Seattle Waterfront LID Assessment Hearing

Seattle LID Public Comment Hearing

March 10, 2020

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206.287.9066 I 800.846.6989
1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101
www.buellrealtime.com
email: info@buellrealtime.com

SEATTLE WATERFRONT LID ASSESSMENT HEARING

BEFORE

HEARING EXAMINER RYAN VANCIL

Taken at 700 Fifth Avenue, Suite 4000
Seattle, Washington

DATE TAKEN: March 10, 2020

TRANSCRIBED FROM AUDIO BY: Nancy M. Kottenstette, RPR, CCR 3377

INDEX OF EXHIBITS

SEATTLE, WASHINGTON; March 10, 2020
1:01 p.m.

HEARING EXAMINER VANCIL: All right. I'll call to order this March 10, 2020, continuance of the Seattle Waterfront LID Assessment Hearing. Today an objection -- the objection will continue, and I -- Hearing Examiner Case No. CWF0375. Please make sure all cell phones are turned off and not in use during the hearing. We'll hear from one party at a time. And please proceed.

MR. MOSES: Thank you. And thanks for doing this in person today. I think that makes for a little better interaction so I would encourage you to ask questions at any point, to slow me down, whatever is necessary.

Before I start, I'd like to give you a little bit of my background. I'll just read that in. I have a BS in mathematics from Seattle Pacific University. Until my retirement in 2013, I was --

HEARING EXAMINER VANCIL: I'm sorry. Mr. Moses, please state your name and spell it for the record.

MR. MOSES: I'm sorry. My name is Victor Moses, V-I-C-T-O-R, M-O-S-E-S.

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

MR. MOSES: I do. I'll start again.

I have a BS in mathematics from Seattle Pacific. Until 2013 I was a credentialed actuary, fellow of the society, and a member of the American Academy. I understand modeling tools very well and the statistical analysis of their results. I served as a chief actuary, a chief risk officer, and a chief financial officer of a publicly traded company, Genworth Financial.

I've been involved in the financing of real estate, commercial real estate, since 1983, serving on investment committees that have reviewed a number of commercial real estate loans as well as other real estate asset-backed securities. I've learned appraisal techniques. Mass modeling appraisals don't have materially different fundamentals. They just rely on models to generate their results.

For roughly ten years of my career, I did business development work for General Electric. I identified targets, staffed and managed due diligence teams, negotiated sales and purchase agreements, executed agreements with delegations from GE's board on acquisitions that ranged in size from a billion two to 10 million dollars across the world.

I'm very familiar with what it takes to analyze large and diverse operations, including real estate holdings. For two years after retiring from Genworth, I was the managing director of Fortress Investment Group, a New York-based private equity firm. Our portfolio was heavily real estate weighted, including esoteric properties like cell phone towers, rail right-of-ways. We owned Intrawest, the real estate that owned Whistler and developed it for the Olympics.

For 13 years I was a member of the Seattle Pacific University board, served as the chair of its finance and facilities committee. I -- with that committee, we purchased and sold real estate, both in and out of our master plan zone and developed a portfolio of assets for the university. And I served ex officio on the foundation of the school, which also managed a significant real estate portfolio.

I currently chair the loan committee for the Free Methodist Foundation, which makes real estate-backed loans for churches, schools, camps, and other facilities -- senior care facilities. And I do some residential real estate development on the side.

So going to the first page in my presentation, I'll try to simplify things a bit. I'll touch on a couple of points. First of all, I'm withdrawing two objections. It makes it a little easier. And I'll give you first all a copy of the presentation I intend to deliver today.

HEARING EXAMINER VANCIL: It will be marked as Exhibit 1.

(Exhibit 1 for Case Number CWF0375 was marked.)

MR. EDLUND-CHO: Just one copy is fine.

MR. MOSES: One copy. Would you like a copy?

MS. THOMPSON: Thank you.

MR. MOSES: And along with that I have an amended copy of my objection which, basically, takes out all the requests for continuance based on due diligence because that's been granted and takes out the two withdrawn objections.

I don't have -- I have not added anything. I fixed a couple of typographical errors, corrected some factual data on the description of our building. It has 143 units, not 14.

We owned an air rights easement -- or air easement across some of the adjacent parcels, not an air rights easement. There's a subtle difference there. So I'll give this to Galen, and you only need one copy. And one for you just so you have it.

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

(Exhibit 2 for Case Number CWF0375 was marked.)

MR. MOSES: Okay. By the way, in that the original exhibit numbers haven't been changed. I've just marked them as removed on the exhibits page, so if you have the original objection, all those exhibits are still good and the same numbers apply.

Turning the page to page 3 of the presentation, I have four main objections today, timing of the assessment, which you've heard a lot -- and I'll try to go through pretty quickly; things that are specific to 1521, the condominium building in which I reside; and then a comment on discontinuous improvements, which is a statutory issue; and then the last piece is I will submit the report from Peter Shorett who is my expert. I'll go through the client-provided portion of that report, and he will testify, I believe, it's Wednesday. It's scheduled for that, but I'm not positive about that.

One of my objections is not listed here, and that was an objection about exclusion of -- from assessment of certain state and local properties. I haven't withdrawn that objection. It's still in the package, but I'm just not addressing it here today.

Time of the objection, from my perspective, what the City is doing constitutes a fundamentally unsound business practice. It puts taxpayers at risk, and the point of this hearing, it puts property owners at risk with regard to what gets built. Suing the City ten years from now over failure to deliver on the promises in the LID is not an adequate remedy.

So flipping the page again, this page I'm sure you've seen before. It's been in a lot of objections. The City contends the design is complete, even though a lot of it is only at 10 percent. And since they're guaranteeing no further assessments, there's no basis for objection by policyholders. I contend that's not true.

The City is proposing to build and assess property owners in advance for improvements it has not yet -- does not yet have approval to build. The City has made no material progress on completion of design in the eight months since the preliminary study was issued.

Design specifications are not at the point where those approvals could even be sought and not at the point where a reasoned decision could be made on completion that the design requirements had been met.

