

# Seattle Waterfront LID Assessment Hearing

## Seattle LID Public Comment Hearing

March 12, 2020



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SEATTLE WATERFRONT LID ASSESSMENT HEARING  
BEFORE  
HEARING EXAMINER RYAN VANCIL

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Taken at 700 Fifth Avenue  
Seattle, Washington

DATE TAKEN: MARCH 12, 2020

TRANSCRIBED BY: CRYSTAL R. McAULIFFE, RPR, CCR 2121

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2 MARCH 12, 2020

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1 SEATTLE, WASHINGTON; MARCH 12, 2020

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3 MS. LIN: Peter, can you see both me and the  
4 Hearing Examiner?

5 MR. SHORETT: Megan, I can see you and  
6 barely half of the Hearing Examiner or a quarter of him.

7 HEARING EXAMINER VANCIL: Good enough.  
8 We'll go with that.

9 Good morning. We're here for the  
10 continuance of Waterfront LID Assessment Hearing.

11 Continue with objectors.

12 MS. LIN: We're going to call Peter Shorett  
13 as our witness.

14 HEARING EXAMINER VANCIL: Mr. Shorett, you  
15 remain on oath or affirmation from earlier.

16 MR. SHORETT: Yes.

17 MS. LIN: And Mr. Shorett's testimony right  
18 now is going to apply to all of the case numbers that I  
19 listed yesterday.

20 Would you like me to re-list them?

21 HEARING EXAMINER VANCIL: No. Thank you.

22 We have those in the record.

23 MS. LIN: Okay. As just a few housekeeping  
24 things. I think that we're almost done with  
25 Mr. Shorett's general testimony.

1                   And then we're going to walk through all of  
2                   our property-specific testimony with him first, before  
3                   we get to our property owner witnesses.

4                   HEARING EXAMINER VANCIL:   Mm-hmm.

5                   MS. LIN:   And then I think -- I think after  
6                   all -- we're wondering when you would like  
7                   cross-examination.

8                   Would you likely cross-examination after  
9                   all -- after all of Peter's testimony?  Or would you  
10                  like to stop it and allow for cross just for his general  
11                  testimony?

12                  HEARING EXAMINER VANCIL:  Typically, I do it  
13                  when a civilian witness is done.

14                  But I'll ask the City in this case, do you  
15                  have any preference?

16                  MS. THOMPSON:  I don't think I do.

17                  Whatever works.

18                  HEARING EXAMINER VANCIL:  Let's do it all  
19                  at -- one cross at one time.

20                  I appreciate the question.  One of the  
21                  advantages City Counsel and I have is that we've been  
22                  here for, I think, 12 days at this point.  So we're  
23                  starting to get the idea.

24                  ///

25                  ///

1 PETER K. SHORETT, witness herein, having previously  
2 sworn on oath, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LIN:

6 Q. Okay. Mr. Shorett, I'm going to turn to  
7 Exhibit 49, which is your supplement to the appraisal  
8 reviews.

9 A. All right. Give me a minute, if I may?

10 Q. Sure.

11 A. I have it. It's right here. Yes.

12 Q. Okay. And I think it goes without saying, but  
13 did you prepare this report?

14 A. Yes, I did.

15 Q. Did you work with anyone else on this report?

16 A. No, not that I know of. No, just myself.

17 Q. And can you turn to page 3, please?

18 A. All right.

19 Q. So under the heading "Case Studies," it says,  
20 "None of the case studies offer comparison discussion or  
21 provide analysis specific to the value of high-end  
22 residential condominium units or, for that matter, hotel  
23 properties along with most of the other property types  
24 within the LID boundary area. They simply fail to  
25 provide the necessary support for the increase in value

1 for a nominal change in condition from the LID  
2 improvement."

3 Did you write that?

4 A. I did, yes.

5 Q. And do you -- is that your -- is that consistent  
6 with your testimony here?

7 A. Yes.

8 Q. And can you please turn to page 13 of that same  
9 exhibit?

10 A. Yes.

11 Q. The last sentence says, "Further, the relevance  
12 and use of the economic studies is anecdotal at best and  
13 are not properly used."

14 Is that consistent with your test- -- did you  
15 write that?

16 A. Yes, I did.

17 Q. And is that consistent with your testimony here?

18 A. Yes.

19 Q. And then turning to Exhibit 48, which is  
20 Exhibit 1. You don't really need to have it in front of  
21 you. I'm just going to ask you.

22 Did you prepare this Exhibit 1 to your appraisal  
23 review?

24 A. Yes, I did.

25 Q. Did anyone else work with you on it?



1           A.     Jesse -- excuse me, Jesse Baker, who's an  
2     associate at our company, provided some of the  
3     background information for the case studies.  But I  
4     believe everything else in there I prepared myself.

5           MS. LIN:  Okay.  I think that is it for us.  
6     We're done with direct on --

7           HEARING EXAMINER VANCIL:  On the general --

8           MS. LIN:  On the general, correct.

9           MR. MAHON:  We're gonna do musical chairs,  
10    if that's okay?

11          HEARING EXAMINER VANCIL:  Please.  It will  
12    kind of help facilitate the Skype.

13          MR. MAHON:  I represent a much bigger  
14    target.

15          HEARING EXAMINER VANCIL:  And, Counsel, if  
16    you could just state your name so that we --

17          MR. MAHON:  Robert Mahon, Perkins Coie, for  
18    objectors.

19          HEARING EXAMINER VANCIL:  Thank you,  
20    Mr. Mahon.

21          MR. MAHON:  And the testimony that we're  
22    going to ask Mr. Shorett to give relates first to case  
23    number 430 and 431.  Those are the properties owned by  
24    RRRR.  We have two exhibits related to the testimony.

25                 The first is a -- just an overview of the

1 property that summarizes some of the detail, just for  
2 Hearing Examiner's convenience.

3 HEARING EXAMINER VANCIL: That will be  
4 marked as Exhibit 50.

5 MR. MAHON: I'm sorry, I gave you all of the  
6 copies, and I apologize. Try this again. Sorry about  
7 that.

8 MS. THOMPSON: That's all right.

9 MR. MAHON: The second exhibit is  
10 Mr. Shorett's report with respect to the property.

11 HEARING EXAMINER VANCIL: That will be  
12 marked as Exhibit 51.

13 Just while we're on exhibits. I thought we  
14 admitted 48 and 49 yesterday but I don't have it marked  
15 as so.

16 Is there any objection to 48 and 49?

17 MS. THOMPSON: Could I voir dire the witness  
18 on 48?

19 HEARING EXAMINER VANCIL: Yes.

20 VOIR DIRE

21 BY MS. THOMPSON:

22 Q. Hi, Mr. Shorett. Good morning.

23 A. Good morning.

24 Q. I just had a few questions about your Exhibit 1,  
25 which has been marked as Exhibit 48 in the record.

1 A. Yes.

2 Q. This Exhibit 1 is only part of a larger  
3 report; is that correct?

4 A. Yes. It's an attachment to the appraisal  
5 review.

6 Q. And is this attachment the same across all of  
7 the appraisal reviews you prepared?

8 A. Yes.

9 MS. THOMPSON: No objection.

10 HEARING EXAMINER VANCIL: All right.  
11 Exhibit 48 and 49 are admitted.

12 Please proceed, Mr. Mahon.

13 (Exhibit Nos. 48 and 49 admitted.)

14 DIRECT EXAMINATION

15 BY MR. MAHON:

16 Q. Thank you, Mr. Shorett.

17 We'll start your testimony with properties --  
18 property-specific testimony with properties owned by  
19 RRRR Investments.

20 HEARING EXAMINER VANCIL: Is that three or  
21 four?

22 MR. MAHON: Four Rs. I'm sorry.

23 And for convenience -- and because I can't  
24 pronounce "R-r-r-r," I'll use "Quadruple R" to refer to  
25 the property -- properties.

1 HEARING EXAMINER VANCIL: Okay.

2 BY MR. MAHON:

3 Q. Did you, Mr. Shorett, perform an appraisal  
4 review for properties owned by RRRR Investments?

5 A. Yes. The two condominium units in the 1521  
6 Second Avenue building, yes.

7 Q. Is that property -- was that property subject to  
8 the Proposed Final Assessment by Waterfront LID 6751?

9 A. Yes.

10 Q. And can you describe the units that were -- that  
11 are owned by RRRR Investments?

12 A. Well, sure.

13 I -- I believe it's disclosed that I did not  
14 inspect the properties.

15 What my intent was -- just to be clear -- I  
16 supervised appraisal review.

17 But, in general, the condominium units  
18 themselves, I'm familiar with them from prior  
19 appraisals. And I've seen them in the past.

20 They were built in 2008. I believe there's  
21 several hundred -- 160 -- 160 units. They are very  
22 high-end -- they are very high-end (indecipherable) from  
23 the time they were built. Very high-end, luxury-quality  
24 units with a concierge entrance which is basically a  
25 drive in, you drop your car off, and the car gets

1 valeted, or whatever you want to do.

2 But a covered entrance, extensive lobby, and  
3 24-hour concierge, rooftop deck, very high-end --  
4 probably after one of the -- probably the second  
5 highest-end condominium project to be built in -- in  
6 the -- that time period.

7 Q. And how tall is the -- the building in which at  
8 1521 Second? Twenty stories? Do you know?

9 A. I don't know. I don't know exactly. But 30,  
10 40 stories -- 20, 30, 40. I don't know exactly. I  
11 would have to look.

12 Q. And the unit numbers on these are 3800 and 3802.  
13 Would that indicate that they are on the 38th  
14 floor of that building?

15 A. Yes. That's a very easy way to identify them is  
16 38 stories.

17 Q. And do you know if that's the top floor of the  
18 building?

19 A. Yes, it is.

20 Q. Did you have occasion to prepare an appraisal  
21 review for this specific property?

22 A. I did, yes.

23 Q. Is that a report that you prepared for Bryon  
24 Madsen of RRRR Investments dated February 3, 2020, which  
25 we've marked Exhibit 51.

