mentioned on direct that the City**
4 **didn't contact you or the Harbor Steps property owner to**
5 **obtain information as part of the study process.**

6 **Did you submit information to the City?**

7 A. We did interact with the City on a temporary
8 construction easement that had to do with the removal of
9 the viaduct. But we didn't submit financial information
10 to the City based on that.

11 **Q. And so just with respect to the preparation of**
12 **the ABS study, which deals with valuing --**

13 A. Mm-hmm.

14 **Q. -- the properties, did you submit any**
15 **information independently to the City?**

16 A. To my knowledge, we didn't.

17 MS. THOMPSON: No further questions.

18 HEARING EXAMINER VANCIL: Any redirect?

19 MR. LUTZ: No. Thank you.

20 HEARING EXAMINER VANCIL: Okay. We will
21 adjourn and return at 2:00 p.m.

22 (A luncheon recess was taken
23 from 12:32 p.m. to 2:00 p.m.)

24 HEARING EXAMINER VANCIL: We are on the
25 record. I'm here.

1 MR. LUTZ: I'm wondering if we should have
2 this discussion on the record or should we go off for a
3 second?

4 HEARING EXAMINER VANCIL: So we're on the
5 record.

6 MR. LUTZ: Is there a way to go off the
7 record while we're in front of you.

8 HEARING EXAMINER VANCIL: Not when I'm here,
9 no.

10 MR. LUTZ: Okay.

11 HEARING EXAMINER VANCIL: I mean -- I can
12 leave and come back, and I have some guidance on what
13 we're doing. It is two o'clock and we're returning.

14 MR. LUTZ: Yeah. There's just -- there's --
15 we have -- there is some -- there is -- there is some
16 information that Mr. Macaulay wants kept confidential.

17 And we have an agreement, generally, I think
18 about how we can question Mr. O'Connor about the
19 information that was provided or not. We have agreed
20 not to introduce it as an exhibit.

21 HEARING EXAMINER VANCIL: So are you
22 requesting to go off the record so you can work out with
23 opposing counsel on how to address testimony of the
24 upcoming objector witness?

25 MR. LUTZ: Well, I was actually on the

1 record explaining what we were dealing with.

2 HEARING EXAMINER VANCIL: So you are not
3 asking for time to go off the record?

4 MR. LUTZ: Well, I -- would it help to
5 have a quick --

6 MS. THOMPSON: I think it would, yes.

7 MR. LUTZ: Yeah. Okay. If we could go off
8 the record.

9 HEARING EXAMINER VANCIL: We will go off the
10 record.

11 Mr. Edlund-Cho will get me when you're
12 ready.

13 (A break was taken from 2:05 p.m. to 2:08 p.m.)

14 HEARING EXAMINER VANCIL: We'll return to
15 the record with objectors' next witness.

16 MR. LUTZ: The Harbor Steps Apartments call
17 Brian O'Connor.

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

20 MR. O'CONNOR: Sure. Brian O'Connor.
21 B-r-i-a-n. O, apostrophe, -c-o-n-n-o-r.

22 HEARING EXAMINER VANCIL: And do you swear
23 or affirm the testimony you will provide in today's
24 hearing will be the truth?

25 MR. O'CONNOR: I do.

1 HEARING EXAMINER VANCIL: Thank you.

2
3 BRIAN O'CONNOR, witness herein, having been
4 first duly sworn on oath,
5 was examined and testified
6 as follows:
7

8 DIRECT EXAMINATION

9 BY MR. LUTZ:

10 **Q. So, Mr. O'Connor, can you describe your**
11 **education.**

12 A. I've got a Bachelor's Degree in Economic
13 Geography from the University of Washington. And then
14 two years of graduate school at the University of
15 Washington in the same field.

16 And I -- when I was a graduate student, my -- my
17 master's thesis was changing land use on the Seattle
18 waterfront.

19 So I did a lot of research about the changes
20 over from '60 to '70 to '80 about how all the land use
21 changes have been on the waterfront and stuff. So I
22 kind of always followed that a little bit.

23 **Q. Okay. And your current employer?**

24 A. Is myself. O'Connor Consulting Group.

25 **Q. Okay. Have you worked for other appraisal**

1 **people in the past?**

2 A. I have. I've worked for one other firm named
3 Rees, R-e-e-s, & Associates.

4 **Q. Did you do any other work besides appraisal**
5 **after you were done with your graduate thesis?**

6 A. No. I went straight into the appraisal world.

7 **Q. Okay. Have you reviewed the Macaulay special --**
8 **Final Special Benefits Study?**

9 A. Yes, I have.

10 **Q. Okay. Are you familiar with mass appraisal**
11 **studies?**

12 A. I am familiar with them. I have never done one.

13 **Q. Okay. What about a special benefits analysis?**

14 A. I'm familiar -- I've done a number of
15 condemnation work where we have to consider if there's a
16 special benefit. But, frankly, in most cases there's
17 really not. So I haven't had to deal with that too much
18 over the years.

19 **Q. And have you ever found a special benefit?**

20 A. Probably. I couldn't tell you which assignment,
21 but probably. Yeah.

22 **Q. Okay. I'd like to show you a document.**

23 **Can you tell me what that is.**

24 A. Yes. This is my appraisal review document for
25 the Harbor Steps Apartment.

1 **Q. Okay. And so is this a review of the mass**
2 **appraisal study as it pertains to the Harbor Steps**
3 **Apartments?**

4 A. Yes. It's an appraisal review of -- of his
5 report.

6 MR. LUTZ: Okay. I'd like to offer this as
7 the next exhibit.

8 HEARING EXAMINER VANCIL: Thirty-seven.

9 MR. LUTZ: Thirty-seven. Okay.

10 BY MR. LUTZ:

11 **Q. So can you describe the Harbor Steps apartment**
12 **properties.**

13 A. Certainly. Harbor Steps is a very large
14 apartment project, as apartment projects go.

15 It consists of four -- four buildings, all would
16 be considered high-rises of some sort.

17 I think one 16-story, 17-story, 25 stories, and
18 28 stories. They were built in the '90s. Considered
19 one of the premiere assets for downtown as far as
20 apartments go. A little old now, but a good property.

21 **Q. Now, with respect to the Macaulay special**
22 **benefit study, can you describe what you understand to**
23 **be the purpose of that assessment and the purpose of**
24 **that assessment with respect to Harbor Steps Apartments**
25 **in particular?**

1 A. Yes.

2 My understanding is to -- that the purpose of
3 the ABS mass appraisal study was to determine what the
4 special benefit would be to each individual property
5 within the zone that they identified, which is primarily
6 all of Downtown Seattle; I-5, the waterfront, Denny Way
7 to Yesler, down by the stadium. So that basic core --
8 to see -- and that -- that report would then be the
9 basis of the tax increases to fund the improvement of
10 the park and the waterfront.

11 **Q. Okay. When you looked at the Macaulay study,**
12 **did you -- what investigation did you do besides reading**
13 **the study?**

14 A. Well, of course I looked at both properties. I
15 went down and looked at the buildings to refresh myself.

16 **Q. When you say "both properties," you are talking**
17 **about Harbor Steps --**

18 A. Oh, yeah.

19 **Q. -- and Helios?**

20 A. Because when they hired me, I did both. Yeah.

21 **Q. Okay.**

22 A. Yes. Of course, at Harbor, is four buildings.
23 All four buildings.

24 **Q. Correct.**

25 A. And then part of the assignment was -- because

1 the Macaulay appraisal starts with a before value.

2 So part of the assignment was to determine if
3 that was a reasonable before value.

4 So I've -- Equity Residential provided me with a
5 rent roll and last year's operating expenses so I could
6 test the numbers and kind of see what -- how his
7 valuation looked compared to what probably would be a
8 more accurate, because what I'm familiar with mass
9 appraisals, it's very difficult for an appraisal to
10 really nail down every single property in a mass
11 appraisal the way a normal appraiser would do. He's got
12 a lot to do. Right?

13 So they are a little more generalized, let's
14 say. So mine was much --

15 **Q. More margin for error?**

16 A. Yes, large margin for error. That's why you
17 should be a little conservative when you use that
18 method.

19 So I was able to test those numbers against his
20 before value and then look at how he implemented the
21 rate of special benefit and look at what -- his
22 methodology.

23 And if I read what his methodology or if I saw
24 any problems with the methodology and compared that to
25 the benefit that's actually happening and determining

1 whether that was -- whether that was reasonable.

2 **Q. Okay. So let's talk a little bit more about the**
3 **before value.**

4 **What's your understanding of how the before**
5 **value was defined?**

6 A. Well, in the original study, his mass appraisal
7 report, there was no detail in there how any of that was
8 done.

9 So when I was doing that part of it, I just knew
10 what his base value was or his before value was, but I
11 didn't know anything about how he got there.

12 It wasn't until just recently that we got the
13 spreadsheets, the confidential spreadsheets that we're
14 talking about that I could look at what he did so I
15 could see, like, oh, now I understand how he got from A
16 to B, let's say.

17 So I -- my opinion on that was his -- his rental
18 analysis was actually -- for not having the rent roll
19 and such was pretty accurate. He was a little bit high,
20 I thought, on his rents.

21 Where I think his overvaluation really showed up
22 was in his expenses, operating expenses; things like
23 taxes, insurance, payroll, maintenance, that kind of
24 thing. He was significantly low on those. Which if you
25 have low expenses, then that boosts up the value. And

1 then he -- so then he calculated an NOI. Rents minus
2 the expenses, NOI, and then he applied a capitalization
3 rate of about four --

4 **Q. We're not -- just stop.**

5 A. Oh, wait. Yeah. Yeah.

6 **Q. Without using the numbers.**

7 A. Yes. Too low of a capitalization rate. Much
8 lower than the capitalization rate that I would apply.

9 So the combination of little bit higher rents,
10 which is probably insignificant, much lower expenses,
11 and, in fact, the expenses weren't even somewhat equal
12 among the four buildings, which I found to be a
13 little -- little kind of strange.

14 So that boosts up the NOI. And then you apply
15 an aggressive cap rate on it, you end up with a high
16 before value.

17 **Q. Okay. Well, and --**

18 A. It's too high.

19 **Q. Yeah. Okay.**

20 A. Much too high.

21 **Q. And so what -- if the before value is high, how**
22 **does that filter through to affect the overall Special**
23 **Benefit Assessment?**

24 A. Well, I'll jump ahead a little bit. The Special
25 Benefit Assessment, he -- the appraiser determines what

1 that benefit is, whether it's 1 percent, 2 percent, 3
2 percent. But they are applying that to the before
3 value.

4 So if your before value is inflated, and then
5 you apply your 2 percent or 3 or whatever number you're
6 applying, it amplifies that affect. It's not just
7 2 percent or 2-1/2 percent relative to the reasonable
8 value, but enhanced value. So it pumps that all up and
9 it leads to a much higher -- much higher assessment --

10 **Q. Okay. So --**

11 A. -- than you would have otherwise.

12 **Q. And so commenting on the before value, again, do**
13 **you -- do you know what improvements the City's**
14 **appraiser has assumed to be completed within the before**
15 **value that the City has used?**

16 A. Can you restate that, please?

17 **Q. Do you understand that the before value assumes**
18 **removal of the viaduct, as an example?**

19 A. Oh, yes. Yes.

20 **Q. So can you explain what you understand the**
21 **before value to be and the date of valuation to be?**

22 A. Yes. I believe his date of valuation was
23 October of '19.

24 And -- of course, there's -- there's an
25 underlying assumption that the viaduct is down, right?

1 And then he does the before without -- without the LID
2 improvements, the park. And he does it after by --
3 usually you do it a different way. It's not -- that's
4 why I thought his methodology, he didn't get comps that
5 affect the park and then solve for it.

6 He actually just took the before and said I
7 think it's a factor of X and I'm applying that to that.
8 And he relied on those park studies and stuff to get the
9 percent change.

10 **Q. Okay. So let's move to the question of special**
11 **benefit.**

12 **Can you describe now, in general terms, how the**
13 **special -- how he distinguished between -- the before**
14 **and the after to identify a special benefit?**

15 A. If he -- he established the before based on his
16 understanding of rents and expenses and capitalization
17 rate, and then he relied on a study or two about the
18 enhanced market value of properties that are close to or
19 adjacent to a park. And he used those studies to
20 determine what -- let's call it what the premium would
21 be or the factor would be.

22 So he has a before value, he -- he uses these
23 studies to determine whether it is 1, 2, 3 percent, and
24 he applies that to the before value to show what the
25 special benefit would be. What the enhanced value would

1 be.

2 When I -- when I read that, I was like, oh,
3 that's kind of -- I didn't expect that, because usually
4 I think as an appraiser, we would expect to see more of
5 a matched paired, kind of go, well, here's properties
6 that sold that were by a park and here's ones that were
7 not. Or here is the incomes on properties near parks
8 versus the income of properties not near parks to help
9 determine that delta. That's kind of what I thought I
10 was going to see. So I was a little surprised about the
11 park thing. It seemed -- seemed a little weak to me.

12 **Q. When you say "weak," can you talk about the**
13 **difference between professional judgment and -- and**
14 **judgment based on paired sales?**

15 A. Yeah, it was very -- I'll say qualitative
16 instead of quantitative. And I think as appraisers, we
17 kind of lean towards the quantitative side of things a
18 little more. I mean, we have to put in our -- a little
19 bit of judgment about quality and character of
20 locations. But I -- like I said, I thought there would
21 be an analysis of here's buildings next to parks and
22 here's their rents versus the same kind of building
23 without it and you could solve for a delta. And go, oh,
24 the rents are whatever, 2 percent higher or 3 percent
25 higher, then you could apply that. That's what I

1 thought.

2 But he used the park studies, and he's just --
3 he's kind of a little subjectiveness about how he's
4 applying the benefit of the -- of the park to the -- how
5 the buildings themselves are gonna benefit.

6 And I was -- I think I was also surprised, from
7 my understanding of it, Mr. Macaulay, he had a rendering
8 of what it -- what Alaskan Way and the park would look
9 like once it was there, but I believe when he did his
10 analysis, he didn't have the rendering of what it looked
11 like without it, if it was just the WSDOT improvements
12 and not the park.

13 So later -- when I did my work, I was able to
14 see that. And so you can kind of go, okay. So this is
15 the delta in terms of the Alaskan Way. The delta
16 between park/no park. And then you can make -- connect
17 that to what's the delta and the terms of valuation.

18 And it seemed his -- his assessment of the
19 benefit was really strong.

20 Part of it due to the before value of the
21 property being higher than it probably should be.

22 **Q. When you say "strong," you mean high?**

23 A. I mean high relative to what the delta is on
24 that park.

25 Frankly, I was a little surprised when I saw

1 that it's -- it wasn't -- in my mind I thought it would
2 be more significant than that.