So, essentially, the LID becomes a contract between the City and the assessed property holders. In this case, the City's consideration for entering into that contract isn't adequate to justify assessment. Property owners' consideration and those assessments shouldn't be made until it is.

This objection has been slightly modified. In my original objection, I objected to assessment before construction was complete. In my research, I found there are several instances where that's been done, although the design specifications were complete. And the other instances were service contracts where there was an assessment for ten years of services, but the services started immediately. So I think that the basis for this is sound, and I won't say any more on that.

The next pages are kind of background pages for me. They really go to why a condominium appraisal, at least for our building, don't pass a sniff test. It comes down to the difference between income and utility. For all commercial properties, ABS could hypothesize some increased income, impute some projected capital, and generate a price.

It's still a weak process. For anything other than a building being leased by the owner -- like a hotel, for example, is being leased, it values the business, not the underlying property, but at least it's a model that can be debated. There's no income model for residential properties. Any increase in value from park-like amenities or green spaces or street beautification is a perceived one. It's based primarily on the utility of the proposed amenities, and this is particularly true given the elimination of any view analysis from the LID.

So what's going on, and why do the valuation looks -- results don't appear credible? Just to give you some background there, if you flip the page again, our valued -- or looked at the valuations of four buildings that surround our building on Second in between Pike and Pine, the first is West Edge Apartments, which opened a little over a year ago; Helios, which opened shortly before that; The Emerald, which is scheduled to open in about six months -- you'll see the mark there; and then 1516 Second, which is not out of the ground yet. It's through design. Land use application has been submitted.

If you look across the bottom and just look at the -- on one of the other pages, the print is a little bigger for me and my old eyes. You can see the special benefit in the third column up from the bottom applied to each of those properties.

And you can look at the specifications for the buildings, how big they are, all in the same size range, but 1521 is -- other than it is a little bit bigger than The Emerald but smaller than all the others, the land value is smaller. The residential units, a lot smaller. We have bigger units in our building.

And you can look down at the special benefit that was applied, and this is to the whole building. For the condominiums, I just added up the assessments for all of the residential units in that building. For the apartment buildings, I just took their assessed valuation.

And you can see it's just -- it's radically different. And when you take it down to a special benefit per square foot, the two buildings in development are being assessed $2.68 a square foot, $8.99; the apartments are in the $18 range; and the one condominium is $34 a square foot.

If you just do it by units and you look at units, based on the proposed number of units -- this is the low number -- it's about $2,000 a residence for 1521 Second, 8,000 for The Emerald, 14 to 18 for the two apartments, and $67,000 for the condominium. It's just looked at a lot of appraisals. Residential appraisals never get valued outside of commercial appraisals when both land uses are available. It doesn't happen. So that's my kind of first objection. It doesn't pass the sniff test. I'll go into how I can validate that with some numbers in a few moments.

Next, I think -- and this is an objection I've withdrawn because it's applicable in general but not to my building. The ABS appraisal was based on 2018 KCA tax numbers. 2019 numbers were available. They didn't update these studies. So the data was over a year old, which by mass appraisal standards would be dated.

And it misses the impact of a lot of these completed and in-progress buildings. In particular, for people in the 01 and 02 stacks on the east side, their city territorial views were significantly diminished. The 02 stack was hit the hardest. And there were value losses of 400, 500,000 dollars at some levels in the building. There was one KCA approved appeal of taxes in 2019 with a $400,000 reduction in that stack that did not get picked up.

And there are a lot of other people who looked at that now said I should have appealed my taxes and didn't, but that's an issue they have to deal with. But from my perspective, this fails an USPAP standard for continuous updating. They just didn't do it, and they could have. The data was available.

The second piece is how they used the data. They appeared to take the data from a lower unit in the apartments -- or in the condominiums in this case and then periodically stepped that up, either for the esthetic value of being higher in the building or for a view lift. I'm not sure. It doesn't really say.

But they did it erratically. It just steps up. It goes 10 floors level, and then it pops up by, you know, 10 percent. It's level again. Again, for me, I was kind of in the middle of this. I'm a stack 04 person down here, and I'm kind of in the middle of a tier. And it's probably pretty close to right for me. It might even be a little bit under for my unit on a pure assessed value basis.

But for any people who are on these cusps, it's crazy to look at the person next to me or one floor down has exactly the same floor plan as I do that's got an erratically different value. This would have worked if you were assessing the condominium in total. It's not acceptable for assessing individual units.

Okay. Enough. I'll move on to the ABS study. ABS cites three economic studies in their paper as the underlying basis for their valuation. The first is the HR&A study that was done for the Friends of the Waterfront; the second is John Crompton, the impact of parks on public values, and I'll spend most of my time on that because that is aimed at residential properties; and then a study by the New York City Department of Transportation, which was done based on some street beautification projects that were done in New York City.

And I'll go through these fairly quickly. First is the HR&A study. It defines the Seattle Waterfront has a 26-block transformative open space. I'll only reference one page in that because that's the only reference in here to residential properties.

If you look at the top of the economic and fiscal income impact statement, you'll notice that for regional residents, downtown park adjacent, which I think is me -- it's not absolutely clear -- or city residents, which are nonadjacent; and then metro residents, which is noncity. I kind of translate that to downtown Seattle and metropolitan area, but it's not completely specific.

But if you look at it, it shows net new visitor days for downtown residents at zero, which means that downtown residents aren't going to use the park any more after it is built than they do today. It's not less than 1 percent. It's zero.

For city residents, it's .11. That translates to about one visit every nine years. I step back and I look at that from an economic standpoint. Price increase should be a function of utility. There is no utility here, no additional utility, from the park for local residents. We're not going to use the thing any more than we did before, and I think that's a fair assessment. I know I won't.

Okay. Moving to the next one, this is where it starts to get a little meatier. I need to catch up here. This is a cite that is not quoted in the ABS study. He quotes a lot of John Crompton, but he didn't cite this piece from the executive summary. And it pretty simply lays out kind of the size and distance issues for parks.