1 A. Yes.

2 Q. Do you have a copy of that report?

3 A. I do.

4 Q. Would you turn to page 7 of that report?

5 A. All right.

6 Q. Can you read the second-to-last line of page 7  
7 for us?

8 A. "The increase in value reported in the appraisal  
9 is not credible and is not reliable."

10 Q. Is the appraisal that's referenced in that  
11 report, Mr. Macaulay's final benefit study?

12 A. Yes, it is.

13 Q. Is it still your expert opinion of  
14 Mr. Macaulay's study with respect to RRRR Investments  
15 property?

16 It appears that Mr. Macaulay, in his final  
17 benefit study, concludes that the value of RRRR's  
18 condominiums will increase 2.7 percent due to proposed  
19 LID improvements; is that your understanding of his  
20 report?

21 A. Yes, it is.

22 Q. Is that increase supported by any evidence in  
23 the final benefit study?

24 A. No.

25 Q. Can you talk a little bit about what makes this

1 residential property unique from other residential  
2 property in Seattle?

3 A. Sure.

4 Again, it's one of the first that I call it  
5 pioneering, high-end, luxury condominium projects to be  
6 built in the early 2000s.

7 And it's unique and it's -- you know, the  
8 amenities I briefly described earlier.

9 And not only that, but the entire west side of  
10 the building has unobstructed views to the west towards  
11 Elliott Bay, the Olympic Mountains, Mt. Rainier to the  
12 south and the -- up around the Puget Sound to the north.

13 And even on the eastern side, well, maybe not as  
14 (indecipherable) --

15 Q. You're fading in and out.

16 Could you restate the --

17 A. Sorry. I'll backtrack.

18 I was explaining that the views to the west are  
19 very desirable and attractive. The views to the east  
20 are also desirable and attractive. They are a little  
21 less desirable by some.

22 But this is a building that has attracted a  
23 number of high networth individuals and --  
24 (indecipherable) in this project is some of the upper  
25 tier in the entire city.

1 Q. And are the views to the -- the Puget Sound  
2 views, the west views from -- from these units, are  
3 those views protected? Do you know?

4 A. I believe they are generally protected. You  
5 have the Pike Place Market and the historic district to  
6 the west.

7 And I'd have to look at the map to refresh  
8 myself of the buildings that are there. But it's by  
9 zoning and other ordinances pretty much guaranties,  
10 especially the upper floors of having a permanent water  
11 view.

12 Q. In your experience, how are buyers of luxury  
13 residential properties likely to perceive the value of a  
14 new park improvement of the sort that are proposed in  
15 the LID?

16 A. Well, my -- my experience -- and I've testified  
17 to kind of this already in -- in my supplement and  
18 Exhibit 1, is that the incremental difference between  
19 the project completed before and the project completed  
20 after is very nominal.

21 The units already enjoy a fantastic view. I've  
22 explained that already. The units also have the  
23 proximity to the waterfront; it's stair access down to  
24 the waterfront.

25 The upper floor units, in particular, barely



1 even -- their visual is not down. So any positive  
2 attribute from these improvements would be that the  
3 physical walking down to the waterfront, walking down on  
4 the Overlook Park. Things that they have access to  
5 already.

6 But it does not appear that these are any --  
7 these are improvements that would provide a measurable  
8 increase in value to the units.

9 Q. Thank you.

10 Mr. Shorett, going back to the Macaulay Final  
11 Benefit Study indicates is 2.7 percent increase in value  
12 of this property.

13 Is that within -- is that increase within the  
14 margin of error for appraisals?

15 A. We talked about that previous -- I talked about  
16 that in previous testimony. Yes, there is a -- I mean,  
17 appraisers expect a reasonable margin of error.  
18 5 percent is -- is a rate that's often used.

19 And so, sure, it would fall within a ready error  
20 of rounding.

21 MR. MAHON: Thank you.

22 That's -- that's all with respect to the  
23 RRRR properties.

24 HEARING EXAMINER VANCIL: Okay.

25 MR. MAHON: Just so I have the numbers.

1 We've got -- the study would be?

2 HEARING EXAMINER VANCIL: Exhibit 53. So  
3 we've got two documents. If you want to describe them,  
4 I'll do the numbers.

5 MR. MAHON: Sure.

6 The first document is a summary sheet  
7 detail -- providing the details for Appeal No. 435,  
8 which is property owned by Sound Vista Properties LLC.

9 HEARING EXAMINER VANCIL: Marked as  
10 Exhibit 52.

11 MR. MAHON: Second document is a  
12 waterfront -- or excuse me an appraisal review prepared  
13 by Mr. Shorett for Greg Vic dated February 3, 2020.

14 HEARING EXAMINER VANCIL: Marked as  
15 Exhibit 53.

16 MR. MAHON: Thank you.

17 DIRECT EXAMINATION

18 BY MR. MAHON:

19 Q. Mr. Shorett, did -- did you perform an appraisal  
20 review for a property owned by Sound Vista Properties  
21 LLC?

22 A. Yes.

23 Q. And could you describe the location of that  
24 property?

25 A. The location of the property is at the southwest

1 corner of First Avenue and Union. Probably two blocks  
2 of the 1521 condominium project I just testified about.

3 Q. And is the street address 99 Union Street?

4 A. Yes, it is.

5 Q. Is that the -- the same building in which the  
6 Four Seasons Hotel is located?

7 A. Yes.

8 Q. Is that property also project to a Proposed  
9 Final Assessment by Waterfront LID No. 6751?

10 A. The property -- I'm sorry, the condominium unit?

11 Q. Yes.

12 A. Yes. It is.

13 Q. And is that condominium unit owned by Sound  
14 Vista, property unit 1603 -- 1602? I'm sorry.

15 A. Yes, I believe that's correct.

16 Q. What type condominiums are in this building?

17 A. Now, these are actually -- a step above.

18 Actually, they are the highest quality residential  
19 condominium units as a project in the entire city.

20 I have been involved in the appraisal of several  
21 of them over the years for trusts, estate work, that  
22 type of thing. They are very, very high quality  
23 construction. They are large units. Similar to the  
24 1521, they have unobstructed views to the west towards  
25 Puget Sound, Olympic -- the Olympic Mountains,

1 et cetera.

2 The unique aspect about this property is that  
3 it's linked to the hotel, and -- it appeals to a --  
4 mostly high net worth individuals. It's kind of -- of  
5 property where if you want something or anything, you  
6 push the button and it generally shows up.

7 Most -- most of them include services. It  
8 was -- in one the units (indecipherable) it was easy for  
9 her to have meals brought up to her, five-star quality  
10 meals. So it's -- it's a -- it's the highest experience  
11 one could have for residential condominium living.

12 Q. What -- with respect to this specific unit,  
13 1602, can you -- can you describe its size?

14 A. You know, I don't have that in front of me. I  
15 would have to reference -- reference my notes.

16 Q. Would --

17 A. I don't know the square footage. Other -- 1521,  
18 I do not perform the formal inspection of the property.  
19 That wasn't necessarily the purpose.

20 Q. Are you familiar with the views? Or do you  
21 understand that the views -- the quality of the views  
22 from that unit?

23 A. Yes, I do. Yes, I am.

24 Q. And how would you describe those views?

25 A. They are spectacular. A lot of people can thank

1 Hal Griffith for putting the big wheel down at Pier 57.  
2 These units looks right out at -- followed by Puget  
3 Sound is a rather spectacular view to the west, south,  
4 and north.

5 Q. And -- and I gather from the unit number that  
6 this is on the 16th floor of the building?

7 A. Yes. I'd have to check that, because I'm not  
8 sure if it's the 16th floor of the entire building, or  
9 16th floor of the condominium units.

10 I think it is the 16th floor of the entire  
11 project.

12 Q. Did you have occasion to prepare a written  
13 report on this property?

14 A. Yes, I did.

15 Q. And is -- is that report a report dated  
16 February 3, 2020, directed to Greg Vik and Mark  
17 Denaure(phonetic), hearing exhibits as 53?

18 A. Yes, it is.

19 Q. Do you have a copy of that report?

20 A. I do.

21 Q. Could you turn to page 6 of that report?

22 A. All right.

23 Q. Would you read the review conclusion? The last  
24 line on that page?

25 A. Sure. The increase in value opined in the

1 appraisal -- the appraisal I'm referencing is the ABS  
2 appraisal -- is not credible and should not be relied  
3 on."

4 Q. Is that still your expert opinion of  
5 Mr. Macaulay's study with respect to Sound Vista's  
6 property?

7 A. Yes, it is.

8 Q. It appears that the final benefit study  
9 concludes that Sound Vista's condo value will increase  
10 by 3 percent due to the LID improvements; is that  
11 correct? Or is that your understanding?

12 A. Yes. That's correct.

13 Q. Is this increase in value supported by any  
14 evidence in the final benefit -- special benefit study?

15 A. (Indecipherable).

16 Q. Is the 3 percent increase within the margin of  
17 error for an appraisal? Or are you giving this  
18 testimony generally, but it's specifically true with  
19 respect to this property?

20 A. Yes, it is.

21 Q. Can you describe the -- the waterfront access  
22 that this property enjoys? Or experiences?

23 A. Sure. They -- they have actually a staircase  
24 leading -- Union Street is east/west arterial. And it  
25 dead-ends at the property. And it continues on down

1 below to the waterfront.

2 But they have a staircase that I believe they  
3 built as part of their project; it's a condition to  
4 provide access down to the waterfront. It -- it  
5 connects basically the dead-end of Union Street with --  
6 downstairs to Western Avenue.