3 And when I saw that, I was a little disappointed
4 that the park -- what is with the parks wasn't quite
5 what I thought it was going to be and it seemed less.

6 I would say this especially so down by the
7 Harbor Steps property. It's much more significant down
8 by the Pike Place Market. But down by Harbor Steps, it
9 didn't seem to be that significant.

10 **Q. So maybe describe qualitatively your assessment**
11 **of what part of these components could have -- could**
12 **likely have real estate impact.**

13 **You started to say up by Pike Place is more than**
14 **somewhere else.**

15 A. Well, yeah. The improvements proposed down by
16 Pike Place Market with the overlook and the ramp down;
17 those are significant. Those are very significant. And
18 I thought those were great.

19 But we're looking at the effect down at Harbor
20 Steps. And it's -- when I look there, it's -- you know,
21 the landscape looks like it changes, little -- some --
22 little more trees, little bigger trees, little bit more
23 grass. The loss of 450 parking stalls, which was
24 significant.

25 And I couldn't see anywhere in his report where

1 he talked about the effect of that, because that hurts
2 retail.

3 A little bit more -- actually, with the park, it
4 looked like actually a little bit more pavement or
5 pedestrian walkways, you know. So it just -- it just
6 didn't seem like it was in proportion to the increase in
7 value.

8 **Q. Did you see anywhere in the report where there**
9 **was any sort of quantification of any of those**
10 **individual components?**

11 A. No. No. Cause the -- his -- in the mass
12 appraisal technique, everything is kind of big picture
13 and aggregate. You don't get into too much detail, like
14 I said, not until I got the confidential spreadsheet
15 that I really see some detail.

16 But that was really just about the operation of
17 the building. So not that much, no. Not that much.

18 **Q. Can you comment on his -- on the -- on your**
19 **views about his -- his assumed valuation date that the**
20 **park improvements are done as of October 2019?**

21 A. Yes. And as appraisers, that -- you know, if
22 that's what the appraiser's instructions are, we want
23 you to make a hypothetical condition. I want you to
24 impose a hypothetical condition that the park is in
25 place for purposes of this analysis, that's perfectly

1 fine.

2 It happens once in a while, not a lot, because
3 most people who rely on appraisals don't want
4 hypothetical conditions in their valuations, but there
5 are purposes like this where it comes in.

6 So I had no problem -- I mean, it's fine. That
7 was his assignment; as of this date, what would it be?

8 What I didn't realize was that -- being that the
9 improvements were really four to five years out, if I'm
10 right.

11 **Q. Right.**

12 A. If I'm correct about that.

13 But the taxes would start right away. That,
14 I -- I thought was a little -- well, obviously these --
15 not just Harbor Steps, but any of these buildings are
16 not going to get any benefit for four years, but they
17 will be paying taxes for the four years.

18 So when I realized that, I was a little
19 surprised, I suppose.

20 **Q. And do you have any -- could you comment on the**
21 **assumption that the improvements are -- are constructed**
22 **as schematically presented in -- in light of the fact**
23 **that it has not yet gone through the entitlement**
24 **process?**

25 A. Well, again, if the appraiser is told we want

1 you to make these assumptions, that's hypothetical.

2 Okay. That's my assignment. That's what I have to do.

3 But if he didn't know really how much of a
4 change or how little of a change there was going to be,
5 he might have had a different opinion.

6 I'm not saying he would have a different
7 opinion. I certainly would have, being what I
8 originally thought it was going to be versus what I saw.

9 But -- but the fact that he was -- his
10 assignment was to make that assumption -- or
11 hypothetical condition that -- you know, that's his
12 assignment.

13 So again, I got no problem with that. It
14 happens. But you really need to know what it's going to
15 look like and that -- I'd probably at least mention in
16 my appraisal that these improvements haven't been
17 through the permitting process, they are not through
18 SEPA. They're -- you know, it probably will happen.

19 But the other thing that likely happens is they
20 change when they go through that process.

21 So he's making this hypothetical condition
22 because that's his assignment. I probably would have
23 said something like it could change. And if it does, it
24 may change my conclusions. He might have said that. I
25 don't know. I can't recall.

1 But knowing it takes four to five years to go
2 through this process and it can be litigated or argued
3 against, and it's probably -- I would probably -- it
4 would probably change, because that's just the nature of
5 things. It's probable not what -- really what you think
6 at the time. But again, in his defense, that's what he
7 was told, so.

8 **Q. So what about using that as a reliable indicator**
9 **of an actual measurable, special benefit accruing to**
10 **Harbor Steps from the anticipated improvements to be in**
11 **place five years from now?**

12 A. I'd have to say it wasn't measured. It wasn't
13 measured. That's what I expected to see, because
14 normally you would do the before and after, and the
15 difference between the two is -- is your delta and
16 that's your -- either special or general benefit.

17 He applies the different methodology, like I
18 said, where he used this park study to apply a factor.

19 So he didn't -- I think I said this in my
20 report. He didn't really solve for it the way we would
21 normally think an appraisal would solve for the issue,
22 solve for the special benefit. He just more or less
23 applied a factor to get to the special benefit.

24 That's why I said it's a little weak -- that
25 part of it was weak to me. It wasn't -- he didn't

1 really solve for it.

2 **Q. And, again, without going into the numbers in**
3 **the confidential report, did you see anything in the**
4 **before-or-after assessment there that -- that made it**
5 **look more reliable?**

6 A. In his report?

7 **Q. Yeah. His report now supplemented by you having**
8 **seen his confidential spreadsheet?**

9 A. Oh, no. Makes it less reliable, to me, because
10 now I know exactly why his before number was so high.

11 Before, I was like, wondering, how did he --
12 where did this come from?

13 Because I had really good data on the
14 properties. I had specific rent rolls and expenses. I
15 knew exactly what was going on.

16 And of course he didn't. I understand that.
17 When you do that, you don't have that. And that's one
18 of the weaknesses of this methodology. You can't really
19 drill into each property. It would take too long and
20 cost too much money.

21 So you have to sort of skim each one. Well,
22 when you do that, I would say it's the nature of the
23 beast. You're not going to be that accurate.

24 **Q. Well, let me ask about a different part of this.**
25 **You've looked at the spreadsheet and it has a before and**

1 **an after calculation.**

2 **Did you have more confidence in the -- in the**
3 **percentage that was being applied as a special benefit**
4 **having looked at that --**

5 A. No.

6 **Q. -- spreadsheet?**

7 A. No.

8 **Q. Can you talk a little bit about that.**

9 A. No. No. Because, again, by looking at how he
10 achieved or how he got to his before number, because it
11 became clear to me. Before, I could only kind of, like,
12 figure, what? How did he do this? Because it wasn't in
13 his mass appraisal.

14 So now I know what happened. So it's much more
15 concrete to me that it's -- that it's not accurate; and,
16 therefore, the final conclusion is not that accurate.
17 It just ripples right through to the math.

18 **Q. But do you -- and I guess to supplement that, is**
19 **there anything in the ripple through -- is there**
20 **anything else in the approach other than the ripple**
21 **through?**

22 A. Well -- oh, yes.

23 **Q. About the after that --**

24 A. It's the percent.

25 COURT REPORTER: Just wait for the question.

1 BY MR. LUTZ:

2 **Q. Yeah. She just wanted me to finish the**
3 **question.**

4 **So that -- that you would care to comment on**
5 **about how he's calculating the after without getting**
6 **into numbers?**

7 A. Well, we talked about the before. And
8 I under -- you know, we probably said enough of why I
9 think he was high. So that, it already threw it off.
10 And then he uses the park study to get a factor.

11 Now, the problem there is -- these -- these
12 factors, if I remember, total for the whole thing, went
13 from .5 percent to maybe 3.

14 Was it the highest one 3 or was it a little
15 higher than 3?

16 That -- for an appraiser, that is extremely
17 detailed. To me, it's like, whoa, how did you do that?
18 That's like splitting hairs on values. We're on
19 significant commercial property, our appraisers are
20 usually considered accurate if we're within -- if two
21 different appraisals are within 5 percent of each other.

22 So -- and that's kind of a standard industry
23 thing. We all know that. There's nothing special about
24 that.

25 And so he's applying these special benefit

1 factors that are just little slices of this at half a
2 percent or percent increments. And I know from reading
3 the study it was subjective.

4 It was a judgment call, and appraisers can make
5 judgment calls. That's part of our job. You know, you
6 like to back it up.

7 And maybe in something like this, with the
8 numbers being so significant, you would be a little more
9 conservative about those factors.

10 But the combination of being high in your before
11 and then applying these factors here, can I just pump
12 that -- pump that assessment up?

13 **Q. Okay. So in -- as your ultimate review, do**
14 **you -- do you believe that the Macaulay report has**
15 **accurately estimated the special benefits to the Harbor**
16 **Steps properties based on your review?**

17 A. No. No. And, in fact, you could
18 probably argument -- you could probably make the
19 argument it's not a special benefit. It truly should be
20 a general benefit, because it applies much broadly.
21 It's not -- special -- you know, in my experience,
22 usually LIDs are very, very specific to this road
23 enhancement or widening and you get better access; your
24 retail property has now got more traffic and there's
25 benefit. We're going to give you a curb cut. It's very

1 concrete. This one's not.

2 It's a little subjective. It's pretty powerful
3 when you apply -- even if you apply 2 percent or
4 2-1/2 percent to those numbers. That's really powerful,
5 mathematically, to those numbers, because the numbers
6 we're dealing with are so big.

7 So, no, I don't think that was really a special
8 benefit.

9 **Q. Okay. Can you talk about the -- your impression**
10 **of the Harbor Steps location relative to the**
11 **improvements you did talk about, the Overlake [verbatim]**
12 **Walk and the Pier 58 park stuff.**

13 A. Yes.

14 **Q. And how that play -- you know, how you would**
15 **look at Harbor Steps' location as being -- as being**
16 **potentially influenced by those -- those improvements.**

17 A. Well, it seemed to me that in the after, that
18 the -- the -- I'm looking for the right word, the sort
19 of gravity or the weight has shifted down towards Pike
20 Place Market because of the overlook improvement, very
21 significant.

22 Harbor Steps, the steps itself going -- going
23 down, you know, the buildings and you've got the steps
24 that connect to the waterfront has a lot of retail
25 around there.

1 In fact, you might be surprised, it's like
2 85,000 feet of retail. Look at my number. It's almost
3 86,000.

4 I mean, that's like a shopping center itself.
5 Right? A little -- I mean, 86,000 feet. We're not
6 talking 1,500.

7 So while you have -- before you might have had a
8 lot of pedestrians or foot traffic going down and being
9 able to visit or be consumers to that retail, having
10 that energy shifting north probably doesn't help Harbor
11 Steps retail. And Harbor Steps retail now, before this
12 is all happening is at -- it's 15 percent vacant.

13 And he didn't address that either in his
14 numbers. He used a vacancy rate of 5 percent --

15 **Q. Of lower.**

16 A. Sorry.

17 **Q. You can strike that.**

18 A. I'm so used to -- yeah. Yeah. Much, much
19 lower, when in reality its 15 percent.

20 And with -- with that energy being shifted to
21 the north, the only thing that the property could do
22 then to help fill that space is to lower rents.

23 I mean, if nobody -- if there's not much foot
24 traffic, you have to have lower rents. It ties directly
25 to -- you have a lot of foot traffic, you can get \$30 a

1 foot or \$40 a foot. No foot traffic, you might be
2 renting that space at \$20 a foot. So it has all that
3 kind of effect.

4 BY MR. LUTZ:

5 **Q. Well, let's do -- let's do one other thing. And**
6 **again, just as a reminder, don't use the real number.**

7 A. Yeah. Sorry.

8 **Q. But did -- did Mr. Macaulay make any distinction**
9 **in the analysis of -- of cap rates between the apartment**
10 **component and the retail component?**

11 A. Oh, good question. No.

12 And when I did -- because I -- we were trying to
13 figure this out. Like, we were trying to check. Within
14 the appraisal review, we were trying to check, well,
15 what's the reason for his conclusions? So we did our
16 own little estimate off to the side.

17 We always break -- we do a lot downtown. We do
18 a lot of towers, probably worked on pretty much every
19 high-rise tower in town. When we have these retail,
20 these mixed-use buildings, we break the retail out
21 separately and run a pro forma on that; rents, expenses,
22 and a retail cap rate versus an apartment cap rate.
23 Just, in general, you might say an apartment cap rate
24 might be 4-1/4 percent, 4-1/2 percent. But a retail cap
25 rate would probably be 5-1/2, 6, 6-1/2 percent,

1 something that would be a much higher cap rate which
2 means lower value.

3 **Q. Right.**

4 A. But he didn't -- he put them all into one and
5 capitalized the retail income at the apartment
6 capitalization rate.

7 **Q. And you already said his apartment**
8 **capitalization rate, you thought, was aggressive?**

9 A. Certainly was aggressive.

10 **Q. So -- so that just amplifies the overvaluation**
11 **of the retail component?**

12 A. Yes, of -- yes, and an entire property.

13 From what I could tell, he did not break out the
14 retail component so you could see what his opinion was,
15 and that was just all blended together.

16 Now, if you are doing an appraisal of a
17 high-rise tower and it's got 300 units and the retail
18 downstairs is 1,500 feet, you could go ahead and put it
19 in the pro forma. It's too small. It's insignificant.
20 But when it's 86,000 feet, that -- to me, that's -- I
21 mean, I break it out if it's 5- or 6,000 feet.
22 86,000 feet, that should have been broken out
23 separately.

24 **Q. What, I guess, the question is would it have a**
25 **potentially material effect on the overall before value**

1 **and after value?**

2 A. Absolutely it will.

3 **Q. Okay. Back to the question of the -- assumed**
4 **before and after value being October 1, 2019.**

5 **Do you believe that there's been an actual**
6 **increase in the value of the Harbor Steps Apartments**
7 **associated with the anticipated construction of the**
8 **waterfront park improvements as of 2019?**

9 A. Actually speaking?

10 **Q. Yes.**

11 A. Not hypothetically?

12 **Q. Actually, as opposed to hypothetical.**

13 A. Oh, of course not. Of course not.

14 **Q. So there's no actual special benefit?**

15 A. No, because there's no actual improvements.

16 **Q. Okay. And -- and as you move out 5 years or 10**
17 **years or 18 years, how would you analyze the value of an**
18 **improvement to be delivered in 5 or 10 or 18 years?**

19 A. Well, we actually do that very often.

20 Now, it's usually not 15 or 20 years out, but we
21 call that a prospective value.

22 **Q. Okay.**

23 A. So if -- I'll give you an example, because this
24 will probably be the easiest way to explain it. A
25 lender comes to you and says I need you to appraise this

1 proposed apartment building.