There is consensus among the studies that it has a substantial impact up to 500 to 600 feet, typically three blocks away from the park. In the case of community-sized parks, say upwards of 40 acres, it tended to extend out to 1,500 to 2,000 feet. But even in those cases, the premium was small after 500 to 600 feet. The thing I'll point out here is that although in the study ABS defined a huge area, if you look at the very paper they based it on, it said they shouldn't have gone beyond 500 or 600 feet.

Okay. And, you know, by the way, Crompton, as I went through the papers that were in the files for ABS, he cited iCapital. And he's a very well-known and very respected commentator on this subject. He's -- he's even done some work for Seattle, or not him, but his -- his work was used to -- some assessments for the Seattle Parks Department, and I'll touch on that later.

Okay. So a little about that paper. It was first published in 2001. The second edition was published in 2004. It was updated in 2014. And he basically took 30 empirical studies -- it might have been a couple more -- synthesized some very complex and technical data and provided a simple tool for estimating increased property taxes generated by a park, not for assessment, but to estimate increased property taxes.

The increased value of nearby properties ultimately captured in tax assessments was based on three factors -- the size of the park we just discussed; the distance from the park, which was discussed in the prior page also; and then quality of the park. And as I said, it's been widely used in Seattle. I skipped a page. I may go out of order there. I may have. Sorry. Let's go to page 16.

ABS cites Crompton. 75 percent of the benefit from the park is captured within 500 feet or three blocks, and the remaining 25 percent is likely dissipated over 500 to 2,000 of range or 4 to 12 city blocks. It makes no mention of park size as a factor here, but it is. And also if you read what Crompton said, Crompton said typically, all right, one to three city blocks.

And the idea behind this was that you're using a parcel map. You look at the parcel map. You draw a 500-foot line, and you pick the nearest demarcation boundaries straight or otherwise that allows you to separate parcels. It didn't say it's 500 feet or three blocks, which in Seattle's case is 1,000 feet or almost 1,000 feet. The basis was 500 feet.

And I'll say more about that later. I actually contacted John Crompton for that fact. So I have the e-mails and they'll be attached. They're actually attached to Peter's paper because I provided them to Peter.

It notes that neighborhood parks are primarily used by the surrounding residents result in higher increase in property value. We've just seen from the HR&A study that they're not predicting any higher use by surrounding residents. But he never notes this in applying his valuations. He also notes the adverse effects of nuisance and congestion, and there are some. Although I'm not going to apply them to the park area. I'm going to apply them to the Pike/Pine improvements which is where we will feel it.

He stresses 3 and 12 city blocks throughout the study, which using Seattle's 320-foot blocks translates to 960 feet to 3,840 feet as opposed to 500 to 2,000. At any rate, the reality is for this size of park, it should have been one and a half blocks, 480 feet. You might be able to stretch that to two blocks, 640 feet. And if it's a large park, one and a half to three blocks, which would get you 600 -- 480 feet to 1,920 feet.

Okay. So then he cites Crompton again. Grade each park on a scale ranging from unusual excellence, dispirited, blighted, etc. And he says the grading can be done by parks staff or a panel of residents familiar with each of the sites. Well, ABS didn't do that. They just asserted their own judgment, no independent objective third party approach to it. They just asserted their values here.

And that's actually on the next page. And there's a subtle change here. When ABS puts this language into their paper, instead of referring to park where they started, notice it says -- it summarizes the grading scale for park amenities. So we've changed from the park to just some of the amenities of the park, and he does cite the grading scale accurately.

And he goes through his comments that in the case of the Seattle Waterfront Project there is an existing amenity. The current Waterfront area can be rated as average to above average since it's a unique public amenity. With the project elements created, it will be upgraded to excellent.

So that's like the top of the scale. That means it compares to Green Lake, Woodland Park, Seward Park, Discovery Park. As a resident of Seattle, that's hard to -- hard to take. And I'll make that point again later. But at any rate, he says: Therefore, the suggested premiums applied to all single-family homes within the 500-foot proximate area of the three highest categories are -- and he cites these. He says -- and he moves on down, the next page.

And he says condominiums, now -- it's not single-family homes. It's condominiums within a three-block radius typically experience property increases of -- and he cites these numbers. And then he closes with: With the project elements completed, the area will be upgraded to excellent, which implicates an average 5 percent increase in values situated within three blocks of the improvement's new amenities.

So now we aren't even talking about a park. He has now stretched his definition from parks to any of the improvements and new amenities, and he generates a 5 percent condominium increase.

So in order to get that, he had to be excellent at the end. The 5 percent means it had to be above average in the before case, and he generates this 5 percent average for condominiums within three blocks. Three blocks is already a stretch.

He ignores another piece of information that's in the same paper on page 34. It may take 30 or 40 years for new parks to mature. In the beginning, trees are small, spindly. Plantings are scattered and immature. Shade is scarce. The landscaping is not esthetically pleasing; hence the capitalized premium may initially be relatively small, but if the park is well maintained, the premium is likely to increase over time.

Macaulay doesn't mention this. He makes no adjustment for it. If you look at what the park is going to be, the City is, in the improved version, increasing the size of the trees from 2 1/2 inches to up to 4 inches. It's not clear they're all going to be 4 inches. They are planting 100 -- the number here. 166, I believe, new evergreen trees with a height of 8 to 12 feet. I don't know how you can construe an 8- to 12-feet evergreen mature, but I asked Macaulay that question during deposition, how mature was the park, and he admitted he didn't know.

So this, quite frankly, is omission of a material fact in my mind. It was there. It was in the same paper he had. He could have looked at this. He could have made an adjustment for it. He didn't.

Okay. Let's take a look at one more piece, and I'm going to hand out Exhibit 3 here.

(Exhibit 3 for Case Number CWF0375 was marked.)

HEARING EXAMINER VANCIL: This will be marked as Exhibit 3.

MR. MOSES: Okay. This was a paper done in 2011, the economic benefits of Seattle's park and recreation system. I've only got three pages. There's two pages, the cover and then two excerpted pages from the study that was done for Seattle.