7 Q. And what is the proximity of that stair to the  
8 front entrance to the residences? To the building I  
9 should say --

10 A. (Indecipherable) -- once you walk out of the  
11 lobby, the stair entrance is right there.

12 MR. MAHON: Nothing further from Mr. Shorett  
13 with respect to this property.

14 MS. LIN: Uh --

15 HEARING EXAMINER VANCIL: Oh, sorry. I'm  
16 used to that.

17 No cross, but I do want to check. We've got  
18 several exhibits to introduce. We should try to handle  
19 each one of these (indecipherable).

20 MR. MAHON: I apologize.

21 HEARING EXAMINER VANCIL: 50 to 53.

22 MR. MAHON: Yes, please.

23 MS. THOMPSON: No objection.

24 HEARING EXAMINER VANCIL: All right. 50 to  
25 53 are admitted.

1 (Exhibit Nos. 50 - 53 admitted.)

2 MS. LIN: Mr. Shorett, I would like to ask  
3 you a few questions about the United Way parcel. That  
4 is Case No. 417. And I'll introduce as Exhibit 54, this  
5 summary of -- I'm sorry?

6 HEARING EXAMINER VANCIL: That's all right.

7 MS. LIN: Summary of the property.

8 HEARING EXAMINER VANCIL: Marked as  
9 Exhibit 54.

10 DIRECT EXAMINATION

11 BY MS. LIN:

12 Q. Mr. Shorett, did you perform an appraisal review  
13 for the Foster & Marshall Building for United Way?

14 A. Yes, I did.

15 Q. And is that property subject to a Proposed Final  
16 Assessment for the City's Waterfront Local Improvement  
17 District No. 6751?

18 A. Yes.

19 Q. Can you describe that property?

20 A. Yes, I can. It's a former bank building, branch  
21 bank building... late 1820s. It was last occupied by  
22 SeaFirst. I think it goes back even to the days of  
23 Dexter Horton. It's attached to the Dexter Horton  
24 building by staircase. The building itself is  
25 designated historic it has ex -- (indecipherable)



1 exterior facade features and interior improvements that  
2 consists of marble, granite, pan rails. There's a bone  
3 ceiling very similar to -- the Arctic hotel. And  
4 it's -- it's best considered to be a branch bank  
5 converted to general purpose office uses.

6 Q. And where is the property located with --  
7 specifically with respect to the waterfront?

8 A. It's on Second Avenue, so probably four blocks  
9 to the east of the waterfront. Three to four blocks.

10 MS. LIN: Okay. We'll enter this as  
11 Exhibit 54.

12 HEARING EXAMINER VANCIL: This will be  
13 marked as Exhibit 55.

14 MS. LIN: 55, sorry.

15 HEARING EXAMINER VANCIL: What's this --

16 MS. LIN: This is for me.

17 HEARING EXAMINER VANCIL: Okay.

18 BY MS. LIN:

19 Q. Mr. Shorett, you said you prepared an appraisal  
20 review for this property. We're first going to look at  
21 the general appraisal review that you prepared. And  
22 that's being marked as Exhibit 55. And it's dated  
23 February -- January 31st, 2020, to Mr. Brown. Mr. David  
24 Brown?

25 A. (Indecipherable).

1 Q. Okay. I'm going turn to page 7 of that exhibit.  
2 And read the second-to-the-last sentence that's --  
3 actually, could you read the second-to-the-last  
4 sentence?

5 A. Sure. "The increase in value in the appraisal  
6 now is not credible."

7 Q. And is not accepted?

8 A. That's correct.

9 Q. And is that still your expert opinion with  
10 regard to this property?

11 A. Yes, it is.

12 Q. And you also prepared -- sorry. It got --  
13 apologies?

14 MR. SHORETT: Megan, the camera is following  
15 you.

16 MS. LIN: Oh, good. Oh, sorry.

17 BY MS. LIN:

18 Q. You also prepared a restricted appraisal for  
19 this property; is that correct?

20 A. Yes.

21 MS. LIN: And we'll be entering that as  
22 Exhibit 56.

23 BY MS. LIN:

24 Q. And based on your analysis, what was the pre-LID  
25 value of the United Way building?

1 A. Based on my analysis, the value of the property,  
2 before consideration of the improvements is 6,170,000.

3 Q. That's on first -- that's on the first page of  
4 your report; am I correct?

5 A. I notice that there is a typographical error in  
6 that the actual value on the page 9 is 16,170,000, and I  
7 must have missed a -- a one -- I must have forgot to put  
8 a one in front of the seven.

9 Q. And you're talking about page 9 of your  
10 restricted appraisal?

11 A. That's correct.

12 Q. And can you explain your analysis here?

13 A. Sure. The whole valuation process?

14 Q. Well -- did -- did you use the income approach?

15 A. Well, I did. Yes.

16 Q. And can you explain the information you relied  
17 upon and your analysis on this table here?

18 A. Yes. So we've been talking about the historic  
19 designation and -- and the sale of development rights  
20 and all. So I'll jump forward to the conclusion for the  
21 highest and best use of the property is continued use as  
22 a general purpose office building.

23 I -- I inspected the property. Obtained square  
24 footage areas -- actually not from the assessor but from  
25 the property owner who had more accurate gross square

1 footage numbers.

2 And I used my -- basically, the -- the gross  
3 square footages are adjusted to a (indecipherable) error  
4 and (indecipherable) for renting office space.

5 And I converted gross building area into the  
6 rental area by an efficiency ratio of -- of 85 percent.

7 So that was the first step. Those are the areas  
8 that are shown here to total on the first column under  
9 rentable area, 42,649 square feet.

10 I then obtained comparable rental information  
11 and focused the research and study area along basically  
12 general south waterfront, Pioneer Square area. And I  
13 concluded a market rent for the general floors of one,  
14 two, and three of \$37.50 per square foot on a  
15 full-service basis.

16 I applied a -- a different -- a lower amount to  
17 the basement. The basement has no windows. And it  
18 actually is the location of the vault, which is actually  
19 quite substantial with a huge door that has been  
20 converted to storage area.

21 And so that's as -- I believe that 75 percent of  
22 the -- the upper floors. So I calculated a gross income  
23 number of just \$1,474,000.

24 And then I applied the typical deductions for  
25 vacancy, operating expenses, to come up with a net

1 operating income of \$889,434.

2 Q. And then it looks like you capitalized that at  
3 5.5 percent?

4 A. Yes, I did.

5 Q. And how did you come up with that capitalization  
6 rate?

7 A. If I have a survey and summary of investment  
8 criteria for office buildings in Downtown Seattle and  
9 the rent -- the range -- range from about 5 to  
10 6 percent. And I concluded to a rate at 5.5 percent.

11 Q. You also mentioned historic district.

12 So I'm going introduce a few exhibits regarding  
13 your analysis. Exhibit 57 is going to be the landmark  
14 ordinance.

15 HEARING EXAMINER VANCIL: Does this pre-date  
16 current code that would be found online? Or --

17 BY MS. LIN:

18 Q. Maybe you can answer that question.

19 This document, the landmark ordinance.  
20 Ordinance 124716. Where did -- did you get this from  
21 the property owner?

22 A. The property owner's legal counsel.

23 HEARING EXAMINER VANCIL: I guess I'm just  
24 wondering what's being represented here, just for  
25 purposes of record.

1           Typically, code isn't not introduced as an  
2 exhibit. It's the law. So it speaks for itself. It's  
3 easily accessible for purposes of appeal to a judge.  
4 And we don't put it in as fact evidence.

5           Is this a unique version that's not  
6 available online? Is this stand alone that we need it  
7 in the record for something?

8           MS. LIN: I suppose not. We're using this  
9 just to show that the building is subject to a landmark  
10 ordinance and has been designated as historic.

11           HEARING EXAMINER VANCIL: So the -- under  
12 city code, it's designated as a landmark; right? Is  
13 that --

14           MS. LIN: Yes. I'm going wait until he  
15 returns.

16           Yes. Under this ordinance, it is  
17 designated -- it -- it is in an area that has been  
18 designated historic. And they are --

19           HEARING EXAMINER VANCIL: And is this being  
20 presented as under current code or in a different  
21 version?

22           This is an ordinance from 2013 -- 2015.

23           MS. LIN: The ordinance is dated 2013. But  
24 I do not believe it has changed the historic character  
25 of the property.

1           That -- that the current code is change --  
2 but would you like me to --

3           HEARING EXAMINER VANCIL: Let's check that  
4 quickly.

5           If it's for the proposition that it was at  
6 one time marked in code. If it's in current code, then  
7 we don't need to introduce the exhibit.

8           Well, we can proceed how you like. I can  
9 put this as an indicator that in 2015, it was in the  
10 ordinance, or we can refer to current code.

11          MS. LIN: What we might do -- what I might  
12 request then is if I can leave this portion of the  
13 record open for our double-check during the break so  
14 that I don't waste your time looking right now.

15          HEARING EXAMINER VANCIL: Okay. And you  
16 will want to bring that in through witness testimony?

17          MS. LIN: Sure. Okay. So let's put this  
18 aside for right now.

19          HEARING EXAMINER VANCIL: Okay.

20 BY MS. LIN:

21         Q.    So Mr. Shorett?

22         A.    Yes.

23         Q.    You mentioned that you received documents from  
24 legal counsel of United Way. Did you review those  
25 documents?

1 A. Yes, I did.

2 Q. And are some of those documents deeds --  
3 temporary development rights?

4 A. Yes.

5 Q. Okay. We're going to introduce a few of those  
6 into the record. And we're going start with Seattle  
7 Downtown Hotel.

8 HEARING EXAMINER VANCIL: All right.

9 MS. LIN: This will be Exhibit 57.

10 HEARING EXAMINER VANCIL: Is that what we're  
11 on; 57?

12 MR. EDLUND-CHO: Yes, 57.

13 HEARING EXAMINER VANCIL: Okay. Marked as  
14 Exhibit 57.

15 BY MS. LIN:

16 Q. So how many square feet of temporary development  
17 rights -- and that's "TDRs," for short.

18 How many square feet of TDRs were sold to the  
19 Seattle Downtown Hotel & Residences LLC pursuant to this  
20 deal?