2 And they want to know what would -- what is the
3 building gonna be worth at the time of completion and at
4 the time of stabilization?

5 So we're actually projecting out -- depending on
6 the building, two to -- two to three years.

7 **Q. And you said two things, completion and --**

8 A. -- stabilization.

9 **Q. -- stabilization.**

10 **Can you just explain what you are talking about?**

11 A. Completion is the -- the day the building has
12 completed construction but is an empty building.

13 **Q. So it's still an expense?**

14 A. Yes. You've got to fill it. There's a cost to
15 fill.

16 And then the other one is the prospective value
17 upon stabilization. And that's when the building leases
18 up, reaches 95 percent occupancy, is considered
19 stabilized. And depending on the size of the building,
20 that could be a year later, could be a year and a half
21 later; or if it's a small building, it could be six
22 months later. But we do those all the time.

23 **Q. And how do you deal with the -- the projections,**
24 **the economic projections that are inherent in that**
25 **analysis?**

1 A. Well, we do a lot of studies. About half of
2 what we do is appraisal and about half of what we do is
3 economic studies, feasibility studies, so we -- we're --
4 we probably do more of this than anybody else.

5 So we look at the market -- we have a market
6 study in all our reports, and we're looking at what's
7 the demand for whatever -- say, apartments. What's the
8 demand for apartments? What's the supply?

9 And we look at it year by year looking out in
10 the future. So we can look ahead and go, well, two
11 years from now, if -- if the vacancy rate today is
12 3-1/2 percent, and there's 8,000 apartments coming
13 online that will be leasing up in two years and our
14 demand number is 7,000; so vacancy is 3-1/2, demand is
15 7,000, supply is 8,000, so it's a slight oversupply, we
16 can do the math and go that vacancy rate is going to
17 climb from 3-1/2 to whatever the man says, like 4.

18 So we know, oh, by the time this building is
19 built, we're going to be in an environment where the
20 vacancy rates are going to be rising and the rent
21 increases are probably going to be slowing down.

22 So we -- we look at it today. We evaluate the
23 building in today's numbers -- today's rents, today's
24 expenses, and we get that nailed down, and then we --
25 then we look at our forecast and go, well, based on what

1 we believe is going to happen with the vacancy rate, and
2 we have data that shows up rent increases relevant to
3 what the vacancy rate is. If your vacancy rate is
4 1-1/2 percent, 2, you get rent increases like 8 percent.

5 If your vacancy rates are like 3-1/2 to
6 4 percent, a little more equilibrium, your rent
7 increases are more like 3 percent, 3-1/2, more normal.

8 If your vacancy rate is 6 percent, you probably
9 won't have any rent increases, or maybe nominal,
10 1 percent or something, but not much.

11 So we have history that we've followed for years
12 so we understand that relationship. So when we do a
13 forecast, we can look out and see, is that vacancy rate
14 trending up or is that vacancy rate trending down? So
15 we know how strong those rents are going to grow.

16 So we look at the pro forma of today and go,
17 okay, your one -- rents will only go up -- well, rents
18 will go up whatever, 3 percent, expenses will go up at
19 2.8. The next year out, oh, that's when all that supply
20 hits, so maybe rents are only going to go up about
21 1 percent, but expenses will still go up at about 3.

22 So we trend that out to the time of completion,
23 or the time of stabilization so that we can tell the
24 client, the lender, at the time that you complete the
25 building, here's what the status of the market will

1 likely be like, here's what the rents will likely be,
2 the expenses will likely be.

3 We do not trend cap rates. So we just kind
4 of -- we always say we're just using today's cap rates
5 because that's a science to itself trying to figure out
6 what the trending cap rates were. And that allows us to
7 get a prospective value upon -- upon stabilization.

8 They could have employed something like that in
9 this assignment for him. They could have said, do it
10 today and then trend out at the time of completion, what
11 do you think the value enhancement would be at the
12 actual time of completion? But apparently that was not
13 his assignment.

14 **Q. Okay. Talk also about the question of special**
15 **benefit to improvement versus special benefit to land in**
16 **the context of improvements that are five years away.**

17 A. Okay. Special benefit to a site without
18 improvements or a site with improvements?

19 **Q. Well, I'm just saying in this -- in this mass**
20 **appraisal, they are applying the Special Benefit**
21 **Assessment to the hypothetical before value of both**
22 **building and land, unless it's land only --**

23 A. And land. Yeah, unless it's --

24 **Q. -- in which case they are applying it to land**
25 **only.**

1 A. Yeah.

2 **Q. And they are also hypothesizing that it's all**
3 **done now when we know that the improvements are coming**
4 **in five years.**

5 **So my question is when you look at that, how do**
6 **you think you should analyze this problem with just**
7 **land, land and building, especially in the context of**
8 **the five-year delivery of the improvements?**

9 A. Yes. Any -- any improvements, future
10 improvements that get announced like this, even
11 if they're -- if they're not fully approved, they're not
12 through SEPA and all that. We will get the development
13 community paying attention. And it could very well
14 affect land value, because they would come in and say
15 oh, well, we know they are projecting out what they
16 think is going to happen to land value, what's going to
17 think -- how good is this site going to be when this is
18 all done.

19 So it could, in all likelihood, probably affect
20 the land sooner than it would affect the improvements.
21 The effect on the improvements, you know, probably
22 wouldn't come until after it's done. Because, I mean,
23 while it's under construction, it doesn't help. In
24 fact, probably a little bit of a negative. But it would
25 help the land.

1 So if you had a vacant piece of land, the
2 developers would look at that and kind of project out.
3 They are probably willing to pay more -- if that site
4 was for sale today, knowing what they know about what's
5 proposed, whether it's totally approved or not or
6 totally funded or not, they'd be looking at making their
7 own internal probabilities of what's going to happen and
8 will likely be able to pay more for that piece of dirt
9 than they would otherwise.

10 Because they are speculating on that -- that --
11 of then I can get that dirt, and then I can build my
12 building. By the time I build my building, the
13 improvements are done so they are happy about that.

14 On the improvement side, it's all about rents
15 and expenses, really.

16 So if -- if a buyer was looking at an apartment
17 building, like, say Harbor Steps, and they look at this
18 plan for the LID and for the -- you know, for the park,
19 you know, they'd probably go, well, that's all nice, but
20 let's see what happens. But right now, today, these are
21 what the rents are. These are what the expenses are,
22 and this is what I'm willing to pay. I'll take the risk
23 whether this happens or not. If it happens, maybe I get
24 a little bit of an upside, maybe I don't.

25 But -- they are going -- they are going to base

1 it on what those rents and expenses are.

2 The cap rate, I don't think most buyers would
3 adjust their cap rate for something that might happen in
4 five years on -- on an improved property. That's just
5 too far out. Typical holding period is, maybe, seven to
6 ten. So I -- I think they just look at it today.

7 But, usually, the cap rate is the metric that
8 would allow you to kind of go, well, I'm going to use
9 today's rents, today's expenses, but I'm anticipating
10 this benefit.

11 So instead of buying it at a 5 cap, maybe I'll
12 go at a 4.8 just to give them -- you know, catch -- I
13 want that deal, you know. And it's got possibly has
14 some upside to it. It might affect the character a
15 little bit, but that's even kind of iffy. But it
16 certainly wouldn't affect the rents and expenses.

17 **Q. That would be them talking themselves into the**
18 **buy?**

19 A. Yeah. Yeah. It happens.

20 MR. LUTZ: All right. I have nothing
21 further.

22 HEARING EXAMINER VANCIL: Cross?

23 CROSS-EXAMINATION

24 BY MS. THOMPSON:

25 **Q. Good afternoon.**

1 **What did you do to prepare for giving testimony**
2 **today?**

3 A. I re-read my report so I could remember what I
4 said. I did review the confidential spreadsheets again.

5 I've seen them just recently. But just this
6 morning, I kind of went through and did a few
7 calculations on them.

8 I looked at some photos that counsel had that I
9 didn't see before about -- our photos or artist's
10 renderings about what the before and after looked like.
11 I saw those today. But they didn't affect anything in
12 my report, obviously. That's kind of it.

13 **Q. What type of work does the O'Connor Consulting**
14 **firm do?**

15 A. Well, you could call us an appraisal firm. I'm
16 an MAI, CRE, been doing this for over 30 years.

17 But we're a little different kind of firm.
18 About half of what we do is what you would think of as
19 standard appraisal work. Whether it's for lenders or
20 attorneys or city governments or who have you.

21 The other 50 percent is we do a lot of market
22 study, economic feasibility work.

23 To give you an example of that, we just were
24 hired by the City of Kirkland. They have that big
25 waterfront property up in Kenmore. It's about 38 acres.

1 They are trying to figure out what's going to work on
2 it.

3 So we were hired by the City of Kenmore to go
4 through and come up with some site plans and test
5 numbers to figure out what would work -- what would --
6 you know, would this apartment work or this condo work
7 or this hotel work.

8 And then what would a value of a park be if we
9 had to split that out to help the City of Kirkland get
10 their arms around this project?

11 So that wasn't an appraisal. That was -- that
12 was a consulting study. That has all these numbers
13 built into it. But it wasn't about providing a value;
14 it was about testing different scenarios.

15 Another example, like, in a high-rise apartment
16 building, would be a developer would come to town and
17 say, I got this piece of property over here under
18 contract and I'd like to build a tower. What do you
19 think I should build?

20 And we would go, okay. We'd examine the height
21 zoning and say, okay, you can go to this height, this is
22 your FAR basis; your unit sizes ought to be roughly this
23 and we think your studio units should be X and open ones
24 Y, and one bedrooms and twos, and how many, unit mix,
25 and put the numbers together and do the cost and kind of

1 figure out is this going to work at his land basis, what
2 he's buying this for. And then, of course, that's tied
3 to a study too, just as I spoke to earlier.

4 So this -- if this guy is coming in and buying
5 this piece of property, especially in a high-rise, it
6 will probably take two to two and a half years before he
7 even breaks ground, and a high-rise takes about two
8 years to build it, some take three.

9 So you can be four to five years out by the time
10 you're actually bringing your building to the market.
11 And they want to get an understanding -- at least what
12 we believe the market's going to look like when they are
13 trying to take their -- you know -- we can tell them
14 what it is today and they are like okay. But they
15 really want to know. What's it probably going to be
16 like when we're going to open our doors? And that's
17 what we do.

18 **Q. So what portion of your -- your -- as an**
19 **individual, your practice, do you spend appraising real**
20 **property?**

21 A. Well, in the last two, three years, I'd say it's
22 50/50.

23 **Q. Do you recall when you were engaged to prepare**
24 **your appraisal review in this matter?**

25 A. Not exactly, no, I don't. I'm looking up my

1 report. We have a January 31st date on it. Probably
2 four to six weeks before that. Just based on the normal
3 time frames. But I don't -- I mean, I could get that
4 number, but -- the date, but I don't have it with me.

5 **Q. That's okay. I'm just -- you know, an estimate,**
6 **what month you remember it being?**

7 A. Late December, early January.

8 **Q. What was the scope of your engagement?**

9 A. Was to do an appraisal review of the -- for
10 Harbor Steps and, of course, since it was Equity it was
11 also Helios. Right? Okay? To do an appraisal review
12 of the -- the Macaulay mass appraisal.

13 **Q. Were you asked to render your own opinion about**
14 **the before-and-after value of the properties?**

15 A. Not in regards to the appraisal review. They
16 just do an appraisal. They wanted me later -- I haven't
17 done that yet, later to -- to do a little report about
18 the value. But as far as my appraisal review, that was
19 not requested.

20 It was very open. They didn't try to direct me
21 like that. They just -- we need an appraisal review.
22 Here's the stories. Here's the issues. Take a look at
23 this.

24 **Q. Did you understand your task to include**
25 **preparing a value opinion about the properties?**

1 A. No, that was not -- my understanding was -- it
2 was not for this assignment right here. It was not to
3 do an appraisal.

4 **Q. Do you recall approximately how much time you**
5 **spent preparing each of the appraisal reviews?**

6 A. Well, Harbor Steps took longer.

7 Probably two weeks, two and a half weeks for
8 Harbor, and -- of course, it was all part of the same
9 assignment. Helios was probably another ten days or so.

10 **Q. And there's overlap among the reports; is that**
11 **fair to say?**

12 A. Somewhat, yeah. Well, not in the detail part of
13 it. But sort of in the general bigger picture, yeah.

14 **Q. And that's because you were hired to review the**
15 **ABS study as a whole; is that right?**

16 A. Correct.

17 **Q. So critiques that you may have about the study**
18 **would cover -- would be relevant to both Harbor Steps**
19 **and the Helios -- "Helos" or "Helios"?**

20 A. Helios?

21 **Q. The two properties --**

22 A. Yes.

23 **Q. -- that you were hired to -- to consider.**

24 **Did anybody at your firm assist you in preparing**
25 **these reports?**

1 A. Yes.

2 **Q. Who -- who helped you?**

3 A. My senior associate named Soryun Fitzpatrick.

4 She does most of my high-rise work downtown.

5 **Q. And is she a licensed appraiser?**

6 A. Yes.

7 **Q. Do you know if she has ever been hired to**
8 **perform a mass appraisal?**

9 A. No, she hasn't.

10 **Q. Do you know whether she's been hired to perform**
11 **a special benefit study?**

12 A. No, she hasn't.

13 **Q. Are you working on this project on an hourly**
14 **basis?**

15 A. No.

16 **Q. Was it a flat fee?**

17 A. Yes.

18 **Q. What was the flat fee for each report?**

19 A. We didn't break it out by report. I put them
20 just both together in sort of one -- one assignment to
21 do both.

22 I think it was 15,000. I'm probably wrong on
23 that, but it's close.

24 **Q. Okay. An estimate. That's all right.**

25 **And what materials did you review as part of**

1 **preparing your appraisal review reports?**

2 A. Say that again, please?

3 **Q. Sorry.**

4 A. Sorry.

5 **Q. When you sat down to perform your appraisal**
6 **review, what documents, information, data -- what did**
7 **you look at and consider?**

8 A. Okay. In regards to the before value, we
9 were -- Equity Residential was able to supply us with a
10 current rent roll and an operating statement, 2019
11 operating statement, meaning the expenses, when I say
12 operating statement. So that would be the rents, it
13 would be miscellaneous income, parking income, you know.
14 And I think it's -- might be relevant that when I got
15 that I got it for the whole Harbor Steps property.