It considered all parks in Seattle over an acre in size, and it valued the tax benefits of those properties. It actually did it very soundly. It was a study valuing properties over a several-year period inside and outside the boundary that was chosen coming up with a premium and applying that to Seattle properties. They used a 500-foot boundary.

They calculated the premium for the City of Seattle at 4.84 percent for every park in the city over an acre in size. 4.4 percent for every park in the city, including model big ones, Carkeek, Green Lake, Seward. And ABS comes up with 5 percent for just the improvement portion of the downtown park. It doesn't work, but this was another piece. This paper was in ABS's files. They had this information, could have looked at it. Maybe did. But at any rate, it was not used.

So moving past that, we're kind of in a

summary of the Crompton work. ABS has two key premises. 75 percent of the benefit is captured within three blocks; the remaining 25 percent is dissipated over 4 to 12 blocks. Crompton's park rating indicates an average increase in value of 5 percent for condominiums situated within a three-block radius.

Reality is the distance standards, even for a large park, are 500 feet and 2,000 feet. In Seattle city blocks, that translates to one and a half blocks to three blocks. ABS is basically saying two times what the Crompton study indicated for distance. And the 26-acre park, actually, if we apply this partially, doesn't even qualify as a large park.

And as you see it morph, they are applying it not to the park. They are applying it to every amenity, and they turn around and apply it to Pike and Pine zone. And you can see in the valuation maps how the valuation percentages go up along the Pike and Pine line. So they're treating it the same way and never intended had it been done by Crompton.

So the other thing is that the 5 percent increase. Well, it says Crompton's park rating indicates a 5 percent average increase. Robert Macaulay set the 5 percent average increase. He was the one who selected the gradings for the park. He ignored the other factors that were available and should have been considered and, you know, came up with his averages.

The last point I'll make is averages aren't applicable here. It's the classic story of a person drowning in a swimming pool that's 3-feet deep. If you have an average price over three blocks or one and a half blocks, whatever it is, you can't assume that block one is the same as block three or block one is the same as block and a half. And, in fact, they're radically different.

So flip the page one more time, and we'll look at the generalized form of John Crompton's model. And what you can see here is that in the first 500 feet you should get 75 percent of the value. And in the last 1,500 feet, you get 25 percent of the tax value. This is the tax base increase.

And it's not linear. It's not -- or even straight across and stepping down. It actually looks like this. And in the Peter Shorett case, I've copied a graph out of another Crompton work which shows this curve.

Okay. So flip to the next page, and this is my work. I sent John Crompton a picture of an earlier version of this graph asking him to verify if this was an appropriate depiction of his model. He also replied that it was. And what you can see -- and this is for a 5 percent premium. I used Robert Macaulay's number here.

If it is a 5 percent premium -- and this was done over one and a half blocks. It wouldn't -- if you had done it over three blocks, it would stretch out, but I used the 500 feet here. Actually, I used 480 feet, which is three Seattle -- a block and a half in Seattle closest to 500 feet.

And you can see the first block is pushing 8 percent. The second block is right on the average, 5 percent. The third block is 2 1/2 percent. So there's a huge difference in those assessments. And you can also see that when you step out into the tail, they fall off dramatically.

Our building is about 1,000 feet from the waterfront. That would put us in block three here, and at 5 percent assessment, full boat for what Macaulay suggested, our special benefit assessment would have been .68 percent.

So on the next page, I kind of tried to put this in perspective. This is translated down to what Robert Macaulay ultimately used in his study for condominiums, which was three blocks graded to something less than half a percent. I think he assessed a few properties at a quarter of a percent.

The blue lines are the application of John Crompton's model. The red line was kind of my first guess at what ABS did prior to deposition. In deposition it was clear they don't have -- they didn't use a model. There's no analysis that I could find. They didn't submit any. Robert Macaulay indicated that a Mary Hamel, I believe, did the condominium appraisal, and he didn't have anything he could add to that.

But if you look at this, ABS is somewhere in here on the red line. If it went out three blocks or whatever, I don't know, I just drew a line in, but here is where, even with his numbers, we are 2.7 percent. At three blocks out in any kind of a standard, we're kind of off the charts. If you use the 500-foot --

HEARING EXAMINER VANCIL: I'm sorry. When you were saying "we're," there's a red dot on your chart. Is that --

MR. MOSES: That is 1521, that 2 percent. That's the red dot.

If it's a small park, we're at zero down here because we're well outside the 500-foot boundary. If we're a large park, we're somewhere in the range of these blue bars. And Macaulay appraisal has us at 2.7 percent.

And in the work they provided, there is no analysis. There is no model. There are no special case files. There are some KCA data that was pulled, some comparable sales data that was pulled, but nowhere does it show where 2.7 percent is even calculated. The only place you can find it is buried in the spreadsheets of the final study.

And another use about this issue is he's required to have special case files. If he's got a model he's provided, he's supposed to be able to validate it and demonstrate how it works. He has neither.

Okay. So that's it for John Crompton. It does not support ABS's valuation. The initial 5 percent assumption isn't defensible. He scales it down. He doesn't give any indication of why he scaled it down to three and a half. Even that, the way he applied it, is not defensible.

Okay. I'll move on to the last study that was in this paper, which is the New York City public transportation study. The first eight projects that were done around New York City, they were material changes to streets. They rerouted transit, took buses off the streets, put in angle and parallel parking. And then they measured -- and other changes. They put in loading zones, beautified the streets, put in pedestrian enticements like benches and things. And that's pretty dramatic improvements.

They measured that improvement by collecting retail sales tax returns and then using that to estimate the increase in the value of commercial properties surrounding the street beautifications.

There's nothing in that study that applies to residential properties, and retail sales prices are not an indicator in any kind of an appraisal manual for assessing residential properties. But ABS, as they did, just wraps this 5 percent increase around all improvements and says ought to apply here. It's not supported. There's no evidence that the street beautification projects do anything for residential properties. Retail sales aren't evidence, not for residential.

So that's my last comments on all the studies. I'll touch briefly on my issue on just continuous improvements, and in the exhibit you have, I believe the last page -- I've got a couple of other things in there. I'm going to back up and touch on them just so you don't wonder why they're in here that I didn't hit them.