21 A. I outline this on page 5. So I'm referencing a  
22 document you already have. Page 5 under the ownership  
23 history, the second paragraph.

24 MS. LIN: That's page 5 of Exhibit 56?

25 HEARING EXAMINER VANCIL: Thank you.



1 MR. SHORETT: So today -- so -- 28,896  
2 square feet to downtown -- downtown hotel and  
3 residences.

4 BY MS. LIN:

5 Q. Can you repeat that? You sort of cut out a  
6 little bit.

7 A. Sure. I'll speak up, too.

8 They sold 28,896 square feet of TDRs to Seattle  
9 Downtown Hotel & Residences LLC.

10 Q. And, actually, let's back up. Can you quickly  
11 explain -- briefly explain what a TDRs is?

12 A. Yeah, absolutely. It's good to have the basic  
13 foundation.

14 A TDR is a transferrable development rights.  
15 They are basically development rights. And within the  
16 City's own code is a base -- there are four area of  
17 ratio calculations.

18 And each zoning has a different maximum FAR --  
19 FAR is a floor area ratio, and that would say if you  
20 have a floor area ratio of five, for example, a maximum,  
21 and you had a one thousand -- a 10,000 square-foot site,  
22 you would have 50,000 square feet of development  
23 potential. And that's commercial development potential.

24 It's important to distinguish the difference  
25 between commercial development rates and multifamily

1 development rights.

2 Multifamily is exempt from TDR calculations.

3 But the commercial is not.

4 And so in this instance, the TDR is  
5 transferrable development rights or -- straight out  
6 development rights is another way of looking at it for a  
7 business site within 69,600 square feet.

8 So if the property was to be redeveloped, the  
9 maximum allowed TDR or development would be 69,000  
10 hundred square feet.

11 Because the building is already in existence --  
12 I'm sorry, I think I stated that a little bit  
13 incorrectly.

14 Because, to that basis, the building area needs  
15 to be added. So -- because it's a commercial office  
16 building.

17 So let's go back to the simplest example. This  
18 is a property that has surplus TDRs, or development  
19 rights, a total of 69,600 square feet.

20 So these are development rights that the  
21 property could otherwise use for a development, but it  
22 would entail demolishing the existing building and then  
23 they would be able to use the square footage that they  
24 already have, plus this amount of TDRs. 69,000 square  
25 feet.

1           So in simple math example, they wouldn't be able  
2 to buildup 100 -- I think 110-, 120,000 square-foot  
3 building, if they demolished the building.

4       Q.    Okay. And how did the sale of TDRs impact the  
5 value of a property?

6       A.    Well, there's gonna be two different elements  
7 here. We can talk about the TDRs, but you also have to  
8 recognize the historical designation of a building.

9           It is really because of the historical  
10 designation that there's any reason for a property owner  
11 to want to sell TDRs.

12           The point is, if you have a building that you  
13 really can't do much with, then you have these surplus  
14 TDRs that are saleable.

15           And a lot of property owners monetize their  
16 equity or asset by selling TDRs when they have a -- a  
17 building that's historic.

18           And by the way the camera just moved to the  
19 left.

20       Q.    So I'm going repeat my question.

21           So does the sale of TDRs impact the value of the  
22 property?

23       A.    They lose the ability to use those TDRs --

24       Q.    And so --

25       A.    -- and it -- it can negatively impact the value

1 of a property.

2 Q. Okay. So going back to Exhibit 57. This is the  
3 sale -- you testified that this is the sale of  
4 28,896 square feet of TDRs to the Seattle Downtown Hotel  
5 & Residences; is that correct?

6 A. Yes.

7 MS. LIN: Okay. I'm going to introduce  
8 Exhibit 58. Exhibit 58 is the Seattle Tower deed.

9 BY MS. LIN:

10 Q. How many square feet of TDRs were sold at the  
11 Seattle Tower?

12 A. 5,674 square feet.

13 Q. And did you review this document to conclude  
14 that?

15 A. Yes.

16 Q. Exhibit 59 is the re-record for Acorn.

17 Did you review this document?

18 A. There are two Acorn sales. One was for  
19 12,000 -- I'm sorry, 13,000 and the other was 22, I  
20 believe. I reviewed both documents.

21 Q. Okay. And I'm looking at the document that  
22 starts with a return address "Steven R. Rovig."

23 A. I don't have them printed out in front of me,  
24 but I can reference it if you would like.

25 Give me one second. Yes. Steven R. Rovig.

1 Q. And is this -- and how many square feet of TDRs  
2 were sold to Acorn Development pursuant to this exhibit?

3 A. It looks like this one says 13,000 square feet.

4 Q. Actually, if you turn to page 1, it looks like  
5 this is the one that says 22,000.

6 A. You know what, they were both -- they were both  
7 returned to Steve Rovig. So --

8 Q. Oh, sorry. We might be looking at different  
9 ones.

10 A. Well, no, they are both -- excuse me for a  
11 moment.

12 The one exhibit is -- I mean, I can give you the  
13 excise tax numbers. But one is for 22 square feet,  
14 returned to Steve Rovig. And the other is for  
15 13,000 square feet returned to Steve Rovig, both Acorn.

16 Q. Okay. Just to make sure we're looking at the  
17 same document, can you give me -- why don't we reference  
18 on page 1 the King County recording number ending in  
19 369 -- oh, actually both of them are that too.

20 A. Right. If you go to the second page --

21 Q. Oh, sure.

22 A. -- you will see the excise number.

23 Q. Yes.

24 A. Just making sure I have both of them up here,  
25 give me a second.

1 HEARING EXAMINER VANCIL: We're on  
2 Exhibit 59, correct.

3 MS. LIN: Correct. Exhibit 59, page 2.

4 MR. SHORETT: So -- so the one that I'm  
5 looking at, the first one, with I is for -- let's just  
6 clarify, for 22,000 square feet has the excise number,  
7 it's the second number down, E2772647.

8 And then the next one is E2772643.

9 BY MS. LIN:

10 Q. I see.

11 A. One is 47 and one is 43. They were filed on  
12 about the same -- they are filed on the same day within  
13 a matter of minutes.

14 MS. LIN: Okay. I'll introduce as  
15 Exhibit 59, E --

16 HEARING EXAMINER VANCIL: 60. It's been  
17 marked as Exhibit 60.

18 BY MS. LIN:

19 Q. And so, Mr. Shorett, Exhibit 60 is No. E2772643.

20 A. Okay.

21 Q. And how many square feet of TDRs were conveyed  
22 in this document?

23 A. With E ending in 43 is 13,000 square feet.

24 Q. And finally this is Exhibit 61.

25 Exhibit 61, for your reference, Mr. Shorett, is

1 the -- involving Tilt 49. All right.

2 And how many TDRs were sold Tilt 49.

3 A. Tilt 47 purchased --

4 Q. Oh --

5 A. Purchased 37 feet. Oh, I'm sorry. You are  
6 right it is 40 -- 49.

7 I wrote it down -- I apologize, it is Tilt 47.  
8 I guess I was confused. And then I wrote -- it's  
9 Tilt 49 (verbatim) purchasing 30 square feet.

10 Q. And so you testified earlier that United Way had  
11 a total of 69,600 square feet of TDRs; is that correct?

12 A. Yes.

13 Q. And did United Way sell all of these?

14 A. Yes.

15 Q. And so -- does that -- and you testified --  
16 you've testified regarding what a TDR is?

17 Does that mean that United Way has sold all of  
18 its commercial development rights to third-party  
19 developers and eliminated its commercial development  
20 potential?

21 A. All of its surplus TDRs. It still retains the  
22 current like three floors or so of their development  
23 rights.

24 Q. Do you know how your pre-LID valuation compares  
25 with Mr. Macaulay's pre-LID valuation?

1 A. Yes, I do.

2 Q. And which one was higher?

3 A. The Macaulay opinion was higher.

4 Q. And do you know by how much?

5 A. Yes. Your camera moved again, by the way.

6 The value in the ABS report is \$23,664,000.

7 Q. And how does that -- how does that difference  
8 impact the special assessment amount?

9 A. It's lower, which is, my opinion, the value of  
10 the property is \$16,170,000. It is -- (indecipherable).

11 Q. We're going to turn to Mr. Macaulay's after --  
12 or Mr. Macaulay's valuation both pre-LID and post LID of  
13 the United Way building. Did you review Mr. Macaulay's  
14 underlying spreadsheets in forming his analysis on this  
15 building?

16 A. Yes, I did.

17 Q. Do you understand how he estimated the before  
18 value of the United Way building?

19 A. Yes, I did. But can I take a moment to open  
20 that spreadsheet up?

21 Is that -- or is that evidence yet?

22 Q. We will not be entering that into the record.

23 A. Okay. I'll be going then --

24 MS. LIN: Is he allowed to use it as his own  
25 demonstrative and testify regarding it.



1 HEARING EXAMINER VANCIL: Well, I'm not  
2 going to raise an objection.

3 MS. THOMPSON: We would -- just to -- just  
4 to get it out before he does reference it, our  
5 understanding and how we proceeded before is that -- you  
6 know, we understand that Mr. Shorett has viewed this  
7 confidential spreadsheets. We are comfortable with him  
8 testifying generally about the figures, but not  
9 specifics.

10 So, you know, we would refrain from stating  
11 specific figures that would base -- I mean, the issue  
12 here is that the parties have agreed that these  
13 spreadsheets will not be entered into the record. And  
14 so the contents of those spreadsheets cannot be  
15 testified to.

16 MS. LIN: It was actually my understanding  
17 that the -- the exhibits could be used as demonstratives  
18 in the hearing and just would not be entered into the  
19 record.

20 So the content is actually fair game as long  
21 as you are only using it as a demonstrative. The  
22 confidentiality issue is really on the property owner;  
23 whether or not property owners want to dive into  
24 specific numbers and details.