16 Even though the mass appraisal did it by text
17 parcel for all four, we didn't look at it like that.
18 Because, frankly, the data didn't come to me like that.
19 So we just did the whole thing.

20 So I -- so for that part of it, we were able to
21 have that data provided to us, which enabled us to be --
22 do -- do our own quick numbers to be able to check his.

23 The appraisal review also looked, of course, at
24 the mass appraisal. We looked at -- read that park
25 study, property inspection -- I'm trying to remember if

1 there was anything else. I can't recall anything else.

2 **Q. Did you or Ms. Fitzpatrick review a letter**
3 **written by Anthony Gibbons critiquing the ABS study?**

4 A. I did. Yeah. And for clarification purposes,
5 Soryun, she did my numbers. I had her -- she used the
6 Equity Residential data.

7 Since she does all my high-rise work, I wanted
8 her to do that. So she kind of put the numbers
9 together.

10 I did the other part. So she had nothing to do
11 with reading the mass appraisal and -- or Anthony
12 Gibbons' letter or anything like that. She just did the
13 numbers.

14 **Q. But you have reviewed Anthony Gibbons' letter?**

15 A. Yes.

16 **Q. Did you do that before you prepared your report?**

17 A. Probably, but it was right around that exact
18 time.

19 **Q. So one of your conclusions, as I understand it,**
20 **is that the ABS study overstated the market value in the**
21 **before condition; is that right?**

22 A. Correct.

23 **Q. And so that -- that means that your -- your**
24 **conclusion is that ABS -- ABS's valuation of the Harbor**
25 **Steps properties as of October 1, 2019, was too high?**

1 A. Correct.

2 **Q. And you and, maybe, Ms. Fitzpatrick reached that**
3 **conclusion based on actual property information, the**
4 **rent rolls and the operating statements; is that right?**

5 A. Correct.

6 **Q. Do you know if those materials were made**
7 **available to ABS?**

8 A. No, they weren't.

9 **Q. In your report you state that the market value**
10 **is -- for Harbor Steps is overstated by approximately**
11 **\$88 million.**

12 **Is that across all four parcels?**

13 A. Yes.

14 **Q. Is it also your opinion that the King County**
15 **Assessor's value of the properties for 2019 is**
16 **overstated?**

17 A. You know, I don't remember. I don't remember
18 their -- what the assessment was.

19 **Q. Perhaps we could look at your --**

20 A. Yes.

21 **Q. -- report.**

22 A. Yes.

23 **Q. I believe --**

24 A. I honestly --

25 **Q. -- you have a table.**

1 A. I just don't remember.

2 **Q. So.**

3 A. Was it in my bullet points? I don't think it
4 was in my bullet points.

5 **Q. Looks to me -- these pages aren't numbered.**

6 MS. THOMPSON: Forgive me. I've forgotten
7 what this exhibit has been marked as.

8 HEARING EXAMINER VANCIL: I believe this is
9 the most recent; 37.

10 MS. THOMPSON: Thirty-seven. Okay.

11 So just for the record, we are looking at
12 Exhibit 37.

13 BY MS. THOMPSON:

14 **Q. And I'm looking at "review comments," there's a**
15 **table halfway down the page with a blue header.**

16 **Did you find it?**

17 A. I found it.

18 MS. THOMPSON: Okay. Let's just make sure
19 everybody is there. All right.

20 BY MS. THOMPSON:

21 **Q. Okay. So here you have listed the -- the text**
22 **above the table says that the table is illustrating the**
23 **King County Assessor's market values for 2018 and 2019**
24 **and comparing those to the ABS market values; is that**
25 **right?**

1 A. For '18 and '19.

2 **Q. Yes.**

3 A. Is that what you said; '18 and '19?

4 **Q. Yes. '18 and '19.**

5 A. Okay.

6 **Q. Yeah.**

7 A. Yes.

8 **Q. So the totals for just looking at the column**
9 **that says "total assessment 2019." The total in that**
10 **column is \$465,622,000; correct?**

11 A. Correct.

12 **Q. And that would be the total combined tax**
13 **assessment for 2019 for the Harbor Steps property?**

14 A. Correct.

15 **Q. So that -- that is the King County assessed**
16 **market value of those properties; right?**

17 A. Correct.

18 **Q. And your report says that based on the sort of**
19 **real property information that you were able to obtain,**
20 **the ABS valuation is approximately \$88 million too high;**
21 **is that right?**

22 A. Correct.

23 **Q. So working sort of the math, right? Subtracting**
24 **\$88 million from the City's -- or pardon me. It's**
25 **called then City's market value, but the ABS market**

1 value in the before condition at the projected market
2 value for the Harbor Steps properties is also below the
3 assessment from the County.

4 HEARING EXAMINER VANCIL: Is that a
5 question?

6 BY MS. THOMPSON:

7 Q. Is that right?

8 A. Yes, it is.

9 Q. So your opinion is that both the County and ABS
10 have overvalued the properties?

11 A. It appears that way.

12 Q. You also mentioned in your report that you used
13 an income approach to value to reach the market value
14 conclusion for the Harbor Steps properties; is that
15 right?

16 A. Correct.

17 Q. And under that approach, I believe on direct you
18 testified that part of that is calculating an assumed
19 capitalization rate; is that correct?

20 A. I would say applying a capitalization rate,
21 but --

22 Q. Okay. So let's walk through sort of the income
23 approach to value.

24 My understanding is that when you are
25 determining a property's value using the income

1 **approach, it's a function of the net operating income**
2 **and the capitalization rate; is that right?**

3 A. Yes.

4 **Q. So the net income is something that a person can**
5 **determine from looking at the property's balance sheets,**
6 **financial information, things along that line; is that**
7 **right?**

8 A. Correct.

9 **Q. So my question is, the capitalization rate is --**
10 **that's also a figure that you need to determine in order**
11 **to get to the overall value of the property; right?**

12 A. True.

13 **Q. So that's not a number -- is that a number that**
14 **you, in your professional judgment, determined?**

15 A. Simple answer is yes, but what I was saying
16 earlier is we don't really calculate the cap rate. It
17 comes from evidence of market transactions, so we look
18 at the market. And we see what these other high-rise
19 buildings are selling for typically.

20 And we look at that and go, oh, well, they tend
21 to be selling for, whatever, you know, 4.1 to
22 4.7 percent. We look at what the older ones sell for
23 versus a new one, et cetera.

24 So then we look at that data and we apply the
25 capitalization rate to the NOI.

1 **Q. And so for a property like the Harbor Steps**
2 **properties, which are mixed residential and commercial**
3 **properties, is there an industry standard capitalization**
4 **rate that is applied by all appraisal specialists?**

5 A. I doubt that. That would be unusual.

6 **Q. So it is based on viewing evidence and making**
7 **judgments about what -- what capitalization rates should**
8 **be applied in that specific scenario?**

9 A. Yeah. Yes. It comes -- the -- the
10 capitalization rates come from sales of other buildings.
11 There's a little bit of judgment about -- you know,
12 let's say you were doing Harbor Steps.

13 Would I use a cap rate that came from an
14 apartment sale in Renton? No. That wouldn't be
15 reasonable, right?

16 So I don't think appraisers are doing that.
17 You're looking at what's in downtown. You might look at
18 Bellevue, perhaps.

19 But there's a range, and they usually are
20 affected primarily by age. Age of the building affects
21 the cap rates fairly significantly.

22 Sometimes just the quality of the building or
23 something maybe unique about it that's more appealing or
24 less appealing.

25 But it just comes from these other -- other

1 buildings. But you've got to look at it and make a
2 judgment call of what's appropriate.

3 **Q. And because the capitalization rate is one**
4 **aspect of the income approach calculation, if that rate**
5 **were to be estimated higher or lower, it would affect**
6 **the overall estimated value of the property; is that**
7 **right?**

8 A. Yes.

9 **Q. And on direct, you were talking about applying**
10 **different capitalization rates to the different**
11 **components of the Harbor Steps property, with one**
12 **capitalization rate for the retail and another for**
13 **residential.**

14 **Is that how you approached the capitalization**
15 **rates when determining what the market value of the**
16 **Harbor Steps properties would be?**

17 A. Yes.

18 **Q. And what rates did you choose for each of those**
19 **components? If you recall.**

20 A. The apartments we applied a 4.5 percent
21 capitalization rate. And on the retail space we applied
22 a 6 percent capitalization rate.

23 **Q. So when you were determining what the market**
24 **value of the Harbor Steps properties were, did you apply**
25 **any other property valuation tools, such as looking at**

1 **comparable sales?**

2 A. Other data.

3 Well, we follow those pretty closely anyway.

4 And like I said, we work on these continually. I think
5 we're doing high rises in the office right now. So
6 we're -- we're immersed in it.

7 So it really wasn't like we needed to go, like,
8 gee, what are the cap rates for high-rises? We already
9 know.

10 So we -- we knew on an older building like
11 Harbor Steps that it would be probably around four and a
12 half.

13 **Q. So let me rephrase my question. Because I think**
14 **I got lost in it there.**

15 **So your report identifies the income approach to**
16 **value as the method that you had selected; correct?**

17 A. That we used to test, yes.

18 **Q. Yeah. So there are other methods?**

19 A. Oh, other approaches we would call them.

20 **Q. Other approaches; correct?**

21 A. There's a sales approach where you look at sales
22 of other ones. It's on a physical -- they call it a
23 physical units and comparison, be it per unit, be it per
24 square foot.

25 So you are looking saying, well, that one over

1 there sold for 700 a foot and this one over here sold
2 for 600 a foot. So I'm looking at mine and I've got
3 these two, so what's -- you know, this is 7, this is 6
4 that was older, what's mine, and you make these
5 adjustments.

6 Maybe the building sold 16 months ago, so you
7 have to make a little time adjustment. You have to
8 bring up the date. Maybe the building is older, so you
9 might bring it down if yours is newer. Average unit
10 size is a really big deal.

11 If they paid 700,000 a unit for teeny little
12 units and have a very high per foot number, if they paid
13 \$700,000 a door for really big units, it would be lower.

14 So you have to take that into account. Well, it
15 is the one I'm doing a bunch of small units or big units
16 or average. So how does it match up?

17 So you have to do a size adjust. So it's -- you've
18 got to go through those adjustment process. And it's --
19 if you have good sales data, it can be a very good
20 method or approach.

21 **Q. So the sales is another you've identified.**

22 **Are there any other approaches to valuing**
23 **property?**

24 A. Well, there would be a cost approach.

25 **Q. Okay. And you chose not to use either the sales**

1 **approach or the cost approach; is that right?**

2 A. That's true.

3 **Q. Did you use those approaches to, for lack of a**
4 **better word, check the income approach results?**

5 A. The income -- no. The income approach is
6 usually always the answer. We -- I mean, it's what
7 buyers use to buy buildings. They may look at what
8 other ones sell for and kind of put a judgment on it,
9 but buyers -- buyers certainly don't use the cost
10 approach.

11 And especially in something like Harbor Steps --
12 what is that -- 22 years old now. So in order to do
13 that, you'd have to estimate the land, you'd have to
14 estimate what it would cost new, and then you've got to
15 depreciate the building. And that's when you just get
16 totally inaccurate. So you kind of go, it's not going
17 to be inaccurate enough.

18 So we -- on an older building especially, we
19 don't use the cost approach. Even on some of the newer
20 ones, it's just not -- these have been kind of strange
21 times, because property values and apartment buildings
22 have been going up so fast, and so is cost.

23 So if you are going to do cost approach on an
24 older building, I could tell you in the last two years,
25 the cost to build high-rise towers has gone up

1 25 percent in two years. Hard cost. Direct hard cost.
2 Not land, not architects, permits, sticks of bricks.
3 It's gone up from about 300 a foot to now we're seeing
4 400 a foot.

5 So you try to take those numbers and apply it to
6 an old building, you'd be depreciating that thing. It
7 would be -- it would be almost worthless.

8 **Q. So we talked earlier about the scope of your**
9 **engagement. And I had asked you whether part of that**
10 **was whether you were asked to prepare a valuation**
11 **opinion of your own. And you answered that you were not**
12 **asked to do that; is that correct?**

13 A. I was not asked to do it in this report --

14 **Q. Correct.**

15 A. -- document.

16 **Q. Correct. The appraisal --**

17 A. They wanted one later, what we call a
18 restricted, which would be for their eyes only, not
19 something you would give out to anybody. We haven't
20 done that yet.

21 **Q. But the appraisal review that we're talking**
22 **about today does include a value -- a market value**
23 **estimate; does it not?**

24 A. Not directly. I don't put my opinion of value
25 in there. Not in a direct sense. You backed into it.

1 **Q. Sure. But it does -- one of your conclusions,**
2 **is it not, is that the ABS appraisal overstated the**
3 **before market value by about \$88 million?**

4 A. Correct.

5 **Q. So to -- to arrive at the \$88 million or the**
6 **approximate \$88 million, you or Ms. Fitzpatrick reviewed**
7 **the financial information and the rental information**
8 **provided by the property owner, determined a**
9 **capitalization rate, and arrived at a market value**
10 **figure; correct?**

11 A. Correct.

12 **Q. So is that not a conclusion about market value?**

13 A. It's not an approval.

14 **Q. Okay.**

15 A. And it's just for the purposes of the review.

16 In an appraisal review, there's a wide latitude
17 for the reviewer to test numbers and run numbers on the
18 side.

19 Actually, if you do an appraisal review for a
20 lender, we can even go in and change the value. So
21 there's a lot of latitude to them.

22 **Q. Is your opinion in your appraisal review that**
23 **the Harbor Steps property was overvalued by**
24 **approximately \$88 million, that's not supported by an**
25 **actually appraisal that you've performed to date?**

1 A. Not supported by an appraisal report.

2 I did a calculation, an income approach so I
3 could -- so I could do the review. Otherwise, how do I
4 reach an opinion of whether -- whether their numbers are
5 valid or not? That's what a review does.

6 Sort of intrinsic to a review, but it's not a
7 separate appraisal.

8 **Q. So on direct, you also discussed the concept of**
9 **special benefits.**

10 **And you -- I just want to confirm, your**
11 **testimony before is that you have never performed a**
12 **special benefits study; is that right?**

13 A. Yes, not in the way we're thinking of it.
14 That's what I meant. Like this or -- here, I want you
15 to do a special benefit. We've done condemnation work
16 and we have to consider if there's a special -- if
17 there's a special benefits, but that's only a little
18 piece of the overall assignment and very often there's
19 not a special benefit. In most cases there's not.