The third page, I think it is --

HEARING EXAMINER VANCIL: And you're referencing Exhibit 3?

MR. MOSES: This is Exhibit 3. Is just pages out of the study. And I highlighted the pieces here because, as he makes this transition from 500 feet, 2,000 feet, and from park to park amenity to any amenity, he just keeps repeating it. And he repeats it so many times, you almost believe it.

If you sit there and read these, 75 percent, 25 percent, dissipated up to 12 blocks, increases 5 percent on the average, some properties, 10 percent, etc., but he just -- based on the park rating scale, Crompton's park rating scale, well, we discussed that.

Indicates average increase in the value of condominiums situated within a three-block radius, 5 percent. He just -- positive increases within a three-block radius. It's the kind of thing you see when somebody is trying to convince you they're right with the weight of how many times they say it.

And it's just -- in terms of direct residential impact, John Crompton's ongoing studies show, and then he actually goes back and cites the accurate statement of 500 feet or three city blocks, not Seattle city blocks. Four to twelve blocks, not Seattle's four to twelve blocks.

The last one I actually put this in here because it was indicated of what was in the ABS files. This is the only thing in the file that refers to the valuation of residential properties. It's an appraisal letter from Mary Hamel who is an associate at ABS.

It says: We relied on King County Assessor information for all the data. To understand the macro trends, we looked at a bunch of Northwest Multi Listing Service quarterly reports. To understand the sales history for each of the condos, we looked at the Northwest Multiple Listing Service data for those. Market value conclusions before LID were based on recorded sales.

And then as detailed in the summary of final benefit performance, this was all based on market value research. That's all that's there. There are no computations. There's no analysis of how this was applied to any specific condominium. This is the sum total of the support for condominium valuation. I'm now really done with that point. Sorry.

Discontinuous improvements, discontinuous improvements -- it's a section of the LID statute, and it's the last page in Exhibit 3. I'll give you a moment to look at it.

Okay. Basically, it says that you can combine discontinuous segments if you have a finding by the City Council that this is for the general good, but there's no such finding. I asked Robert Macaulay if he had received a finding or asked for one. He got a little defensive, but in the end admitted that the ordinance was what he got. And the ordinance was the ordinance. I looked through the whereases to the ordinance. There's no mention of the council reaching such a finding.

On that basis, the City should have separated out Pike, Pine, and maybe a segment or two in the south end and calculated special benefit and cost for those independently. They didn't do that. So this is not an objection to formation. It was formed correctly.

It's not an objection to the fair market value methodology, although I will point out that when you apply fair market methodology, the continuousness or discontinuousness of the segments makes no difference because the market is going to value the improvements the way the market will value them. And artificial determinations by even the City Council finding don't determine how prices are set in the marketplace.

So a prospective buyer or prospective seller is going to make their decision based on what the actual impacts are and not a combination. But we're not arguing market value, or I'm not arguing market value methodology. I am objecting to the consolidation of costs.

Consolidating a $20 million project that puts 10 percent -- $10 million into the LID with the rest of the improvements which put $150 million into the LID. I've already demonstrated, I think -- and we'll go into more detail -- that with regard to the $150 million piece, my assessment should be very low. It's not as clear what my assessment should be for the Pike/Pine improvements. And I'm not going to talk about those here. I'll talk about them in Peter's paper, because they actually have a negative impact on us.

So this is pretty simple. In the end, the LID forms, as I mentioned before, a contract between the City and the assessed policyholders. It's a contract adhesion. I don't get to determine who voted. I don't even determine whether I have to sign it or not.

So I guess it's the worst kind of contract adhesion. But the City is obligated to get it right, and they didn't do that.

Reality is it's curable. They could go back and redo the assessments. I don't think that makes sense. They could just amend the ordinance. That would require them to have the finding. It may require redo of the waiver agreement. I don't know. That's a legal opinion I couldn't offer. But I know it would reopen the objection period, and it would allow -- both to the formation and it would allow new objectors to file here. And that's just a price, I guess, you pay for making a statutory mistake, an unfortunate mistake.

For me, though, when I summarize, we look at the condominium level -- this is the end of this piece. The KCA data was stale. Inappropriate techniques were used for valuing each of the condominiums. The Crompton-based valuation is grossly in error. Correcting it would result in no special benefit for our condominium.

The Pike/Pine improvements provide no special benefit because of constricted access to our parking garages. They're turning the two blocks of Pike and Pine, which our parking access empties on into pedestrian walls. It is not recognizing the discontinuous assessments -- or discontinuous improvements. Therefore, the assessment was improperly calculated.

Those taken in aggregate would say that the ABS appraisal is grossly in error and deserves to be nullified for condominiums, at least for ours. If you break it down to my apartment, which is what I'm allowed to object for, even correcting the gross valuation errors lay yield to no special benefits from the parks side. And if you allow it for a large park, the benefit is small, and the assessment substantially exceeds the special benefit. That's the end of that case.

So some of this I'm going to go over again. I guess redundancy is good, but the last exhibit I'll submit is Peter Shorett's paper, which we said we would provide.

HEARING EXAMINER VANCIL: Marked as Exhibit 4.

(Exhibit 4 for Case Number CWF0375 was marked.)

MR. MOSES: And that's the last of my exhibits. I'm going to go over what's called Exhibit 2 of this piece. When I retained Peter to do this, I provided him with all of my analysis and, in fact, a valuation I did of where our property might sit and asked him to look at it and to provide his comments on that in addition to his overall appraisal review of Macaulay's work.

And that's what you'll see here. I'm going to start just past page 19 in Peter's report. And I have an extra copy of that if you would like it.

The page should say Exhibit 2 provided by client. It's past the numbered pages which end at 19. I should have put tabs on that. I'm sorry. It's going to be close to the end of the appraisal. Have you found it?

HEARING EXAMINER VANCIL: This is Exhibit 2?

MR. MOSES: Exhibit 2. It says provided by client.

HEARING EXAMINER VANCIL: Okay.