25 MS. THOMPSON: Well -- and I believe

1 yesterday, the Hearing Examiner mentioned that  
2 considering evidence that is not going to be entered  
3 into the record is not something that is a usual course  
4 for a proceeding like this.

5 I mean, the confidentiality issue is  
6 surrounding the -- the numbers and the formulas that  
7 have been used in the spreadsheets.

8 And, you know, he can refer to them in  
9 giving his testimony, but, again, we would ask that he  
10 not reveal the specific calculations or the numbers that  
11 are used therein.

12 HEARING EXAMINER VANCIL: So I'm not being  
13 asked to make a ruling. But I will when I am asked.

14 But the -- just to -- you have more to work  
15 out. But the Examiner's comment was simply directed at  
16 the suggestion that I would be handed actual sheets for  
17 illustrative purposes.

18 And at that time I indicated that seems to  
19 me like evidence not illustrative.

20 And so I would -- I'm suggesting to the  
21 parties that that course not be taken. That was the  
22 extent of the conversation that I was involved in.

23 So as far as what you're asking for this --  
24 for this body to determine as what's admissible and  
25 what's not, that hasn't been presented to me. And

1 really it's been between the parties to agree on that.

2           The only other comment that I will make --  
3 even let you continue resolving this between yourselves,  
4 is that in this hearing, we have had one other area of  
5 confidential information, and that was during hotel  
6 testimony for some objectors that are hotels and they  
7 had some private industry-related information from  
8 appraisals that they -- I believe it was appraisals may  
9 have had -- I don't remember if it was appraisal reviews  
10 or what category they were, but it was certainly getting  
11 to specific business information that they didn't want  
12 their competitors to know.

13           And the way we've addressed that, at that  
14 time, was by general reference providing estimates,  
15 ranges, and not specifically quoting from documents.

16           I'm not indicating that that's the way to do  
17 it. I'm just indicating that that's how it has been  
18 done in this hearing so far.

19           And I recognize the challenge that the  
20 parties have is that correct, you know, when someone  
21 crosses this guy, once it gets into testimony, it is  
22 part of a public record.

23           MS. LIN: May I ask a clarifying question  
24 with regards to the hotels that you've already dealt  
25 with in the past?

1           Was the concern from the hotels that they  
2 didn't want their proprietary -- business information  
3 released?

4           HEARING EXAMINER VANCIL: Yes, they didn't  
5 want their competitors to have that information.

6           MS. LIN: Okay.

7           HEARING EXAMINER VANCIL: Knowing that their  
8 competitors -- or some of them are even part of the  
9 hearing.

10          MS. LIN: And it's my understanding that  
11 Mr. Macaulay -- Mr. Macaulay's spreadsheets are not  
12 based on that competitive information. They are based  
13 on, mostly, publically available information, especially  
14 with regard to property like, United Way building. He  
15 hasn't reached out to property owners.

16          So I don't -- I don't think that we have  
17 that concern, at least with respect to this property.

18          And I also think that if -- and we can  
19 review the confidentiality agreement together again.  
20 But I think it actually states that the confidential  
21 information can be used as a demonstrative. And when I  
22 spoke with MRIFZ, that was generally my understanding.  
23 And maybe it's something you need to check back with him  
24 on. So --

25          MS. THOMPSON: So, two points, the first is

1 that the confidentiality concerns in this case don't run  
2 just one way.

3 Mr. Macaulay has his own concerns about  
4 confidentiality concerning his work product as you're  
5 aware many of the experts that are being used to  
6 critique his study are also his competitors.

7 And so the fact that we don't have a hotel  
8 property at issue here, isn't -- in our opinion the crux  
9 of the issue.

10 Secondly, my understanding of what's going  
11 to happen if we proceed right now is that Mr. Shorett  
12 will be reviewing or looking at the spreadsheet and  
13 testifying about them. That is not a demonstrative  
14 exhibit. That is testimony that is going to be part of  
15 the evidentiary record.

16 What I would suggest --

17 MS. LIN: Well, (indecipherable).

18 MS. THOMPSON: What I would suggest is that  
19 we take a break and counsel can confer about this so  
20 that we're all on the same page so that we have a  
21 workable way to do this going forward.

22 MS. LIN: I actually would like a ruling --  
23 or some clarification at least from you on the method --  
24 Mr. Macaulay's methodology. And it sounds like what  
25 you're saying is that the actual formula -- so not

1 necessarily the number, but the formula underlying that  
2 number is what you are saying he doesn't want to share  
3 with competitors.

4 And I'm just wondering whether or not that  
5 is actually what's at stake here is the method for  
6 coming up with.

7 Because under the standard, you can't have a  
8 fundamentally flawed method. And so isn't that directly  
9 at issue here.

10 And the hotel -- I can skip the number --

11 HEARING EXAMINER VANCIL: Let me stake the  
12 City's suggestion.

13 The concern that the Hearing Examiner has is  
14 that -- I understand that there is a confidentiality  
15 agreement. You've set some boundaries between  
16 yourselves already.

17 If you don't reach agreement, then you need  
18 a ruling from me. And I understand that.

19 But clarification as to that agreement does  
20 need to be made to the degree possible.

21 My primary concern is that if material came  
22 in and there was, say, breach of an agreement and then  
23 I've got fruit of the poison tree evidence, and that  
24 shouldn't be here.

25 Otherwise, honestly, these questions about

1 what's fair game and such is something that I could make  
2 a ruling on when it's appropriate to do that. But it  
3 seems like you've got something to work out between  
4 yourselves first.

5 I was intending -- we typically take a break  
6 at 10:00 anyway. I was intending that we would take a  
7 longer break so that I can maybe find some duct tape and  
8 get our camera stuck in one spot. Or maybe use the  
9 other camera we have. So let's take a break and give  
10 counsel adequate time to address this question between  
11 yourselves and other co-counsel, if they have.

12 We will return at 10:40. If you need  
13 additional time, simply let Mr. Edlund-Cho know that,  
14 and we'll continue so that you have an opportunity to  
15 resolve the matter between yourselves. And then if you  
16 are needing to return to get a ruling, then we can do  
17 that at that time. Thank you.

18 (A break was taken.)

19 HEARING EXAMINER VANCIL: Okay. We'll  
20 return to the record with Mr. Shorett still on direct.

21 And how are we proceeding?

22 MS. LIN: We're going to go ahead and talk  
23 about his spreadsheets.

24 THE COURT: Okay.

25 MS. LIN: So we're going to continue with

1 case number 417.

2 MR. SHORETT: And I apologize for  
3 interrupting, but the duct tape did not hold.

4 (Discussion regarding the placement of  
5 the hearing room camera was recorded  
6 but not transcribed.)

7 (A break was taken.)

8 HEARING EXAMINER VANCIL: All right. We are  
9 back on the record. Mr. Shorett on direct.

10 Thank you all for your cooperation in  
11 working through the technological problems.

12 BY MS. LIN:

13 Q. Mr. Shorett, we're talking about United Way  
14 building, case 417.

15 Did you review Mr. Macaulay's spreadsheets  
16 underlying his special benefit analysis for this  
17 property?

18 A. Yes, I did.

19 Q. And looking at line -- rows 12 to 13, it looks  
20 like this is consistent with Mr. Macaulay's estimate of  
21 the before value of the United Way building as being  
22 23,664,000; is that correct?

23 A. Yes.

24 Q. What is your understanding of how he came up  
25 with that number?



1       A.    Well, that's a land value estimate and he does  
2   comparable sales data, at least discussions, in his  
3   report about the valuation of land.

4            I'm assuming he -- well, not assuming. He  
5   relied on the sales comparison approach for that  
6   estimate.

7       Q.    But -- okay --

8            And when you said that's a land value, why would  
9   that be a land value if there's a building on the site?

10       A.   Well, he -- below on the spreadsheet -- let me  
11   back up. And if I -- if I ramble, please let me know.

12            The whole point of his spreadsheet, from what I  
13   can tell, is what a typical appraiser would do when you  
14   have a building improvement, and that is to look at the  
15   building improvement to see if it has value above and  
16   beyond the underlying land.

17            And so below, he has an income capitalization  
18   approach very similar to the one that I just testified  
19   to, producing my value. And he compares that -- it  
20   appears, he compares that number with the value of the  
21   land and concludes the land is the highest and best use  
22   and that it's a redevelopment parcel.

23       Q.    So you're testifying that he treated the United  
24   Way building as a redevelopment parcel?

25       A.    That's what he says -- yes. And he says that

1 in -- I had the page number out -- in the LID actual  
2 final assessment roll. I believe his exact words are  
3 "redevelopment." So that's where that would apply.

4 Q. And then it looks like on Row 18, he then  
5 applies a \$25 per square feet increase to the land value  
6 and that that is the special benefit amount to this  
7 property. Is that -- is that your understanding?

8 A. Yes.

9 Q. And from your review of the final -- final study  
10 and this underlying spreadsheet, what is the basis for  
11 this \$25 increase to the land value?

12 A. Well, this goes back to all the previous  
13 testimony. It's his -- it's his interpretation of the  
14 data, which I believe is an inappropriate  
15 interpretation, that the value of this property would  
16 increase by \$25, which I believe is 1-1/2 percent. I  
17 would have to do the math to check.

18 About one point -- it's about 1.5 percent. And  
19 I don't know what the basis for that opinion is other  
20 than what's contained in this report that I've already  
21 critiqued.

22 Q. So is this specific increase in value on this  
23 property supported by any evidence in the final study?

24 A. I've testified to all of the elements that I  
25 believe are the basis for his opinion of increases in

1 value so far and I haven't found them to be credible.

2 Q. Is 1.5 percent, in your opinion, within the  
3 margin of error for appraisals?

4 A. Absolutely, 100 percent, yes.

5 Q. Do you -- did you have occasion to review any of  
6 Mr. Macaulay's methods on other buildings owned by --  
7 buildings owned by nonprofits?