20 **Q. And so in the condemnation context, the concept**
21 **of special benefits is -- is it fair to say that it's**
22 **distinct from this context involving a Local Improvement**
23 **District?**

24 A. Well, the ones I've been doing lately involve
25 light rail stations, so it's much different.

1 A lot of times, I guess, more commonly they
2 would be for, like, a widening of a street, something
3 like that, you know. Maybe utility enhancement or
4 something like that, you know, where -- it's usually a
5 lot more clear about whether -- there's very clear
6 special benefit. It's usually not so -- less concrete,
7 whatever that --

8 **Q. So in this -- in the context that we're in right**
9 **now, which is the context of a Local Improvement**
10 **District, how do you define the concept of a special**
11 **benefit?**

12 A. Special benefit is something that is generally
13 pretty clear and measured -- measurable from whatever
14 the -- the improvement being done for the street. Maybe
15 its access or its visibility. Or like I said, you've
16 got a utility enhancement. It really, really clearly
17 affects that single property versus something that's
18 large and might affect all these different properties,
19 that's a general benefit.

20 And so if you are doing something large, you
21 would generally determine if there's a -- a general
22 benefit before you would determine if there's a special
23 benefit.

24 And you've got to be careful not to, like, add
25 those together. You've got to kind of keep them apart.

1 That's why for this one here, seems like it's
2 much more of a general benefit than a specific benefit.

3 **Q. And why do you say that?**

4 A. Because it's -- it's a major big project that
5 is -- that -- it benefits not only the downtown, but
6 probably benefits lower Queen Anne and Queen Anne, maybe
7 Capital Hill, all of the city of Seattle, to some
8 degree, not just these little properties.

9 So you take a property -- you know, take an
10 example that's easier. Like, it's ten blocks away from
11 the waterfront, but yet it's in the zone. Really? It
12 gets a special benefit because it's eight blocks away?
13 You know, but that's not -- in every other case it's
14 much more concrete where a parcel or building gets a
15 special benefit. This is a little less concrete.

16 **Q. So on direct we also heard you speak about the**
17 **park studies that ABS relied upon in determining the**
18 **special benefits; correct?**

19 A. Correct.

20 **Q. Did you review those -- each of those studies**
21 **personally?**

22 A. I read them.

23 **Q. And on direct you said that one thing that**
24 **surprised you about the ABS study was that there wasn't**
25 **a matched pair analysis used; is that right?**

1 A. Correct.

2 **Q. How would you go about performing a matched pair**
3 **analysis for this specific LID project?**

4 A. Well, if you were gonna take the -- the tact of
5 trying to -- the way he was -- well, not the way he was
6 doing it. Not to do it his way.

7 But to say what's the benefit of being near a
8 park? Then you would go and, let's say, look at
9 apartment buildings that are near a park, like, really
10 right there; next to it, half a block away. What are
11 they selling for? Or even what they are renting for.

12 I would even look at rents, not just sales.
13 Because usually there's a lack of sales. So rents are
14 usually a little -- you can get the rents more. There's
15 more data.

16 Versus, a property farther away and kind of try
17 to determine, okay, I've got these two buildings; they
18 are roughly the same age, roughly the same quality, and
19 one's right next to a park, or a block away and the
20 other one is seven blocks away or a mile away. And go
21 what's the delta? Trying to standardize for any other
22 influences as well. You don't want this -- the other
23 one to have great views and this one not have views.
24 That wouldn't be accurate.

25 So you have to find buildings that are fairly

1 comparable in every way that you can except for the
2 proximity to the park. And then determine, one, I'd
3 want to know how it affected my rents; and two, if there
4 was sales, how it affected the sales.

5 The difficulty of that would be having enough
6 data to be meaningful and having a park that would be
7 the right park.

8 If you were -- you know, if you were trying to
9 do a matched pairs, and you were -- I'm trying to think
10 of a good -- you know, next to Green Lake. I'd probably
11 say that wouldn't be a fair comparison, because Green
12 Lake is a much more active park. It's got the water.

13 It's like, no, if you are -- if you had an
14 apartment building within a block of Green Lake, that's
15 probably not the same thing as a park a block away from
16 Alaskan Way with this park.

17 The two parks just aren't equal. And that's
18 kind of -- when I read those park studies, I was like,
19 man, they are comparing these to, you know, significant
20 parks.

21 And what the Alaskan Way park enhancements kind
22 of -- they are not really that significant. They are an
23 improvement, but they are not, like, oh, my apartment
24 building is sitting next to Green Lake or Volunteer Park
25 or something, you know, much more park like, you know.

1 Huge, grassy areas, you know, kids going and playing,
2 throwing Frisbees around, that kind of park.

3 You know, this is a different kind of park we're
4 talking about. So I think that would probably part --
5 that's probably why he didn't do it.

6 But when I went into it, that's what I expected
7 to see. I expected to see trying to define the economic
8 benefit of being next to a park by using these comps.
9 So I was just a little surprised when he was referring
10 to this park study.

11 **Q. But it sounds like what you were just saying is**
12 **that it's possible that appropriate matched pairs don't**
13 **exist in the Seattle area; is that right?**

14 A. It's possible.

15 **Q. And just to understand a little bit more about**
16 **the matched pair process, when you're looking at**
17 **determining an increase in value between no park and**
18 **park, is it important when looking for a matched pair**
19 **analysis to find a like-park setting that was also**
20 **constructed while -- well, I don't know if it's the**
21 **recentness of the construction is important or the fact**
22 **that you would have data for the before and the after**
23 **condition.**

24 **So, for example, the Green Lake example you**
25 **gave. Green Lake has been around for a really long**

1 **time; right?**

2 A. Correct.

3 **Q. So when performing a matched-pair analysis to**
4 **determine the increase in value from a park setting like**
5 **that, is that one reason why that wouldn't work as a**
6 **matched pair, because you don't have the same type of**
7 **before/after data that you would for, let's say, Tom**
8 **McCall Park in Portland, which was constructed a couple**
9 **of years ago?**

10 A. I think the simple answer is no. Because I
11 think you've -- like, to use the Green Lake example, you
12 could -- you could still look and go, well, what are the
13 rents for -- on apartments that are within a block of
14 the park.

15 Let's just say they are a dollar a foot. Then
16 you go could, okay, now, I'm going to find roughly the
17 same kind of building, same age, quality that may be
18 a mile away or eight blocks away, whatever your judgment
19 is; right? And not too far away. Then you are in a
20 different neighborhood or whatever. Then you are losing
21 the neighborhood influence. And then you go, well, what
22 are those rents? If it's -- if it's as equal as you can
23 get it, and they just say, well, these are renting for
24 about 92 cents, but the ones that are a block away are
25 renting for a dollar, I think that's still valid.

1 That would tell me, okay, if I could standardize
2 for everything else, I'm not -- you know, the one by the
3 park, you know, just remodeled last year. Well, I've
4 got to adjust for that, you know.

5 So if -- if they are pretty much apples to
6 apples in every way, that's reasonable, part of this
7 is -- they are never perfect. You know?

8 But I think you could -- you could determine
9 what the rental delta is.

10 I personally probably wouldn't want to -- like I
11 said, want to use Green Lake, because that's a
12 significantly different kind of park than what we're
13 talking about. I think that's probably the bigger
14 challenge is trying to find a park that would be more
15 comparable to the park we're talking about.

16 Because most of our parks are probably
17 traditional parks the way everybody would think of what
18 a park is, lots of green, kids playing Frisbee, people
19 running around with their dogs, you know, parks.

20 But this is a little different. So I could see
21 the challenge. That's probably why I wouldn't take this
22 assignment.

23 **Q. So on direct you also mentioned that -- you**
24 **mentioned a belief that ABS didn't have the before and**
25 **after renderings when it issued its preliminary report;**

1 **is that right?**

2 A. I believe so. I don't know that to be an
3 absolute fact. But I think somebody told me that along
4 the way. And I went, oh, that's a -- that's kind of a
5 big deal.

6 Once I saw the difference, I went, oh, well,
7 that could have thrown them off a little bit; could have
8 influenced. He might have been thinking much bigger
9 kind of park than what it really is.

10 **Q. So would it be fair to say that your opinion**
11 **would be affected if you knew that ABS had those**
12 **before-and-after renderings when it was making its**
13 **initial study.**

14 A. It probably wouldn't change my opinion. It
15 would just shed light on, oh, so he knew the -- the
16 magnitude, let's say, of the -- the park and then he
17 still came in with this conclusion.

18 I was thinking maybe he came in with that
19 conclusion because he didn't. So -- but I don't think
20 it would change my conclusions.

21 **Q. So you also discuss margin of error in your**
22 **appraisal review. And we touched on it on direct as**
23 **well.**

24 **What -- and in your appraisal review you say**
25 **that the value conclusions of .5 percent to 4 percent**

1 **special benefits are within typical margins of error of**
2 **all commercial appraisal of significant property.**

3 **What's the source for that opinion?**

4 A. My instructors over the last 20 years, and cases
5 that I've worked on where they've usually -- you know,
6 there's two parties or sometimes there's three.

7 And if the two appraisers come within 5 percent,
8 you know, the two parties, they are arguing over value.

9 So if -- if the two appraisers come within
10 5 percent, they usually have a formula to split the
11 difference and they are done.

12 If it's greater than 5 percent, then they have
13 to go outside and hire another MAI appraiser that comes
14 in and either determines which one was correct or the
15 other term is the other -- the third appraiser is God.
16 And the third appraiser does his own one. What he says
17 goes. And I've been involved in both.

18 **Q. And what if the third appraiser's value also**
19 **falls within that margin?**

20 A. That's the answer, though. He's God.

21 **Q. He's God. Okay. So and I --**

22 A. You can't argue. It's done.

23 **Q. I think on direct you stated that a 5 percent**
24 **margin of error is standard for commercial properties;**
25 **is that right?**

1 A. Correct.

2 **Q. Is there a -- in your opinion, is there a**
3 **standard for margin of error in a mass appraisal**
4 **context?**

5 A. I don't know the answer to that. I've never
6 heard what that would be.

7 **Q. So your opinion in your appraisal review that**
8 **the .5 percent of 4 percent special benefits are within**
9 **typical margins of error for all commercial appraisals,**
10 **that's assuming the margin of error for commercial**
11 **appraisals; is that right?**

12 A. Yeah.

13 **Q. The 5 percent?**

14 A. Talking about standard appraisals, not mass
15 appraisals.

16 **Q. Okay.**

17 A. Yeah. With standard appraisals, I think the
18 industry agrees, if you're within 5 percent, you are
19 pretty good.

20 You know, you are 8 -- if you are 6 percent
21 apart, maybe. You know, okay. But if you are 10,
22 15 percent apart, it's like, what's wrong here, you
23 know?

24 **Q. So is it your opinion then that the percentage**
25 **increases in the ABS study are too small to represent**

1 **actual measured value increases?**

2 A. I think I said it wasn't reasonable. I mean,
3 it's so small. To me, it's like splitting hairs. I
4 mean, it's so small.

5 And -- and given that, you know, within
6 5 percent it's usually -- you know, kind of normal.

7 Boy, splitting that down to half a percent or
8 1 percent just seems like incredibly specific and like
9 how -- how did you do that?

10 Well, it wasn't a mathematically solved number.
11 It was kind of an opinion, subjective opinion.

12 **Q. And just trying to figure out, like, your sense**
13 **of the lowest percent increase in value that you would**
14 **consider to be reasonable, is that -- would that be a**
15 **1 percent increase, higher or lower than that?**

16 A. So you're asking me what's my opinion of the
17 special benefit to the Park?

18 **Q. No. So -- let's walk it back.**

19 **So you are saying in your report here that the**
20 **ABS conclusions of .5 percent being the lowest special**
21 **benefit increase that's estimated. And the 4 percent,**
22 **that range is below the 5 percent margin of error for**
23 **commercial appraisals; right?**

24 A. True.

25 **Q. So I'm trying to figure out if 5 percent -- so**

1 **presumably, if 5 percent is the margin of error, then**
2 **if -- if ABS had calculated a 5 percent increase in**
3 **value to -- for, let's say, Harbor Steps, that would be**
4 **within -- it would be above -- it would meet the margin**
5 **of error; correct?**

6 A. Yes. Mathematically, yeah.

7 **Q. Mathematically?**

8 A. Yeah. Yeah.

9 **Q. Yeah. And --**

10 A. Hence the number: Five, five, and five.

11 **Q. So my question is, is it your opinion that any**
12 **increase in value below 5 percent is just not credible?**

13 A. Well, the way you phrase it, any value, you mean
14 the special benefit bump that he's applying.

15 **Q. Right. The -- sorry. The change in value?**

16 A. Yeah.

17 **Q. Which represents the special benefit?**

18 A. Well, if he believed if he had data or something
19 that believed his matched pairs, if you would have done
20 it and it showed, yeah, it's a 6 percent delta or
21 7 percent delta, then that -- yeah, that would have
22 been -- that's a more -- that's more measurable; right?
23 You can measure that.

24 Trying to measure it down to .45 or 1 or 2, it's
25 just -- it's so small, it's hard to measure. That's

1 really -- it's just -- he can have an opinion. That's
2 his opinion. That's fine. It's just, you have to go,
3 well, you know, is that reasonable? Is that credible?
4 Because that's so minutia. It's so specific. And it
5 wasn't mathematically solved. It was just, I read these
6 studies, and they say this and that. And my opinion is
7 1 percent for this property and 2-1/2 for that property.

8 How credible is that?

9 **Q. You also mentioned on direct and in your report**
10 **that ABS -- the ABS report doesn't mention an offset for**
11 **loss in parking; is that right?**

12 A. As far as I could see, yeah.

13 **Q. And so as a result, do you believe that ABS did**
14 **not offset the loss of parking units in its assessment?**

15 A. Well, unless it was built into his judgment when
16 he picked that number, but it was not discussed. So you
17 really couldn't tell.

18 It would have been nice to kind of list out some
19 pros and cons, because actually being next to a park is
20 not all pros. And from personal experience, I lived
21 near a park. I can tell you, it's not all pros.

22 **Q. So would your opinion about the ABS report**
23 **change if ABS, in fact, did offset its calculations for**
24 **loss in parking?**

25 A. It might. I don't know. It might make it a

1 little bit more credible if that was somehow factored
2 in.

3 But I looked at in terms of Harbor Steps now. I
4 looked at the loss of parking. I think it was 450
5 stalls. That's pretty significant to 86,000 square feet
6 of retail.

7 **Q. And --**

8 A. Seems like something should have been said about
9 it.

10 **Q. In your appraisal review you also mention that**
11 **ABS did not perform an income approach to value.**

12 **Is that your opinion with respect to Harbor**
13 **Steps specifically or the entire report?**

14 A. The entire mass appraisal. There was nothing in
15 there showing us, the reader, how he did his -- how he
16 got to his before value.