MR. MOSES: A lot of the material here --

HEARING EXAMINER VANCIL: Exhibit 2 within Exhibit 4?

MR. MOSES: Yes, Exhibit -- Peter and I talked about this. We should have put As and Bs on this and we didn't.

This just recites Crompton getting Peter kind of the background of where I came from. I noted on the second page that the strong studies reported premiums in the 16 to 22 percent range, which was also cited by ABS in the table they developed. And to apply the percentages that Crompton suggested up here, which were 15, 10, and 5, again, reflected in the Macaulay table, I also told him to consider the language on page 34, maturity of the park, or asked to consider. Excuse me. And I developed for him kind of the generalized form of the Crompton model.

I'm sorry. Have you -- have you found where I am yet?

MS. THOMPSON: Yes. I did. Thank you.

MR. MOSES: And this is the picture that I showed before. I did a little more here. I showed the premium that you calculate here. The premium number ought to show up here in the first 500 feet. And one-third of that should show up in the table. When you look at that, that works out to 75 percent in the 500-foot range and 25 percent in the tail.

And I just pulled out one of the studies. This was also a study that was contained in the ABS files another Crompton paper where it shows you kind of the form of that graph. This one was done at 400 feet and 1,000 feet, even shorter than -- so I then went in and ran a model that kind of reverse engineers Crompton's numbers. And I did this with a block length of 333 feet, so it comes out to exactly Crompton's 500 feet. I used 2,000 feet for the tail, and I used a 10 percent premium, which is an excellent.

And you'll notice in block one, it yields a 15 percent value for properties abutting -- that's actually block zero. Properties abutting the park. It tails off to around 5 percent at -- in this case the third layer of properties, properties that are a block away and then tails off even more after that. That was just to kind of say, okay, do my numbers match up with what Crompton is saying.

If you look at the next page, I did it for 15 percent, and you can see there in the middle the averages 15. If you add the pieces and the tail in this case, you're going to get 45 percent in the first part or you're going to get 15 percent in the second. It's a little easier to do on the page before because the numbers are smaller.

But you'll notice the first block is at almost 23 percent, and that matches up with the 16 and the 22 that is back on the page before of what the high values should be for properties abutting the park. It tails off correctly and matches up with what Crompton looked at and said made sense.

So the outstanding question was what did Crompton mean by 500 feet and three blocks. And here I've got to confess I didn't find the language that I used earlier saying that a park had to be bigger than 40 acres until Friday afternoon. I had focused on middle of the report where Crompton cited, hadn't bothered to look at the summary.

Another article that I read kind of prompted me to go back and look at it, and sure enough, there it was. Everything I gave to Peter was based on the assumption that it did qualify as a large park. I didn't have anything to rebut that.

So at any rate, the idea was that 500 feet was -- look at 500 feet. Find the nearest property dividing line that existed on a parcel map and use that boundary. And that's what these maps reflect, and they reflect appropriately what John Crompton would have developed, I believe, if he had been asked to do this, although he made some comments in that regard I'll hit later.

So I did some testing. I said, well, what if the first horizon is 480 feet? What if we stretch it out to 640 feet? And then what if we stretch out the second horizon to the other side of 2,000? Let's go to 2,080 feet.

And I tested summarized results at least for four distances from the park, one and a half to three blocks, and I said, well, what premiums should I use? I'll use a 2 percent premium. That actually corresponds to ABS's 3 percent in the first block. He said 3 percent to .5 percent, so the first one there is that 3 percent to .5 percent.

The next one was 2 1/2 percent. This was my pick. I just said, okay, he's at 5 percent. I'm not even going to argue with it, but I'm going to haircut it at 50 percent because it's 15 years before that park is going to be mature. And that's my estimate. Macaulay didn't have an estimate on maturity either, but that's what I did. So you can take that for what it's worth.

The third one I picked is kind of ABS's raw pick. At first they said 3 percent average, and then he pared it down to 3 percent to 5. He didn't really give any justification for either of those, but I said, okay, let's use 3 percent average. And I created the following table that's on the next page, and you can look at what the special benefit was if you're in -- I didn't put the block numbers on here or at least didn't come across on the table.

I tested from one and a half to three blocks. So the first top of the table is one and a half blocks, two blocks, two and a half blocks, three blocks. Oh, it's in there. It's in the title. Special benefit percentage at -- I went backwards, three blocks, two and a half, two, and one.

Okay. So at three blocks where we are, if you say it's a 480 percent horizon, you have .27 at 2 percent, .34 at a quarter, and if you went to Macaulay's higher 3 percent number, you got .41 percent. I think I also already showed you a .68 percent if you went all the way to 5 percent was in the earlier pages.

I went to 640-foot horizon. That actually has a material impact. It raises the results from, you know, .34 at 2 1/2 percent to .57 percent. If I extend that outer horizon, it actually lowers the rate, because you spread that 25 percent that's in the tail over a larger area. So I didn't really look at that one. I said that's actually more conservative. I'll not pay much attention to that.

When I did these, I looked down to two blocks.

Two blocks was actually interesting for me because that's where we would be if you could construe that the Overlook Walk was an amenity that this valuation should be applied to.

So my analysis kind of confirmed that the estimated impact on property prices is relatively small outside of 500 feet. My conclusion was 2 1/2 percent premium was appropriate, and that's based on the LID improvements in my mind raising the before condition from average to above average and reducing the implied capitalization by 50 percent for immaturity of the park.

The with LID condition will provide an amenity that is an actual resource based. It has charm and dignity, regarded affection by the local community, that is pleasant and hopefully well maintain. It will never reach the level of Seattle's other great parks like Green Lake, Woodland Park, Washington Park Arboretum, Seward Park.

I considered two different distance measurements, line of sight to the Waterfront west side of Alaskan Way, line of sight to the nearest amenity, which would actually be the Central Waterfront Park. And if you flip back a few pages in there, I have my appendices. I put all the maps in one place.

HEARING EXAMINER VANCIL: Flipping back which direction?

MR. MOSES: Back further into Exhibit 2. It would be page -- the exhibit pages are numbered if I can find it here. There. They're actually on page 11, just two pages further back closer to the end than I thought.