8 A. No. I'm not sure I understand the question.

9 Q. Well, United Way is a nonprofit organization.  
10 So I'm just wondering if you had occasion to  
11 review any other properties where the taxpayer was a  
12 nonprofit organization?

13 A. Not for the purposes of this.

14 And it really shouldn't matter, because we're  
15 dealing with the fee simple interest and the definition  
16 is willing buyer or willing seller definition of RV  
17 value is willing buyer/willing seller.

18 So the fact that it's a nonprofit doesn't have  
19 much to do with the value of the property.

20 Q. Well, talking about the proportionality a little  
21 bit.

22 Would the fact that this is a nonprofit matter  
23 for the purposes of a proportionality analysis?

24 A. I'm not sure I understand that question either.  
25 I'm sorry.

1 Q. That's okay.

2 Would the fact that it's a nonprofit affect the  
3 measure of special benefit to the tax payer?

4 For example, if the tax payer is a commercial --  
5 or commercial entity or a business, would there -- would  
6 you expect that it would be an impact on the special  
7 benefit analysis based on that -- on that difference in  
8 property owner character?

9 A. No, it shouldn't matter. There's really no  
10 difference between a for profit or not for profit, in  
11 terms of valuing real estate, unless -- unless there's  
12 some unusual circumstance, and there isn't here.

13 Q. You mentioned that he also talks about an income  
14 analysis below his land analysis.

15 Is his -- you mentioned that it's similar to  
16 your -- your income analysis for this property as well.

17 But it actually ends up concluding a lower value  
18 than yours; is that correct?

19 A. Yes.

20 Q. And is that because Mr. Macaulay is assuming a  
21 lower purse (verbatim) -- a lower price per square foot  
22 for the office space?

23 A. Well, it's -- it's a couple -- it's more than  
24 just that. And I don't need to get too granular on  
25 this; the level of it. But he's using a gross building

1 area instead of a net rentable area. And he does have a  
2 lower rent per square foot.

3 And so they -- they do kind of go part and  
4 parcel, if you will. In other words, if you are using  
5 more square footage, you might tend to adjust your rent  
6 down for that.

7 But, in general, his rent number is lower than  
8 mine. If it was to be averaged and equal in terms of  
9 comparison.

10 Q. And you sort of touched on this earlier, but  
11 why -- can you tell why Mr. Macaulay did not use the  
12 income approach number?

13 A. I think we concluded that the value of the site  
14 was -- the value of the property, his land, was greater  
15 than the value of the property, as improved.

16 Q. If he had used the income approach, would the  
17 special -- what impact would that have had on the  
18 special assessment amount?

19 A. Well, it would have been lower. It would have  
20 been significantly lower.

21 MS. LIN: That's all I have for right now.

22 HEARING EXAMINER VANCIL: And are we going  
23 to another?

24 MS. LIN: No.

25 HEARING EXAMINER VANCIL: Or is this

1 finished with Mr. Shorett?

2 MS. LIN: I think we are done with direct.

3 HEARING EXAMINER VANCIL: So we're ready for  
4 cross?

5 MS. LIN: Yes.

6 HEARING EXAMINER VANCIL: Okay. Before we  
7 do that, we have Exhibits 54 through 61 that have not  
8 yet been admitted.

9 Any objections to Exhibits 54 to 61?

10 MS. THOMPSON: No objections.

11 But were we gonna address the ordinance?

12 MS. LIN: I think we'll just rely on the  
13 code. We don't need to submit that into evidence.

14 HEARING EXAMINER VANCIL: Are we able to  
15 cite the code?

16 MS. LIN: We didn't even get to that. But  
17 we'll figure out a way to make that part of the record.

18 THE COURT: Okay. Yeah, somebody can say  
19 here's the section that you want me to look at.

20 Sometimes we get landmark review cases in  
21 front of us. But both for your records' purpose of a  
22 judge that doesn't regularly look at our municipal code  
23 and myself would be helpful to get that reference.

24 MS. THOMPSON: Okay. So would we be  
25 renumbering some of the exhibits as a result?

1 HEARING EXAMINER VANCIL: No. What I  
2 understand is this is going to be simple -- either  
3 testimony or reference from counsel to support the  
4 testimony from the witness that it's a landmark for  
5 code, which is not necessary to introduce as an exhibit,  
6 and that the item that was originally forwarded --  
7 that's marked unofficial copy and is just -- is an  
8 ordinance from 2015, is not being introduced as an  
9 exhibit.

10 MS. THOMPSON: Okay.

11 HEARING EXAMINER VANCIL: So we just keep  
12 the same order.

13 And, I'm sorry, were there any objections  
14 from 54 to 61?

15 MS. THOMPSON: No objections.

16 HEARING EXAMINER VANCIL: All right. 54 to  
17 61 are admitted.

18 (Exhibit Nos. 54 - 61 admitted.)

19 HEARING EXAMINER VANCIL: And cross?

20 CROSS-EXAMINATION

21 BY MS. THOMPSON:

22 Q. Good morning, Mr. Shorett.

23 I've got some --

24 A. Good morning.

25 Q. -- additional questions for you.

1           And first, for the record, I'd also like to  
2 incorporate or just signal for the record that the City  
3 would like to refer back to Mr. Shorett's testimony from  
4 February 18th as part of this series of cases as well.

5           Mr. Shorett, could you remind us a little bit  
6 about your background in preparing mass appraisals?

7           Do you have experience in preparing mass  
8 appraisals?

9           A.    Yes.

10          Q.    Could you give us some examples of -- of those  
11 projects?

12          A.    Well, I explained the -- the North Bend LID  
13 project that I was involved in that involved about 80 or  
14 so properties.

15                And in terms of mass appraisal, for a benefitted  
16 study, I think I testified to having done a -- an LID  
17 study for a utility district many years ago.

18                Those are two that come to mind in terms of  
19 doing, I guess, mass appraisal work, if you will.

20          Q.    And you mentioned the North Bend feasibility  
21 study that you testified to yesterday. That was a  
22 situation where you were retained to perform a study to  
23 determine if an LID would be appropriate; is that right?

24          A.    It was very similar to Mr. Macaulay's  
25 preliminary feasibility study that he prepared for the



1 City back, I think, in 2017.

2 So it was measuring a general -- the conduits  
3 introducing the cost that the general benefit -- special  
4 benefit and value increase because of that utility  
5 project.

6 Q. So in conducting the feasibility study, you  
7 aren't calculating actual special benefits but  
8 determining, rather, whether special benefits would  
9 occur at all; is that fair to say?

10 A. We did put a monetary number to it, so we're --  
11 we are monetizing it. But it's in a general sense, if  
12 you will.

13 In other words, we didn't get down to the  
14 granular level of looking at every property and  
15 assigning a value specific to it.

16 We, very similarly to Mr. Macaulay, lumped the  
17 properties in groups and assigned general value changes  
18 to those groups.

19 Q. And, I'm wondering, could you just define for us  
20 how -- in your own words, what a special benefit is?

21 A. I testified to that already. And it's a good  
22 question, because it's obviously the basis of -- of this  
23 whole discussion that we're having.

24 And that special benefit needs -- is something  
25 that benefits a particular property and it's definable.

1 It's usually tangible. It's usually something that's  
2 very physical and obvious and that benefits only a  
3 single or a small group of properties as opposed to a  
4 general benefit that benefits the entire community and  
5 region.

6 Q. So you just mentioned that it generally benefits  
7 a small group of properties.

8 Is it your testimony that a large group of  
9 properties cannot receive a special benefit?

10 A. No. Maybe rather than call it a small group,  
11 it's more of a defined group, is a better way of putting  
12 it.

13 So it could include -- I mean, define large for  
14 me, if you will, I guess is a question.

15 Q. Sure. Sure.

16 Well, I guess what I would say is define small  
17 for me? Or defined -- I'm trying to determine if your  
18 testimony is that there's sort of a property number  
19 limit to special benefits or not?

20 A. No. I don't think there's a definition of a  
21 property limit. But it's usually what's reasonable or  
22 appropriate.

23 Q. And that would be based on the -- the  
24 improvements involved; is that correct?

25 A. Yes.

1 Q. And the location of the improvements; correct?

2 A. Yes.

3 Q. So yesterday you testified that in your opinion  
4 the LID is an unusual funding mechanism for the  
5 improvements involved here; is that right?

6 A. Yes.

7 Q. Are you aware that the law allows for LID  
8 funding of parks and street improvements?

9 A. I am generally aware. I'm not aware of it. It  
10 would surprise me that they are allowed.

11 Q. And yesterday you -- in your testimony you  
12 talked a bit about how the fact that the assessments are  
13 being calculated and imposed now on improvements that  
14 won't be constructed or completed until 2024 impacts the  
15 value of the property; is that right?

16 A. Yes.

17 Q. Are you aware that it's legal for a municipality  
18 to assess the costs of LID improvements before  
19 construction?

20 A. I have -- I have no opinion of the legality of  
21 that.

22 Q. So yesterday you also talked a bit about how the  
23 fact that the improvements aren't constructed yet makes  
24 it difficult to assess what value increase they would  
25 add to the properties; is that right?

1 A. Yes.

2 Q. And those factors would be -- I think you  
3 mentioned the basic economics of supply and demand and  
4 the real estate cycle and jobs. And I believe what you  
5 said is that it's unusual for an appraiser to assess a  
6 future value like the ABS study has done here; is that  
7 right?

8 A. I'm not sure I said it in those exact words.

9 It is unusual to project value increases for  
10 something that's going to have (indecipherable) from  
11 today. That may be more what my testimony was.

12 Q. Okay. So is it your opinion that it's  
13 impossible to perform that task?

14 A. I don't think it's impossible. But I think it  
15 is just the level of precision and which -- which is  
16 implied in -- in doing so.