17 Remember, it was just a table and here was the
18 before value. And when I'm looking over it, well, how
19 did you get there? It wasn't until we got the --

20 MR. LUTZ: Confidential spreadsheet.

21 MR. O'CONNOR: The confidential
22 spreadsheets. Then I could get into it and go, okay.

23 Now, now I see what was happening but --
24 what happened.

25 BY MS. THOMPSON:

1 **Q. So --**

2 A. But in the mass appraisal, there was -- there
3 was -- he didn't say I based it on this rents and these
4 expenses or something like that. There was no way to
5 know.

6 HEARING EXAMINER VANCIL: We'll take a break
7 right there, and we'll return at four o'clock.

8 (A break was taken from 3:47 p.m. 4:03 p.m.)

9 HEARING EXAMINER VANCIL: We'll return to
10 the record.

11 Mr. O'Connor on cross.

12 CROSS-EXAMINATION

13 (Continued)

14 BY MS. THOMPSON:

15 **Q. So before the break, we were discussing some of**
16 **the statements in your appraisal review. And you**
17 **state -- you have a statement in your appraisal review**
18 **about rental rates and the effect that the market can**
19 **have on rental rates and whether ABS considered rental**
20 **rate increases due to the market versus due to the LID**
21 **improvements; is that right?**

22 A. I remember something like that, yeah.

23 **Q. Is it your opinion that ABS did not consider the**
24 **impact of current rental market increases in its**
25 **assessment?**

1 A. The report was so general I really couldn't
2 tell. It wasn't specific enough.

3 **Q. Would your opinion change if you knew that ABS**
4 **did, in fact, consider those?**

5 A. Perhaps. I'd have to know more.

6 **Q. On direct, you discussed whether the ABS report**
7 **states an accurate estimate of the Harbor Steps**
8 **property, and your response to that question was no. I**
9 **want to sort of break that down a little bit.**

10 **We've covered your opinion about the before**
11 **value and your conclusion that the before value in this**
12 **study is overestimating the market value of Harbor**
13 **Steps; is that right?**

14 A. Correct.

15 **Q. And then your report also discusses how that**
16 **overestimation leads to an inflation of the, you know,**
17 **assessment that's been rendered for the property because**
18 **a percentage is being applied to the before market**
19 **value; is that right?**

20 A. Correct.

21 **Q. So my question is, aside from the difference in**
22 **your opinion about the starting before value of the**
23 **property and ABS's calculation of that value, is there**
24 **anything about the special benefit assessed that you**
25 **disagree with?**

1 A. We're talking about the -- whether it was
2 1 percent or 2 percent or 3 percent kind of thing.

3 **Q. Right.**

4 A. Sort of what we said earlier, it was -- that's
5 very, very specific for such a small number. It wasn't
6 mathematically solved for, like what I would -- like I
7 said earlier, we kind of expect it to be.

8 It was more just taking the study and saying,
9 well, these other park studies say this, so I'm applying
10 this rate. To me, it was a very subjective factor.

11 And it seemed -- for some of them -- at least
12 for Harbor Steps, it seemed a little strong. I can't
13 help -- I promise I can't help separating it from what I
14 know about the before value.

15 To me, it was especially strong given the before
16 value. For me, it's hard to separate those two.

17 But I -- I think if it was me doing it, I
18 probably would have been a little more conservative
19 about -- if I was using that methodology, I would have
20 been more conservative about it. Because of the type of
21 park we're talking about versus a classic park where
22 kids are playing Frisbee. So I probably would have been
23 a little more conservative about that. I probably would
24 have had -- think, for me, I probably would have had a
25 lower before -- certainly would have had a lower before.

1 And if I was using his -- if I had to use his
2 methodology, I probably would have used slightly less
3 factors for that.

4 **Q. And so did you -- it sounds like you and**
5 **Ms. Fitzpatrick calculated your own before value to test**
6 **against the ABS before value; correct?**

7 A. Correct.

8 **Q. Did you also calculate the value of any special**
9 **benefit to Harbor Steps as a result of the proposed LID**
10 **improvements?**

11 A. I think -- I don't think I did my -- my own
12 study or something like that to try to figure that out.
13 I think I might have done something as an example.

14 I don't see -- yes. Under "review comments,"
15 second paragraph, I said: But even if one was to say
16 that the special benefit was 1 percent, applied against
17 the correct market value would mean that the special
18 benefit would be formally 173,900.

19 So I kind of did it as an example. I said --

20 He used 2.66. I was -- I was just kind of
21 saying we would also -- but even if you were to say,
22 1 percent, I was trying to just show that. So I'm
23 not -- I wasn't really trying to say my opinion is it's
24 1 percent. It was just like, well, here. If it was
25 1 percent, here's what the result would be.

1 **Q. Okay. So it sounds like the information in the**
2 **appraisal review about what the difference in value**
3 **would be was assuming that you were applying the ABS**
4 **percentage increase? You weren't actually calculating**
5 **your own independent special benefit increase; is that**
6 **right?**

7 A. Could you repeat --

8 **Q. Yes.**

9 A. Repeat that, please. Yeah.

10 **Q. So it sounds like --**

11 A. The first part.

12 **Q. -- in this appraisal review, you say, If we**
13 **adjust the before value to what you believe it should be**
14 **and if we apply the percentage increase identified in**
15 **the ABS study, then you would arrive at a -- a figure,**
16 **and that would be the basis of the assessment; is that**
17 **right?**

18 A. I say, If the ABS appraisal utilized the correct
19 market value and then applied the 2.66 special benefit
20 factor, the benefit would be 11 million 102.

21 **Q. Right.**

22 A. So I did that little exercise.

23 And then further down that paragraph, I said,
24 but you know, it seemed high to us, but if it was
25 1 percent -- again, I'm not trying to say that's my

1 professional opinion it's 1 percent. But It's just what
2 have I -- if it is 1 percent lower, something lower,
3 then I showed what the math would be and then what that
4 benefit would be.

5 **Q. Okay. I just want to confirm whether as part of**
6 **your review you conducted your own benefit analysis of**
7 **the Harbor Steps property?**

8 A. No.

9 **Q. Okay.**

10 A. No. Long way around, but no.

11 **Q. So there's a page in your appraisal review that**
12 **lists the summary of your included findings. It looks**
13 **like there are 11 bullet points there.**

14 **And my question for you is, which of these, if**
15 **any, are issues that you consider to be below industry**
16 **standards versus something that you would have chosen to**
17 **do differently if you had prepared the ABS study?**

18 A. I'm not quite sure. I mean, I can answer it in
19 terms of how I thought it would be done. That's why I
20 was surprised at his methodology.

21 So my second bullet point, the appraiser did not
22 empirically solve for the special benefit, but rather
23 assigned a new market value based upon the old "Verlin
24 Garley" (phonetic) park studies and subtracted the
25 overstated market value without the LID to reach a

1 special benefit -- you know, that method -- right? -- of
2 using the park and the percentage. Rather than what we
3 were talking about earlier of trying to do match-paired
4 sales.

5 Again, it's what would have been my -- it's what
6 I would have anticipated I was going to read. So I was
7 a little surprised when he did it a different way.

8 And the way he chose to do it is, you know, it's
9 a little less detailed, let's say, or less quantitative.
10 Remember, I said it was more qualitative than
11 quantitative. Did I answer your question?

12 **Q. Well --**

13 **HEARING EXAMINER VANCIL: No.**

14 **MR. O'CONNOR: No.**

15 **BY MS. THOMPSON:**

16 **Q. What I'm wondering is --**

17 **And we're -- just for the record, we're on**
18 **Exhibit -- the exhibit that's been marked as 37.**

19 **You've -- my question is -- here you've**
20 **identified a number of things that either you found to**
21 **be lacking in the ABS study or that you thought were**
22 **important to note in your appraisal review; correct?**

23 **A. Correct.**

24 **Q. And part of what I'm trying to figure out is**
25 **which of these opinions, conclusions, findings do you**

1 **consider to be of a quality that they represent a lapse**
2 **in industry standards?**

3 **In other words, are there issues that you've**
4 **identified that you would say, because of this issue,**
5 **the ABS study should be thrown out completely because it**
6 **doesn't follow industry standards?**

7 A. I don't think I say that anywhere. Let's see
8 here. I'm going to draw a line, I guess, between
9 methodology and conclusion.

10 I just don't think the conclusion is a credible
11 conclusion. His methodology is his methodology. I'm
12 not trying to be, you know, overly critical. It's just
13 not what I expected. I think more conventual
14 methodology is the match paired.

15 So, like I said many times now, it's not what I
16 expected. To say, you know, should it be thrown out?
17 Is pretty strong.

18 Maybe it should be amended or -- or enhanced.
19 Maybe he should -- like, if this was a typical
20 assignment with a bank, we would -- we would go through
21 this and then send it back and say, we think the
22 appraiser ought to do X-Y-Z. Like, let's -- I think you
23 should have some matched pairs. I think you should
24 explain this a little more. You know, we would say that
25 and then that would go back to that appraiser and he

1 would make those corrections.

2 So I would treat it more like maybe he could go
3 back and make some corrections or do some enhancements
4 or something like that than rather I would say just
5 throw the whole thing out. I'm not saying that.

6 **Q. And is it fair to say that the -- taking your**
7 **separation of methodology and conclusions, your**
8 **disagreement with his conclusions, is that driven by**
9 **your market value in the before condition?**

10 A. Part. Partially.

11 MS. THOMPSON: No further questions.

12 HEARING EXAMINER VANCIL: Redirect?

13 MR. LUTZ: No, Mr. Examiner.

14 HEARING EXAMINER VANCIL: Thank you,
15 Mr. O'Connor.

16 MR. LUTZ: Just for a quick issue. We've, I
17 guess not surprisingly, taken longer and I think that
18 you gave us three extra hours because your other
19 proceeding was canceled.

20 Both Mr. Leigh and Mr. O'Connor are trying
21 to testify also as to Helios, and both of them are out
22 of town after today, and I'm just wondering what
23 solution --

24 HEARING EXAMINER VANCIL: Including for the
25 April dates?

1 MR. LUTZ: No. Well, April dates?

2 MR. Leigh: I'm just out of town next week.

3 MR. LUTZ: And that's true for you too,
4 right, so we could --

5 MR. O'CONNOR: I'm out Wednesday, Thursday,
6 Friday. I am available tomorrow.

7 MR. LUTZ: That doesn't help here.

8 MR. STILLWELL: We have April dates.

9 MR. O'CONNOR: I'm just saying.

10 MR. LUTZ: But you're available in April,
11 right?

12 MR. O'CONNOR: Oh, yes. Yes.

13 MR. LUTZ: Okay. So we can -- yes, then
14 that's fine. We can handle it with just continuing.

15 HEARING EXAMINER VANCIL: This hearing has
16 two days next week, but there are other dates after
17 that.

18 MR. LUTZ: Right. So I think I would like
19 to call Mr. Leigh back to start the Helios appeal. And
20 we would like to leave the record open in the Harbor
21 Steps appeal for both the witnesses are coming and then
22 we have several other witnesses that are on cost on
23 status of environmental review. And they are going to
24 be like Mr. Gibbons' testimony and applied to all of the
25 cases.

1 HEARING EXAMINER VANCIL: Right. I --
2 within the eight, plus or minus, days allocated, I'm not
3 going to try to split it up between case numbers.

4 MR. LUTZ: Okay.

5 HEARING EXAMINER VANCIL: It's helpful for
6 me to know what case number specific testimony is coming
7 through. But I'm not going to close a record because
8 we're shifting. You've got -- witness availability is
9 the predicate primary driver in that.

10 MR. LUTZ: Yes, I appreciate that
11 understanding, because we are struggling.

12 HEARING EXAMINER VANCIL: It will close at
13 the end of that time, but not within the eight-day
14 period. I'm not going to have micro deadlines.

15 MR. STILLWELL: Okay. And um --

16 HEARING EXAMINER VANCIL: The hearing stays
17 open.

18 MR. LUTZ: Yes, please.

19 MR. STILLWELL: And then in keeping with
20 that organization, we would like to introduce the
21 property summary for Helios, which has the appeal number
22 for this property at top, "CWF-0441."

23 HEARING EXAMINER VANCIL: Mr. Leigh, you
24 remain under oath or affirmation from the last time you
25 were in front of us.

1 MR. LEIGH: I understand.

2 MR. LUTZ: And to the extent that we need to
3 do it, we'd like to incorporate his testimony --

4 HEARING EXAMINER VANCIL: I don't think you
5 need to do that --

6 MR. LUTZ: Okay.

7 HEARING EXAMINER VANCIL: -- with the
8 segment of your eight days.

9 MR. LUTZ: Okay. Thank you.

10 HEARING EXAMINER VANCIL: Honestly, the
11 designation that you have is really just for internal
12 organizational purposes, not for hard record purposes.

13 MR. LUTZ: Okay. Perfect.

14 HEARING EXAMINER VANCIL: I would ask a step
15 of actual adoption by incorporation or reference to
16 somebody else's case number.

17 MR. LUTZ: Oh, okay.

18 HEARING EXAMINER VANCIL: Something along
19 those lines.

20 MR. LUTZ: All right.

21 HEARING EXAMINER VANCIL: But within the
22 context of this eight-day period, I assume it's very
23 fluid and you can grab it any way you want and throw it
24 on anybody you want.

25 MR. LUTZ: All right. Perfect. Thank you.

1 HEARING EXAMINER VANCIL: If you don't make
2 a designation, it's going to be very difficult for the
3 examiner to determine what evidence is going to which.

4 MR. LUTZ: All right.

5 HEARING EXAMINER VANCIL: That's going to be
6 up to you to direct me. So if you tell me what your
7 witness is, I believe that that's what it is for. So if
8 I walk -- we all walk out of here without you
9 designating and letting me know, hey, this is for
10 everybody for cases X-Y-Z, then I won't know that.

11 MR. LUTZ: Right. Understood.

12 And this one is for Equity Residential --
13 the LID -- the property name. Equity Residential
14 properties trust, Helios property.

15
16 EDWARD LEIGH, witness herein, having been
17 first duly sworn on oath,
18 was examined and testified
19 as follows:

20 DIRECT EXAMINATION

21 BY MR. LUTZ:

22 **Q. So can you describe the Helios property,**
23 **Mr. Leigh?**

24 A. Sure. Helios is a high-rise apartment building
25 with 398 units. It's located at the corner of Second

1 and Pine Street in Seattle. The address is 206 Pine
2 Street. The parcel number is 7683890010.