This is just a Google Maps view. 1,000 feet straight across to the Waterfront or if you actually measure the first amenity, not counting the Overlook Walk, you come down to 1,002 feet. One of them puts us in the near end of three blocks. The other one puts us on the far end of three blocks. It didn't make any difference.

So that was the maps. Using that, I came -- I can go back to page 9. I came down to three blocks at .25 -- or 2.5 percent premium. My assessment would be .34 percent, special benefit. The calculations show the special benefit now at $8,000. The market value before LID -- and these are my values -- is now recalculated. The total assessment is 39.18 percent.

That's just -- I got that out of going backwards from the valuation. I made an adjustment to separate out the Pike/Pine costs. I reduced the LID by 10 percent, 150 million instead of 160 million. That makes the adjustment 93.75 percent. My revised assessment would be 36.73 percent or $3,012.

And in my objection I've argued this should be separate. So that's how I've done the calculation, and that's where I end up. It's just substantially less the -- the special benefit is substantially less than the initial assessment, so that's the reason my conclusion in here. This actually disregards any adjustments for the impact of congestion and vehicle traffic in the area. I've included those in my Pike/Pine analysis which is also an appendix here.

But to me they're zero or negative, and I'm not qualified to quantify that. I'm not an appraiser. So -- and I haven't asked Peter to do that. He may have some comments on it, but that will come in his portion of the report.

The Waterfront improvements are primarily designed to benefit Seattle's tourism business, and Macaulay refers to that as the nature of the improvements. Even the City's own work shows there would be no additional utilization by nearby residents.

Crompton's model for community parks was based on their utility and its proximate value to residents.

It's not there. So I kind of added one last comment, because this, I think, is key to the whole thing. And Crompton prefaced his work with this caveat: Nevertheless, many agents seek a method of applying a valuation to parks they can adapt to their own communities. The approach is offered here for doing this, but it is emphasized this can only offer a rather crude best guess.

So the whole thing that this was based on and generating assessments, which crude best guess isn't what should be used, was, in Crompton's mind, a crude best guess for estimating taxes. And if you're estimating the taxes, averages work just fine. You don't care who is paying them. You have the average tax dollars. You've got the total tax dollars. It all works. It's never intended to be used as an assessment tool.

So you can see the maps. If you look in Appendix 2, which is the Overlook Walk, I argue this isn't an amenity from my perspective for two reasons. One, it provides access, and, actually, Mark Filipini in his opening statements kind of made the argument for me. He said the Overlook Walk connects the Waterfront to the Market, and that's exactly what it does.

It's designed to funnel 2-plus million tourists a year easily from the Waterfront up to the Market. And I'll show you some pictures in that regard in a second, but he also -- he doesn't -- Mark doesn't make this comment. Macaulay makes this comment. It's got over an acre of view space, provides great views in addition to providing access.

So in Appendix 2 I provide this picture taken on kind of a gray day. This is the view that I currently have from the windows of my apartment. You can kind of see Mount Rainier peeking under the clouds on the left side, and you can see Magnolia down First Avenue over here on the right side. So I've got this expansive view already. Am I going to walk down to the Overlook Walk to stand there and look at the view? I'm not.

And, in fact, the pictures that the City provides for the Overlook Walk are misleading. And if you look down further on page 13, you'll see the City provided a picture on the left showing this huge viewing space on top of a to-be-built pavilion. Okay. That is not funded with LID money. That is not part of the LID projects and is considered like any other under development project. It kind of doesn't exist.

So if you look at the picture on the right, you see what you're left with. You're left with a big piece of vacant concrete where the pavilion is going to go and a huge walkway going to the north. There are no amenities to the north except the cruise ship terminal. So it kind of just asserts my argument that it's an access, and for me it's redundant access.

If you flip to page 14, this is the access I would normally have to the Market. I walk to Pike Street. I turn I walk straight down Pike Street through the Market down the Hillclimb, which actually is being improved in the before condition, and there's -- I think there's an extra planter in the after condition at the bottom. I've got great access, and it's the shortest route.

If you flip back to the maps and look at the second page of maps, you'll see my routes if I take the Overlook Walk. The upper map, which measures out to about 2,000 feet, is if the Market is open and I can cut through the Market to get to the Overlook Walk. The second map is if the Market is closed and I have to walk around the Market over by Victor Steinbrueck Park to get to the Overlook Walk.

I mean, they're not access routes that I would use, and, therefore, from a LID standpoint, they are redundant. And whether it's sewer pipes or whatever, you can't charge me for redundant access or redundant views really. So that's why I eliminated the Overlook Walk as an amenity. Even if you put it in, my assessment goes into the .6 percent range. It's nowhere near 2.7 percent.

The last two pages in there on page 15 are just the actual details for the other -- for the charts that I had above where I show the 3 percent average for Crompton and the other one where I show a 3.3 percent high mark for Crompton. So you can look at those and see how those would have dissipated. It's the numbers where the schedules were pulled.

And, finally -- we're doing great on time -- I want to spend a little bit on Pike and Pine just so you get a feel for it. The pike Street improvements are kind of a zero for us. Pike is already treed. They're going to make the trees somewhat nicer. They're going to improve the crosswalks. That's great. That helps pedestrian safety. I'm not sure it raises my property value.

But the big thing, the material thing, and this wasn't even in the preliminary study, is they're going to turn Pike and Pine between First and Second into pedestrian walks. Our building, which is in the middle here, you see it, has two garages that exit one directly on to the alley. The other exits on to a porte-cochere that is right next to the alley. And that alley is our primary way out for vehicles.

We have 300 -- 297 parking stalls. This is one of the few buildings in the city that was built to a two-car-per-unit standard. Every unit has at least one and in most cases two stalls. A few have three. I do.

But cutting those off -- not cutting them off isn't the right term. These will substantially constrict access. If you try to drive through the Market which is done the same way on a weekend, you'd understand what it's like. You don't do it. Bicyclists don't even go through the Market on weekends. It's -- you know, it's just too littered with people.