17 Q. And so, put another way, is it -- would it be  
18 against industry standards to make that type of  
19 appraisal?

20 A. I'm not sure I understand the question.

21 Q. Well, we were -- so we were talking about the  
22 potential difficulties of assigning increases in value  
23 based on future conditions; correct?

24 Oh, can you hear me, Mr. Shorett?

25 A. Yes. I'm sorry, was that a question?

1 Q. Yeah. Sorry. I'm just trying to bring us back  
2 to the topic here.

3 So your testimony yesterday was that appraising  
4 increases in value to property based on future  
5 construction, you said, poses some difficulties; is that  
6 right?

7 A. It poses difficulties and it poses risk to the  
8 property owner. I think is really more the context of  
9 what I was trying to convey.

10 Q. So my question today is whether assessing  
11 increases in value for future construction is against  
12 industry standards?

13 A. Well, there's two -- there's two elements to  
14 that question.

15 One is the industry standard and the other is  
16 how the market responds.

17 And the reality of it is -- it's our job  
18 to mirror the market as to how the market would respond.

19 We have the ability to make assumptions, in  
20 which case, you know, you heard testimony on  
21 hypothetical conditions. Mr. Macaulay made those  
22 hypothetical conditions to determine his value opinion.  
23 And my comment about the difficulty of providing  
24 estimates for something that's going to be five years  
25 from the date of value has to do with the risks of the

1 uncertainties associated with that that weren't  
2 disclosed in his report.

3 Q. So does the appraisal industry allow appraisers  
4 to assess future values of properties?

5 A. Yes.

6 Q. And yesterday you testified that the ABS study  
7 did not account for risks in delays in construction; is  
8 that right?

9 A. That's correct.

10 Q. And why do you believe that?

11 A. It's not a belief. It's a fact. Unless --  
12 unless I misread his report wrong, I don't think --  
13 there's no statement of about the risk of the  
14 uncertainties of construction of the project and all of  
15 those points and elements I talked about yesterday; it's  
16 basically just an opinion of value immediately before  
17 and immediately after the LID improvements.

18 And it doesn't talk about the risks or any of  
19 the potential other economic factors that could occur  
20 during the course of that project.

21 Q. So would your opinion about the credibility of  
22 the ABS study change if you learned that ABS did, in  
23 fact, take into account the risks and delays in  
24 construction?

25 A. I -- I don't have any basis for that opinion.

1 You're asking me to assume something that I don't  
2 believe to be true.

3 Q. I'm asking if it were true, would it change your  
4 opinion?

5 A. No.

6 Q. If -- if you came to find out that ABS, in its  
7 calculations, deducted for delays in construction, that  
8 wouldn't change your opinion about the -- the  
9 reliability and credibility of the report?

10 A. It would help it, but it still wouldn't change  
11 my opinion.

12 Q. And, similarly, yesterday you talked about your  
13 conclusion that ABS didn't take into account the risk of  
14 negative impacts such as lost parking; is that right?

15 A. I think I commented that they did make a  
16 statement in there about lost parking, but how that  
17 would be offset to some degree by the benefits of the  
18 project.

19 Q. Is it your opinion that ABS did not actually  
20 offset the calculations for a loss of parking?

21 A. Well, it's not really necessarily what they did  
22 other than making that generic statement.

23 Q. So yesterday you also talked a bit about this  
24 concept of a matched-pair analysis, and that ABS should  
25 have used a matched-pair analysis in its assessment in

1 this case.

2 How would you have approached applying a  
3 matched-pair analysis to this LID situation?

4 A. I testified previously, back in February, about  
5 this. And it's just a simple process of -- well, not  
6 simple. But I will define it simply.

7 And that is that it's just a matter of finding  
8 two like properties with all other elements being the  
9 same except for that one which is proximity to an  
10 amenity.

11 Just an example of a hotel property up by  
12 Seattle Center compared to the one that's somewhat  
13 removed from that particular amenity and determining if  
14 there's a difference in that -- between the two.

15 And it takes the perfect comparable data set --  
16 you need to have the sales that are timely and have the  
17 ability to make that granular level comparison.

18 But if you do it enough for a different --  
19 different property types, you can establish a trend.

20 And I believe I also testified back in February  
21 that that's one way you would determine the value  
22 premium, if at all, for an interior one versus a corner  
23 one. That's not very regularly.

24 Q. And what if, in this case, there were no  
25 appropriate matched pairs to use, what would you do



1 then?

2 A. Well, I don't believe that that's true, that  
3 there are -- if there are -- I guess, if there are no  
4 matched-pair sale comparisons presented in the  
5 appraisal, then I would suggest that that's a false  
6 statement that there are none. I'm sure you can find  
7 some data somewhere.

8 Q. But my question is a little different.

9 Assuming that no matched-pair analysis can be  
10 performed, how would you appraise the value of the  
11 properties here?

12 A. I don't understand. I basically stated in my  
13 opinion you wouldn't -- you would be able to find  
14 matched-pair analysis. You would be able to perform  
15 that approach.

16 Q. So is it your testimony that matched-pair  
17 analysis is always appropriate? Like, you will always  
18 be able to find matched pairs?

19 A. I -- the answer is yes, you should be able to  
20 find matched pairs. It may be -- it may be difficult to  
21 find. They may be difficult to vet. But they are out  
22 there. There's data to support -- there's data to use  
23 to determine if there is a special benefit from a park  
24 amenity.

25 Q. So -- and yesterday you talked about the case

1 studies that the ABS study relies on for -- you know, we  
2 talked about Tom McCall park, the Embarcadero, and  
3 several others.

4 If you were approached by the City to perform a  
5 special benefit analysis for this LID, how would you  
6 approach determining the special benefit?

7 A. I would -- I would do very similar to  
8 Mr. Macaulay started his appraisal process and is  
9 identifying a condition of the property before and after  
10 the improvements.

11 But then I would -- I would look for  
12 matched-pair analysis. I would look for them in  
13 Seattle. I would go down to the Portland market. I  
14 would try to find specific match -- for any of these  
15 markets -- let me back up.

16 I want to strike that comment in the sense that  
17 the -- I've already -- I testified that these parks are  
18 so significantly different than the LID improvements;  
19 why would I do this trying to find case examples or  
20 renovations or proximity to parks or whatever of similar  
21 amenities and use that as the basis for determining  
22 whether or not there is a special benefit to these  
23 properties?

24 Q. So it sounds like, from your testimony, it's --  
25 you would agree that referring to case studies is an

1 appropriate tool for assessing special benefits; is that  
2 right?

3 A. It is not. I mean, it's -- it's anecdotal --  
4 I'm sorry. It's anecdotal information.

5 If there happened to be some case studies, if  
6 you will, that are similar in terms of the impact that  
7 these LID improvements would have, it's worth talking  
8 about.

9 But as part of them, they would have  
10 matched-pair sales component analysis to them to form  
11 the basis for the appraiser opinion.

12 None of these, as I testified yesterday, none of  
13 the parks that are presented in the benefit study are up  
14 anything near the relatively small level of incremental  
15 improvement that the LID improvements provided.

16 Q. So your testimony is that the appropriate  
17 approach would have been a matched-pair analysis plus  
18 appropriate case studies; is that right?

19 A. I think the case -- the case studies become --  
20 are the matched-pair analysis.

21 In other words, if you are going to look at the  
22 Seattle Center, which is a great example, or the Olympic  
23 Sculpture Park, great example, let's go find some  
24 matched-pair analysis from those properties and make  
25 that our case study. That's how it works.

1           You don't go find -- you don't go make a case  
2 study out of something that doesn't have matched pair.

3           The whole story line and the basis to support  
4 the special benefit is looking at the matched pair and  
5 showing what the improvement had on the impact of the  
6 value of the property.

7       Q.    Okay.  So I think I understand now.

8           What you're saying is that the matched-pair  
9 analysis, in your opinion, would serve as the basic tool  
10 for assessing the special benefit; is that right?

11       A.    Yes.

12       Q.    And so your issue with the case studies in the  
13 ABS report is twofold, if I understand it correctly.

14           The first is that the case studies themselves  
15 don't contain a matched-pair analysis; is that right?

16       A.    That's correct.

17       Q.    And then the second issue is that you believe  
18 that the type of parks or improvements involved in those  
19 case studies are so different from the LID improvements  
20 that they are, in your opinion, not fair comparisons; is  
21 that right?

22       A.    Yeah.  And I guess the real difference is that  
23 the scale and magnitude of the project is so much  
24 greater than the LID improvements that they are not  
25 comfortable.

1 Q. So at a couple points in your testimony today, I  
2 believe, you mention -- and in your report you also  
3 mention the "margin of error."

4 And my question is what source are you relying  
5 on for your opinion that conclusions of a 0.5 percent to  
6 4 percent special benefits are within the standard  
7 margin of error for appraisers?

8 A. I didn't get the first part.

9 But simply -- so if I didn't answer your  
10 question, please let me know.

11 But, basically, there -- there is -- there is  
12 rounding for each general use -- use in our industry.

13 When somebody buys a property, it's not  
14 \$15,832,650. It's 18 -- it's rounded to something.

15 When one is looking at land values -- like we  
16 were just talking about the United Way building valuing  
17 at \$1,700 a foot before and \$1,725 a foot after.

18 Most investors of land don't look at that  
19 granular level. It's -- it's 1,700 to \$1,750 or 1,700  
20 or \$1,800 a foot. And that's a number of them. They  
21 may pick 1,750.

22 This is very common by investors. It's all --  
23 all we are as appraisers are mirroring the market and  
24 reflecting how the market responds.

25 If the market level -- if the market responded

1 with such high level precision that they would go down  
2 to the second decimal, we would do that.

3 But the reality of the market is they don't look  
4 at it that way. Especially as the numbers get bigger,  
5 there tend to be more zeros behind them in the margin  
6 of -- and I won't call it margin of error. Margin of  
7 rounding. Call it what you want.