3 And this is a typical high-rise building with
4 primarily apartment buildings on the second floor and
5 above, with parking underground and above ground, and
6 one retail unit at ground level on -- that fronts on
7 Second Avenue.

8 **Q. And how long has Equity Residential owned this**
9 **property?**

10 A. We actually developed this property. So we
11 began several years ago, but we delivered it and began
12 leasing it in 2018.

13 **Q. And how long did the process take from**
14 **conceptualization through completion of construction?**

15 A. I would guess it was probably on the order of
16 six years. So it started before I was working in
17 Seattle.

18 **Q. Okay. Did you have any involvement in the -- in**
19 **the financial feasibility analysis of Helios or was that**
20 **not part of your portfolio?**

21 A. It wasn't part of my portfolio at the time, but,
22 you know, as we reassess every year, so when I took over
23 the Seattle portfolio before we leased it, we were, you
24 know, analyzing the expected rents, analyzing the
25 expected costs, analyzing the expected value, And we

1 continued to do that as we go forward.

2 **Q. Okay. So let's talk about how you view the --**
3 **both the before removal of the viaduct and the potential**
4 **WSDOT improvements and the after, which is construction**
5 **of the LID improvements, as influencing the Helios**
6 **property.**

7 A. So Helios is about a block from Pike Place
8 Market. It's located on the Pine Street retail
9 corridor. And it received, you know, the special
10 benefit because it was so adjacent to the Pine Street
11 retail corridor.

12 And as, you know, on the -- the closer you are
13 to -- to the improvements, the higher your assessment
14 is.

15 So a little different situation at Helios. The
16 viaduct came down, but it's really not a factor in this
17 property. Because it's kind of shielded by the market.
18 So you don't really see the viaduct from Helios. You
19 didn't get the noise like you did at Harbor Steps. You
20 don't have the access to the waterfront.

21 You can go through the Pine Street Market and up
22 and down the elevators and stairs or whatever it is, but
23 it's not as close to the waterfront improvement as
24 Harbor Steps is.

25 Helios is a property that, like I mentioned

1 earlier the demographic is largely young, tech workers
2 new to Seattle.

3 They are interested in living close to
4 restaurants, night life, shopping, and that's why they
5 live at -- at this location, which is kind of at the
6 heart of downtown.

7 I think people do use the Pike Place Market.
8 It's a great benefit. I don't think people go to the
9 waterfront as often as, you know, your visitors and your
10 tourists do.

11 I think that's more the waterfront park will be
12 more directed towards tourists and visitors where this
13 is people that are living and working in Seattle and
14 they are interested in the amenities that living in
15 downtown provide them.

16 **Q. Okay. We've talked before the average residency**
17 **of apartment dwellers at Harbor Steps.**

18 **How would you describe it at Helios?**

19 A. Very similar. At Helios we offer 12-month
20 leases.

21 We renew about 50 percent of people each year.
22 So that ends up with an average tenancy between 1 and
23 2 years. Probably the average is close to 1.5,
24 1.6 years.

25 **Q. And so, again, like Harbor Steps, you are not**

1 **anticipating being able to raise rent now based on the**
2 **anticipated delivery of LID improvements in five years?**

3 A. No. No. In fact, in the interim, it will be
4 detriment. Because the retail -- we see this a lot when
5 there's construction work in the city, you know, there's
6 going to be less access to our retailers, there's
7 probably going to be construction and fences up and this
8 could last for quite a while.

9 And so it may be harder to get to the building.
10 It may be harder to park. It may be harder to access
11 the retailer that's in the building.

12 And, you know, as -- as an apartment renter,
13 that's only going to be there for, you know, a year or
14 two, you know. You are not looking four or five years
15 out to say this is going to be where I want to be.

16 You're saying, do I want to live here now? And
17 I think you're not going to see any benefits until
18 further out.

19 **Q. Okay. And you talked a little bit about the**
20 **fact that contrary to Harbor Steps, this -- which has a,**
21 **you know, a fairly direct path of access to the water,**
22 **that this one does not.**

23 **And Mr. O'Connor -- you heard Mr. O'Connor's**
24 **testimony about the Overlook Walk being a fairly**
25 **substantial improvement.**

1 **Do you -- do you anticipate for Helios that that**
2 **improvement is going to contribute to the value of the**
3 **Helios project in five years or when it's delivered?**

4 A. I don't feel like it will materially contribute
5 to the value, because I feel like the -- the park is
6 really a draw for visitors and tourists.

7 And I think residents will go -- residents can
8 go there today. Residents will go there in the future.
9 But I don't think that's -- I don't think that's why
10 they come to this building to rent. And I don't think
11 it's going to drive our rents up any substantial amount.
12 Other than the general market would.

13 **Q. Okay. So what about the LIDs improving the**
14 **functionality in any way of the Helios project? I mean,**
15 **is there anything they are adding that makes your**
16 **project look better?**

17 A. It's aesthetic. You know, that is a prime
18 retail corridor today, and it is, you know, quite, you
19 know, it's a -- it's a nice place to walk.

20 There are concerns about crime in the -- in the
21 Pike/Pine corridor down there, especially down towards
22 the south -- or towards the west.

23 In terms of -- you know, I think it will make an
24 attractive place. But on the other hand, if it brings
25 in more traffic, more crowds, more tourists, you know,

1 more noise, that benefit from being, you know, a little
2 bit more of an attractive place to walk could be set off
3 by crimes, additional crowds, additional noises,
4 additional -- additional crime potentially.

5 And Helios is right on -- on the border. So,
6 you know, if -- if you want to -- you're really gonna
7 want to have to live on Pine Street in -- in the -- in
8 the den of, you know, the main shopping district.

9 **Q. Okay. So in a way, from an apartment-owner**
10 **perspective, your anticipation is they would rather be a**
11 **little bit more insulated from the corridor.**

12 A. Right. Right. You know, I think being right on
13 top of an amenity like that can have as much negative as
14 it has positive. Being a few blocks off where you are
15 on a quieter street in a little bit more residential
16 neighborhood but still have, you know, five-minute
17 walking access to an amenity like that is, you know, a
18 better place to be.

19 **Q. From the -- just from a -- a liveability**
20 **perspective is what you are talking about?**

21 A. Exactly. And I guess the other thing is that
22 the -- the Pike/Pine improvements are going to be
23 improving bike and pedestrian. And it appears to be
24 sort of at the -- with a reduction of traffic.

25 Does that -- does that have any material

1 positive or negative affect on Helios in your
2 estimation?

3 It's very hard to determine that, you know,
4 until you see the result. I think sometimes removing
5 traffic from a major thoroughfare like that can have
6 negative impacts.

7 I saw that happen in Chicago with State Street.
8 They removed traffic for a while, and the streetscape
9 did -- did -- actually got worse because there wasn't
10 enough activity.

11 So it's really hard to make a judgment on if
12 it's going to be better or worse based on the -- you
13 know, the traffic pattern, the traffic reduction, and
14 the -- the improvements.

15 **Q. Now -- so just -- so just to be clear, you're**
16 **not anticipating a market value increase to the Helios**
17 **project right now based on the improvements to be**
18 **delivered --**

19 A. No.

20 **Q. -- in five years?**

21 A. No.

22 **Q. It's the same answer that people are too short**
23 **term? It's --**

24 A. People are too short-term. And in the
25 long-term, it's not clear that there's going to be a

1 market increase.

2 As I mentioned, when we discussed Harbor Steps,
3 the main driver of our income in rents is job creation
4 in the city and kind of offset by new construction, new
5 supply that comes in to take that -- that job creation
6 and then people moving into town.

7 **Q. So you are talked early about the market value**
8 **decrease to Harbor Steps associated with the**
9 **implementation of the LID now.**

10 **Have you made similar analysis -- made similar**
11 **assessments with respect to Helios?**

12 A. I think -- I think in the case of Helios, there
13 may be some detriments. But I think it's more in the
14 short-term, more during the instruction, you know,
15 when -- I think in the longer term, once the
16 improvements are in place, they are going to be better.

17 But they are also not as substantial as what's
18 going on the waterfront with the Overlook Walk and the
19 art and the path. I mean, this is -- this is -- that is
20 really landscaping. This is an improvement of curbs,
21 and it's not a -- it's not a monumental change that's
22 going to happen to Pine Street. It's going to be
23 slightly more clean, friendlier landscaped than it is
24 today.

25 It's not going to be a monumental change like

1 you might see specifically at the Overlook Walk or
2 certain areas of the waterfront park where there are
3 major attractions being put in.

4 **Q. Well, and for Harbor Steps we talked a little**
5 **bit about an income approach to valuation and we got**
6 **quite an education on it with the dialectic during**
7 **Mr. O'Connor's testimony.**

8 **Have you made calculations of the net value loss**
9 **to Helios associated with the imposition of the LID**
10 **benefit -- or LID tax?**

11 A. Yeah. I mean, similarly to Harbor Steps, you
12 know, when you have an outstanding payment that's due
13 immediately, and I believe the -- the assessment for
14 Helios is 2.2 million.

15 So right off the bat, our value would be
16 2.2 million less. Because any buyer would know that
17 they were going to be on the hook to make that payment.
18 So they would subtract it off any amount that they would
19 pay us for -- and if we go ahead with the financing
20 option that the City presents us, then that cost will be
21 spread out over 20 years. And that would result in, you
22 know, a buyer looking at the cash flows over time being
23 reduced by those payments, and that would be a little
24 bit more of a value hit to us. And we figured
25 2.8 million at a 4.3 cap rate for the --

1 **Q. For 18 years?**

2 A. Yeah.

3 **Q. Did you assess it based on the -- Mr. Macaulay's**
4 **cap rates?**

5 A. I -- I assessed it on a 4.0. I'm not sure if
6 that's his cap rate, but I've been given information
7 that his cap rates are lower than what we would expect.
8 And at a 4.0, it would be a 3.1 million hit to the value
9 of --

10 **Q. Okay. So you are getting --**

11 A. -- the transaction.

12 **Q. -- a \$3.1 million value decrease now, and the**
13 **possibility of modest benefits --**

14 A. -- going forward.

15 **Q. -- in five years?**

16 A. That's right.

17 **Q. So how does that net out in your financial**
18 **model?**

19 A. It's --

20 **Q. Do you ever catch up?**

21 A. It's -- it's -- we would look at this and we
22 would say it's a highly, highly risky investment.

23 Because we'd incur 100 percent of the cost
24 and there's really no guarantee that we're gonna get any
25 return from that investment; or it could possibly, if

1 things don't go well, if the crime is not kept under
2 control, if that -- if it isn't very well executed, it
3 could be a negative to our business.

4 And, you know, if -- that's where you could
5 really lose your values if, you know, an area becomes
6 less desirable to live because, you know, people don't
7 want the hassle and the trouble and the noise and that
8 kind of thing, then people are going to avoid and, you
9 know, we would not be able to expect rent increases
10 there.

11 **Q. Right. Okay. And you said there's some retail**
12 **there. So, again, when you're using these cap rates,**
13 **you would -- you would actually, if you were doing a**
14 **more refined assessment, would you make some adjustments**
15 **for the retail?**

16 A. Yeah, we would. We would typically use at least
17 a 5.5 cap rate on retail, because, you know, there's a
18 good chance that when it goes vacant it will take a
19 longer time to get a new tenant in or we'll have
20 additional expenses to get the space ready for that new
21 tenant, so.

22 **Q. And if you were to do the cap rate based on your**
23 **analysis of the delay and the LID improvements for the**
24 **interim construction, how would that influence a cap**
25 **rate you'd assign in that analysis to the retail**

1 **component?**

2 A. Well, it might not affect the cap rate so much,
3 but it might affect the rate, the income that we'd
4 expect from that retail space. So --

5 **Q. Okay. So you might get a lower rent and have**
6 **the same cap rate?**

7 A. Right. Right.

8 **Q. Okay.**

9 A. So if there's problems or if, you know, the
10 tenant moves out because, you know, they -- they --
11 their traffic is disrupted for two years while the
12 improvements are going on, you know, it's going to be
13 hard to get somebody at that same rental rate, you know,
14 to move into that space and take it over.

15 **Q. Are they on percentage rent, some of the leases,**
16 **or are they all just fixed rate?**

17 A. I am not -- we do do percentage rent with some
18 of our retail tenants. I don't know, off the top of my
19 head, whether our tenant at Helios is on percentage or
20 on fixed rate.

21 **Q. Okay.**

22 A. There's always a fixed component to the rent.

23 **Q. Right.**

24 A. But there may be a percentage rent above that
25 based on their sales.

1 **Q. That felt so quick. I'm convinced I'm missing**
2 **something.**

3 **Is there anything else you think you'd like to**
4 **comment on about the -- the Helios project's benefit or**
5 **burden from the LID as --**

6 A. Yeah.

7 **Q. -- as currently constructed?**

8 A. No. I guess I would like to just, you know, add
9 that -- I mentioned we had -- we have 40 properties in
10 the Seattle area. We actually have -- if you count
11 Helios, it is four parcels. We actually have seven in
12 the LID.

13 Some of them are farther away from the
14 improvements and their -- their assessments are smaller
15 on a percentage basis. We -- as a company, we'd like to
16 see the park go forward. We think it's a good thing as
17 a general benefit for the City of Seattle and the
18 residents as a part, and we've chosen not to challenge
19 our assessments on other properties.

20 But for two of our biggest assets, the -- the
21 assessments are -- are actually very large. We're one
22 of the largest assessed owners in the LID group, and we
23 just can't point to any benefit that we're going to --
24 any material benefit that we're going to get at these
25 assets from the LID. So we feel like we need to

1 challenge our assessment there.

2 **Q. And I guess I have one more question when I said**
3 **I didn't have any.**

4 **How did this assessment, preliminary versus**
5 **final, and your expectation, compare with the Harbor**
6 **Steps one which you talked about?**

7 A. Yeah. You know, very similar to Harbor Steps,
8 we were involved with this process from the very
9 beginning. We had a preliminary assessment, and we
10 negotiated with several of the city owners. And it was
11 an open group, but, you know, discussed with the City,
12 you know, what -- what level of assessment would be
13 reasonable for -- for these owners and came to an
14 agreement on what that was, which it was \$160 million
15 the property owners would pay.

16 When the final assessment came out, that's why
17 we were so surprised because all of the benefit numbers
18 had gone up substantially from the preliminary to the
19 final with no explanation.

20 And we just didn't understand what -- what had
21 changed in the scenario that -- that took the LID up 10,
22 15, 20 percent on our special benefits and our
23 assessments during that period.