So the net impact of this for us is negative. I mean, 300 parking spaces that you can't use or can't use easily aren't near as valuable.

In the Shorett study, I actually sent Peter an article that was done in February in the Seattle Times on The Emerald, which tried to get away with 60 parking spaces and is paying a huge price on the market value of their units for doing it. The units that are there -- the parking space that are there are now selling for the $100,000 a space a unit because of the value of the parking.

The Emerald is actually also affected by this because they sit down here on the other end of News Lane, which is the alley, and will be using the Pine Street side for some access. They claim in their development stuff they wouldn't, but the reality is to exit on to Stewart would mean crossing the trolley lanes that are going in. And it's a very dangerous turn actually even coming out of their garage because it's a tight turn on to Stewart. This is going to affect them to some extent. For us it just cuts off both ends of our -- of our alley. The alleys are already issues. I'll show you some pictures here later on.

The next two pictures, these are just out of the addenda. They show what the two streets are going to look like in the after condition. You know, this is a street, Pike, in particular, on the top, this street is one way eastbound for vehicles. It's already dangerous because the bike lane that's here, which is not segregated and it isn't segregated here, is two-way.

So when a driver comes out of the alley, they see a one-way sign saying you have to turn left, and a lot of people who are visitors who park in the parking garage or parking -- the parking lot that you see here come out of that same alley. You see that and you don't even look to the right, but that's the way the bikes are coming from. We've been lucky so far. We haven't hit anybody.

But we're going to have pedestrians and bikes going both ways in an area where each of the drivers who exits our unit has the responsibility to avoid. And we don't want to hit anybody either.

So we weren't consulted in this. This went to the design for the City without review. It's only 10 percent complete. I can't say for sure. I suspect there's going to be a lawsuit over this before it gets done. That's speculation on my part, so another issue of whether they can actually do this.

Flip the last couple of pages. I won't dwell on this. Nobody likes to dwell on this. But these are two pictures that I took on a Sunday afternoon with my grandson. This is Pike Street on the south side in between First and Second. This is what it looks like today. This is what the alleys look like. When you look down from the streets, you notice it looks beautiful. But if you stand in the alleys and look out, you see the garbage and things there. It's still not attractive for pedestrians. We drive around this to get in and out of the alley.

If you look at crime -- and nobody wants to talk about that either. But this is the crime corridor. And it's the crime corridor because this is where all the pedestrian traffic is. It happens to cross with the transit connections for the Westlake station. It is the main route into the Market on Pike Street. So if you're going to get pickpocketed, that's the most likely place. It's happened to my wife once.

And increasing visitors by however many thousands it's going to do -- and they pick one and a half million visitors a year -- that's where they're going to go. They're going to come through this to get to the CBD. And it may be great for the businesses, but it's not great for us.

In fact, our perspective is it will finish off the Market. The Market now is three-quarters tourist stands. The actual historical market, the food shops, the meat shops, some of them get some tourists, but nothing if you throw fish around. But there are no local farmers in the Market anymore. It's not effective for them. There are some local stands that get to set up in the middle during the summer, but the

Market is being pressed.

And the influx of tourists who don't shop for groceries and the other things the Market provides will just increase the pressure for the T-shirts and whatever else. So we look at that as an added threat to the market, quite frankly, the historical market, as well as just the congestion on the streets.

And that's it. That's the last page of my material. This is just a repeat of the HR&A study. I value my, you know, assessment somewhere in the zero to $3,000 range, and I hope I've made a valid case for it.

HEARING EXAMINER VANCIL: Anything further?

MR. MOSES: No. Thank you for your time.

HEARING EXAMINER VANCIL: Any objections to Exhibits 1 to 4?

MS. THOMPSON: No objections.

HEARING EXAMINER VANCIL: Object -- sorry. Exhibits 1 to 4 are admitted. Any questions?

MR. MOSES: Gabrielle, do you know for sure when Peter is going to testify yet?

MS. THOMPSON: I don't know.

MR. MOSES: I think it's Wednesday, but

I'm not positive.

HEARING EXAMINER VANCIL: And I'm sorry. Were there any questions from the City?

MS. THOMPSON: Sorry. I was just reviewing my notes here.

So I guess one question I had is: In your -- what's been -- it's Exhibit 2 to Exhibit 4.

MR. MOSES: Okay.

MS. THOMPSON: On page 9 of Exhibit 2 --

MR. MOSES: Where's my Exhibit 2? Yes.

MS. THOMPSON: You have some calculations here about the special benefit. Is it correct that these calculations are based on your adjustments to the Crompton proximate factor analysis?

MR. MOSES: Based on -- yes. These are based on my Crompton analysis and on the adjustment to remove the Pike/Pine costs. Both of those are factored into this number.

MS. THOMPSON: Does this number include the Overlook Walk as well?

MR. MOSES: It does not. It says the Overlook Walk was not considered an amenity, and, therefore, it didn't factor into the distance calculation.

MS. THOMPSON: Okay. And so would this -- is this fair -- is it fair to say that these calculations here would be your proposed revised special benefit for your property?

MR. MOSES: Yes.

MS. THOMPSON: And did you have an appraisal performed for your unit for the current market value of your property?

MR. MOSES: No.

MS. THOMPSON: Okay. No further questions.

HEARING EXAMINER VANCIL: Thank you.

We're set to reconvene the hearing for continuance tomorrow, Wednesday, March 11. There may be -- I believe I'm having -- I have scheduled with the City and Mr. Lutz for case numbers -- the case numbers that -- the 29 cases that Mr. Lutz represents on for a set of days yet to come. And we're going to talk about the possibility for remote hearing and either for witnesses or the entire hearing.

So for now we'll adjourn.

(The proceedings adjourned at 2:20 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Nancy M. Kottenstette, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings on March 10, 2020, is true and accurate to the best of my knowledge, skill, and ability.

I do further certify that I am a disinterested person in this cause of action; that I am not a relative of the attorneys for any of the parties.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 31st day of March, 2020.

Nancy M. Kottenstette
____
Nancy M. Kottenstette, RPR, C[illegible]

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