24 **Q. I'll ask you again in a funny way. If the City**
25 **came to you and said, I'll buy your property for that**

1 **much or if somebody else came and said, I'll buy your**
2 **project for what the City says --**

3 A. For the before --

4 **Q. The before.**

5 A. -- assessment, I think we would -- we would
6 entertain those offers very seriously.

7 MR. STILLWELL: All right. Nothing further.

8 HEARING EXAMINER VANCIL: Cross?

9 CROSS-EXAMINATION

10 BY MS. THOMPSON:

11 **Q. Just tagging onto that last question and your**
12 **answer, you said that all of the assessments between the**
13 **preliminary study and the final study had increased**
14 **substantially.**

15 **Do you mean with respect to Helios and Harbor**
16 **Steps, or is that a statement you're ascribing to all of**
17 **the properties assessed under the LID?**

18 A. That was for all seven of where we have
19 ownership -- we had ownership stake in seven parcels.

20 And the special benefit, calculated special
21 benefit increased from the preliminary to the final for
22 all seven of those properties.

23 **Q. And you mentioned that the Helios building has**
24 **retail.**

25 **What type of retail is there currently?**

1 A. It's a small hard goods, clothing store. It's
2 probably about 1,500 square feet and it's called
3 Wayward.

4 **Q. So it's just a single retail tenant then?**

5 A. Single retail tenant.

6 **Q. And I was wondering if you could describe for**
7 **us, where the Pike/Pine LID improvements are in relation**
8 **to the Helios building.**

9 A. So -- so we are on the corner of Second and
10 Pine, the retail fronts on Pine Street there.

11 So as -- my understanding of the project is
12 that -- that all of the Pike and Pine public access
13 sidewalks and streets are going to be redone and
14 relandscaped as part of the project. So it will be
15 immediately adjacent to Helios.

16 MS. THOMPSON: No further questions.

17 HEARING EXAMINER VANCIL: Any redirect?

18 MR. LUTZ: No redirect.

19 MR. LEIGH: Thank you.

20 (Off-record discussion.)

21 MR. LUTZ: I have one other question in the
22 managing of our 8-1/2 days. And -- and I'm -- it
23 pertains to your ruling yesterday on the depositions
24 which -- I know you said we should have noted them
25 before the -- the February 4th hearing.

1 I went back and did double-check that at
2 least in our request for a prehearing conference, we had
3 indicated we wanted not just the Macaulay deposition but
4 several.

5 So we filed the request on the 31st, and
6 based on the Hearing Examiner rules allowing subpoenas,
7 we were asking whether we needed subpoenas, which you
8 had said, no, we didn't.

9 But I guess my -- my thought is that if we
10 had more depositions we -- and especially with, you
11 know -- maybe not next week, but before April. We might
12 be able to speed things up in the -- in the direct and
13 cross.

14 So I'm not sure that's really a request for
15 reconsideration or a suggestion. And I guess the
16 alternative is maybe we should at least, on witnesses,
17 figure out if there's some way to say -- of our time how
18 much cross time the City gets versus how much direct
19 time we get to try and help us manage to the remaining
20 time.

21 HEARING EXAMINER VANCIL: Understood. Okay.
22 So you raised several items. One on subpoenas. I only
23 recall on the 4th mentioning to one of the objectors
24 that he didn't need to subpoena. I didn't say nobody
25 needs to subpoena. Nobody asked me except him. I can't

1 remember if it was -- I can't remember if he's on
2 schedule for next Tuesday.

3 And he was specifically asking about
4 Mr. Macaulay, so I knew that the City was calling that
5 witness.

6 MR. LUTZ: Okay.

7 HEARING EXAMINER VANCIL: So that's the only
8 statement I recall making with regard to subpoenas. The
9 ruling with regard to discovery was relative to the
10 notice of the hearing going out on December 30th,
11 January 1st. You know, holiday, few days in there,
12 whenever that is.

13 My understanding is what you're saying is
14 that in your request that came in a couple working days
15 before the hearing started.

16 MR. LUTZ: Right. Right. Two working days
17 before the hearing.

18 HEARING EXAMINER VANCIL: On the Friday.

19 MR. LUTZ: The Friday before.

20 HEARING EXAMINER VANCIL: Then on Tuesday
21 that there was -- in there, there was a request to
22 depose other witnesses as well.

23 MR. LUTZ: Correct.

24 HEARING EXAMINER VANCIL: I don't recall you
25 raising that on the 4th when you asked me about it, but

1 I didn't catch that, so.

2 MR. LUTZ: Yeah. I'm pretty sure I
3 mentioned having anticipating asking for other
4 depositions.

5 HEARING EXAMINER VANCIL: So the only
6 request I've had -- I mean, I can admit, no, I did not,
7 out of the 440 objections that we've gotten, identified
8 that one item.

9 And I really leave it to counsel to advocate
10 for themselves on getting the responses they need on
11 those items. We -- I did accommodate the request for
12 Mr. Macaulay, so -- and there was -- I didn't hear any
13 reiterated request for anybody else except that.

14 The other requests -- and there are other
15 issues besides the timing with regard to the type of the
16 witnesses, et cetera, but for those purposes, the
17 request for depositions have been denied.

18 MR. LUTZ: Understood.

19 HEARING EXAMINER VANCIL: I'm not revisiting
20 that at this point.

21 MR. LUTZ: Okay.

22 HEARING EXAMINER VANCIL: So -- I don't know
23 that there was any other specific request to me.

24 MR. LUTZ: Well -- you know, sometimes you
25 use like the chess game.

1 HEARING EXAMINER VANCIL: I will never do
2 that again. I've done that for one hearing, and I
3 don't -- it didn't actually work.

4 MR. LUTZ: Okay.

5 HEARING EXAMINER VANCIL: And so we can talk
6 about allocating time and I'm happy to do that. I think
7 partly what I'd like to do is see how things go.

8 Right now you do have a considerable amount
9 of time and you've used it efficiently. The other
10 parties have similarly done that. Most of these
11 objections have actually gone less than anticipated
12 time.

13 Right now, I've granted the time that every
14 objector requested. So everybody has gotten the amount
15 of time that they have asked for.

16 MR. LUTZ: Correct.

17 HEARING EXAMINER VANCIL: And so working
18 within that is the best way to go. I recognize that
19 if -- if cross-examination takes a long time that that's
20 certainly something the City can -- can -- has their
21 right to do the cross-examination. But if it's not
22 anticipated that -- I think if we all kind of go by a
23 rule of thumb, we anticipate cross-examination is going
24 to be less than direct.

25 If that doesn't play out to be the case

1 multiple times and we're looking at an extension and it
2 seems legitimate that it wasn't by any fault of the
3 objectors that they have not been able to use the time
4 they were allotted, then probably we will have to look
5 at re-examining our case schedule, which would
6 essentially mean postponing the City, postponing the
7 cross-examinations. Because I doubt I will find time
8 between any new dates in April or March to dedicate to
9 this.

10 Right now we're just going to put a hold on
11 it. I note that you've made a note that, hey, I'm
12 concerned about the time. We'll see how it goes. And
13 if it plays out that you don't have enough time, then
14 you'll have to address that when getting closer to that
15 reality.

16 MR. STILLWELL: All right. Thank you.

17 Mr. Scott has indicated that he is available
18 if we want to begin his presentation.

19 HEARING EXAMINER VANCIL: Certainly.

20 MR. LUTZ: And I'm going to excuse myself.

21 Thank you, Judge.

22 HEARING EXAMINER VANCIL: I don't know if
23 you need to be present. We have two exhibits that are
24 not admitted yet.

25 MR. LUTZ: Oh, yeah. Could we --

1 HEARING EXAMINER VANCIL: Thirty-seven was
2 the appraisal for Mr. O'Connor; and the 38 was the
3 summary, property summary for the Helios.

4 Is there any objection?

5 MS. THOMPSON: No objection.

6 HEARING EXAMINER VANCIL: Thirty-seven and
7 thirty-eight are admitted.

8 MR. LUTZ: Thank you.

9 (Exhibit Nos. 37 and 38 admitted.)

10 (Mr. Lutz exits the hearing room.)

11 HEARING EXAMINER VANCIL: Mr. Scott, you
12 remain under oath or affirmation from your earlier
13 appearances.

14 MR. SCOTT: Yes, sir.

15
16 BENJAMIN SCOTT, witness herein, having been
17 first duly sworn on oath,
18 was examined and testified
19 as follows:

20 DIRECT EXAMINATION

21 BY MR. STILLWELL:

22 **Q. Good afternoon, Mr. Scott. Thanks for hustling**
23 **back.**

24 **Do you have your report dated January 31, 2020,**
25 **regarding the Helios property in front of you?**

1 A. I do, yes.

2 MR. STILLWELL: And introducing into the
3 record that report.

4 HEARING EXAMINER VANCIL: Exhibit 39.

5 BY MR. STILLWELL:

6 **Q. And is this a review for the Helios building**
7 **with regard to the waterfront LID?**

8 A. Yes.

9 **Q. How did you prepare this report?**

10 A. I considered -- visited the property and
11 considered information in the market including rents --
12 rent comparables, previous rent rolls, and income and
13 expense at the subject property, and then my
14 observations of the LID and the LID benefits.

15 **Q. And we've had extensive -- well, we've had**
16 **testimony today already with regard to the description**
17 **of the property.**

18 **But please just briefly mention in your site**
19 **visit and your study of the property what descriptions**
20 **seem relevant for you with regard to the LID assessment?**

21 A. I think most general -- it's a high-rise
22 multifamily property with retail base.

23 **Q. And what is the proximity of the Helios building**
24 **to the waterfront improvements?**

25 A. I showed that is about 6- to 700 feet from the

1 Overlook Walk improvements. Those would be through the
2 Pike Place project from the subject property. It also
3 fronts Pine Street, which will have some -- which will
4 have some updates under the Pike/Pine renaissance
5 portion of the LID.

6 **Q. And please describe the surrounding area for the**
7 **Helios.**

8 A. It's amid a number of other multifamily
9 properties about a block from Pike Place Market.
10 So it's like, so two blocks east of -- I'm sorry, two
11 blocks west of -- for instance, for the -- where other
12 places are right there. It's a block from the other --
13 the Pike Street improvements.

14 **Q. And how does the proximity of the Helios to the**
15 **waterfront improvements impact the -- I'm sorry. Let me**
16 **rephrase.**

17 **What effect does the waterfront improvements**
18 **have on the Helios's property value?**

19 A. According to my analysis, I think that -- in my
20 consideration, I think that the improvements to the Pine
21 Street sidewalks are not going to be a fundamental
22 improvement to the subject.

23 The already high level of those, according to
24 a -- I discussed it before, but the IMI survey on a
25 before-and-after basis there's not a significant

1 improvement to that location.

2 More significant improvements are about a block
3 away. So I think that that streetscape improvements,
4 the benefits -- the changes are not an overall benefit.

5 With respect to the overlook park, the Overlook
6 Walk that -- you know, the other side of Pike Place
7 Market, I think is less likely to be an amenity for
8 tenants of the property.

9 I think the main draw for this location is going
10 to have a tendency to be your downtown location. That's
11 your proximity to jobs, to other local amenities like
12 the restaurants and things of that nature.

13 I think your tenant profile is not really going
14 to leverage the park. I think the adjacency of the
15 improvements -- once again, the adjacency of the street
16 improvements, I think, has the potential to generate
17 some disamenity; especially when it comes to the
18 retail tenancy.

19 Construction for, essentially, a marginal
20 improvement to the sidewalks may impact the property.

21 Similarly, the garage entrance for the subject
22 property is on an alley. It's on the alley to the east
23 side of the property. I think there's potential for
24 that to be obstructed by potential construction along
25 that portion of the property.

1 **Q. Thank you.**

2 **So it sounds like when you say that the**
3 **Pike/Pine improvements won't necessarily have a net**
4 **positive impact on the property, can you elaborate on**
5 **that, please?**

6 **What other disamenities will the Pike/Pine**
7 **improvements have on the Helios?**

8 A. I think there -- that if you consider the corner
9 where it's located, that already has a tendency to
10 draw relatively large crowds.

11 The sort of streetscape there has a tendency to
12 make some people potentially uncomfortable, I guess.
13 Its location about two blocks west of a recent shooting,
14 I think is another characteristic.

15 And this is a situation where a perception of
16 crime can lead to a concern about safety in terms of the
17 location.

18 I talked about that -- in the studies that --
19 the studies that we've discussed previously have
20 characterized that disamenity due to those spillover
21 externalities. And I think that this subject, this
22 property, given that relative lack of improvement to
23 that streetscape, coupled with the cost of that in terms
24 of the added inconvenience of the construction,
25 et cetera, is potentially a problematic feature.

1 **Q. And can you elaborate on that a bit more.**
2 **I'm -- just explain a bit more how the presence of**
3 **improvements on Pike/Pine will create or augment**
4 **disamenities.**

5 A. Excuse me.

6 **Q. And, Mr. Scott, I'm sorry. If you had been --**
7 **it looked like you might have been speaking there for a**
8 **few seconds.**

9 **HEARING EXAMINER VANCIL: Confirm he can**
10 **hear you and that he's okay.**

11 MR. SCOTT: I apologize. I was struggling
12 for breath. So I do --

13 MR. STILLWELL: I'm sorry. Okay.

14 MR. SCOTT: I think the enhancements of the
15 streetscape -- I think are -- (disruption in Skype
16 connection.)

17 MR. LUTZ: Feel free to take a breath or
18 two, Mr. Scott.

19 HEARING EXAMINER VANCIL: We have five
20 minutes left. Let's suspend and we'll come back with
21 the witness.

22 Mr. Scott, thank you for your efforts today.
23 We have ample time later in the hearing to continue with
24 your testimony. We only have five minutes -- less than
25 five minutes left today.

1 And so rather than put you through
2 additional testimony, we'll suspend the hearing at this
3 time.

4 MR. SCOTT: I understand. Thank you, sir.

5 HEARING EXAMINER VANCIL: Thank you.

6 MR. LUTZ: Thanks.

7 HEARING EXAMINER VANCIL: All right. We
8 will adjourn and return for the continuance of the
9 Waterfront LID Assessment Hearing will reconvene on
10 March 10th for Case No. 375 at 1:00 p.m.

11 This matter and the collected cases that
12 we're addressing now for 318 and 410 through 441 will
13 reconvene on March 11th at 9:00 a.m.

14 Thank you.

15 Let's -- just before we close, any objection
16 to Exhibit 39?

17 MS. THOMPSON: No objection.

18 HEARING EXAMINER VANCIL: All right.
19 Exhibit 39 is admitted. Thank you.

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 proceeding before the Hearing Examiner on MARCH 5, 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 23rd day of March, 2020.

CRYSTAL R. McAULIFFE, RPR, CCR #2121