8 It's -- there's no -- as much as we -- I don't  
9 want to discredit our profession.

10 As much as we are experts at what we do, it's  
11 still subject to slight degrees of differences, possibly  
12 an opinion between appraisers, for example.

13 Q. Sure.

14 So how would you define the -- the concept of  
15 margin of error?

16 A. So I don't really know if I have a definition of  
17 it. I will just give you a simple example.

18 I mean, I -- I am involved in arbitrations and,  
19 you know, three-person arbitrations. And if we come  
20 within 10 percent of each other, we feel pretty darn  
21 good. We know we can work it out.

22 So if you happen to be in the middle, example,  
23 after -- and if everybody is on the same page -- at the  
24 end of the day, if everybody is using the same  
25 assumptions, same valuation parameters, everyone can

1 come up with a reasonable number of one another. You  
2 are not gonna come up with the exact number.

3 And so what is that -- in our industry we're  
4 usually going with a more granular -- not granular.  
5 There's a term for it. A 5 percent, a 10 percent.

6 And I think I testified also earlier that when  
7 we are making adjustments, which is what we do to sales,  
8 we try to avoid it, we have actually good exact and  
9 precise data, that those adjustments, except for the  
10 time, you know, property value increases tend to be in  
11 the order of magnitude of 5 percent and 10 percent.

12 So industrywide, it's a generally accepted  
13 number. I think it's just because it ends up in fives  
14 and tens.

15 Q. So --

16 A. If that makes sense?

17 Q. So is it your opinion that the industry standard  
18 margin of error is 5 percent for all appraisals?

19 A. I would not say there's an industry standard.

20 To say that there are best practices when  
21 appraisers generally accept, it could be something to  
22 that degree. It also depends on the scope of the  
23 assignment.

24 If the scope of the assignment is to do  
25 something that's maybe more ballpark, if you will,

1 that -- that range could be greater.

2 I mean, I've had examples where I've been asked  
3 to provide an opinion of value and a range, because to  
4 get to that granular level or that specific number was  
5 not -- was not within the scope of the assignment.

6 Q. So here in your report and your testimony, your  
7 conclusion that the increases in value that have been  
8 stated in the ABS report, which again are given here in  
9 your report is a 0.5 percent to a 4 percent special  
10 benefit increase.

11 Your opinion is that those are within the  
12 standard margin of error; is that right?

13 A. Yes.

14 Q. And is that -- is it assuming that the margin of  
15 error in this case would be 5 percent?

16 A. I'm only using 5 percent because it's an easy  
17 number that most people refer to.

18 Q. So you are assuming that 5 percent would be the  
19 margin of error for this case?

20 A. Well, no, actually. I mean, you asked a  
21 different question.

22 Could you maybe rephrase that question so I can  
23 understand it a little more clearly?

24 Q. Yeah. Sure.

25 So my question is you stated a conclusion here



1 about margin of error, and you're saying that the value  
2 increases calculated by ABS are within the standard  
3 margin of error.

4 And I'm just trying to figure out what, in your  
5 opinion, is that standard margin of error so that we can  
6 maybe discuss how far away it is? How close it is?

7 A. I'm not really sure that it's -- I mean, it's  
8 your... that the whole point of saying it the way that  
9 it was said is that the -- the -- most of the percentage  
10 adjustments of value increases in the ABS report fall in  
11 the -- the 1/2 percent to 3 percent range. I don't  
12 think that we have anything that's over a three. Maybe  
13 one is a 3-1/2 percent. Maybe the hotel is.

14 So the reality of it is, on average, it's  
15 probably more like, you know, a 1 percent or 2 percent  
16 for all properties. So I'm trying to eliminate the  
17 extremes a little bit.

18 That's just a really difficult -- that implies  
19 such a high level of precision that it's just not in the  
20 usual context of how an appraiser determines value.

21 And I'm sympathetic to the -- to the problem.  
22 And the problem is that we're -- you know, the study  
23 considers so many properties and such a small level of  
24 improvement that it's -- you know, it's just the math of  
25 the flaw. It's impossible to measure the value benefit

1 with any degree of certainty, in -- in the before and  
2 after condition that, you know, that -- you're saying  
3 margin of error. I'm saying, okay, margin of error is  
4 5 percent. Well, it doesn't even come close to the  
5 margin... I'll stop with my answer.

6 Q. Sorry. You cut out at the end there.

7 A. Yeah.

8 Q. But I -- I don't think you actually answered my  
9 question.

10 So your report contains a conclusion that the  
11 value increase estimates from ABS are below the margin  
12 of error.

13 My question is what are you defining as the  
14 margin of error?

15 Oh, oops. Sorry. Start over.

16 We can't hear you.

17 MR. SHORETT: No.

18 HEARING EXAMINER VANCIL: Now, we can hear  
19 you. We didn't hear any response at all. So if you can  
20 answer the question now.

21 MR. SHORETT: Well, that's good. Now, I've  
22 got to think about it. Thank you.

23 The 5 percent is a reasonable number to use  
24 as a margin of error in this example.

25 MS. THOMPSON: Okay.

1 HEARING EXAMINER VANCIL: Can I just clarify  
2 with counsel which exhibit you are referring to and  
3 which page?

4 MS. THOMPSON: Oh, apologies.

5 So this would be -- for example, this occurs  
6 in Exhibit 55. It also appears in many of the same  
7 appraisal review reports that Mr. Shorett prepared.

8 HEARING EXAMINER VANCIL: What page number?

9 MS. THOMPSON: Page 7.

10 HEARING EXAMINER VANCIL: Thank you.

11 Did we get an answer?

12 MS. THOMPSON: We did, yes.

13 BY MS. THOMPSON:

14 Q. So, Mr. Shorett, you mentioned just a moment ago  
15 that it's impossible to measure value increases with  
16 such precision at such low percentage points; is that  
17 right?

18 Sorry, we can't hear you.

19 A. Yes.

20 Q. Okay. Thank you.

21 What's -- in your opinion, what's the smallest  
22 increase in property value that can be measured in a  
23 percentage?

24 A. I don't have an answer to that question.

25 Q. But, in your opinion, it would be -- 4 percent

1 is too low?

2 Sorry. You're -- we didn't get any of that.

3 MR. SHORETT: Can you hear me now?

4 HEARING EXAMINER VANCIL: Mr. Shorett, we  
5 can hear you. I'm going to ask you to disconnect and  
6 reconnect to see if we can get a better connection.

7 MR. SHORETT: All right.

8 HEARING EXAMINER VANCIL: While Mr. Shorett  
9 is doing that, Counsel, you referenced page 7 of  
10 Exhibit 55; is that what I understand you were referring  
11 to?

12 MS. THOMPSON: Yes. Exhibit 55. It has  
13 this cover page. And then it is page 7 of that first  
14 portion. "Reviewers conclusions," is at the top of the  
15 page.

16 HEARING EXAMINER VANCIL: Maybe there's more  
17 than one page 7.

18 MS. THOMPSON: And I was referencing the  
19 third-to-last paragraph down there.

20 HEARING EXAMINER VANCIL: Thank you.

21 MR. SHORETT: Hello.

22 HEARING EXAMINER VANCIL: Welcome back,  
23 Mr. Shorett.

24 MR. SHORETT: If that happens, I'm  
25 welcome -- more than happy to move to another room

1 closer to the router.

2 HEARING EXAMINER VANCIL: Okay.

3 MS. THOMPSON: Thank you.

4 BY MS. THOMPSON:

5 Q. So before we had you reconnect there, my  
6 question was: Is it your opinion that a 4 percent  
7 increase in property value is -- is too small to measure  
8 with any reliability?

9 A. I -- I do think it depends upon -- no, I don't  
10 believe that's true. I think you can measure up to  
11 4 percent with the appropriate data.

12 Q. Okay. And so -- I'm trying to figure out what  
13 your floor is in -- in the percentage of increases.

14 So what about a 3 percent increase, is that --  
15 is that a reliable measurement?

16 A. You're asking a question that's very open-ended  
17 to me as an appraiser. If I knew the parameters we were  
18 talking about and I knew the data that we had to support  
19 a 3 percent increase, I might have a different opinion.

20 But I will say you're getting to a point of --  
21 of anything below 5 percent where you're looking at it  
22 and really questioning -- you have to question the  
23 reliability and the appropriateness of the data before  
24 you do something like that.

25 Q. Okay. So in -- in your opinion, what's the

1 relationship between this 5 percent industry -- industry  
2 margin of error that we've been talking about and the  
3 ability to measure increases in value that fall below  
4 that -- that 5 percent?

5 MS. LIN: Objection.

6 MR. SHORETT: So we're talking --

7 MS. LIN: Misstates prior testimony.

8 He -- he's -- his prior testimony says he'll  
9 adopt 5 percent for purposes of discussion. But I'm not  
10 sure that they were committed to that as an industry  
11 standard.

12 MS. THOMPSON: I'll rephrase.

13 HEARING EXAMINER VANCIL: Okay.

14 BY MS. THOMPSON:

15 Q. So, Mr. Shorett, is it your opinion that in this  
16 case you would apply a 5 percent margin of error?

17 A. I'm sorry. And the -- again, in the case is  
18 kind of open. I'm not quite sure what you mean by that  
19 question.

20 Q. Okay. So in your report, which is Exhibit 55,  
21 on page 7, you -- you've stated here that the value  
22 increase estimates of 0.5 percent to 4 percent are below  
23 the margin of error typically accepted within real  
24 estate appraisal practice; is that right?

25 A. Yes.

1 Q. So, I believe, before I asked you what is that  
2 margin of error that you are referencing in this  
3 sentence?

4 A. Okay. And what I'm referring to is the margin  
5 of the error that two appraisers would have if one  
6 individual was doing an appraisal and the other was  
7 doing an appraisal; that if you came within 5 percent of  
8 one another, you would feel very comfortable that the  
9 appraisers' opinions are reasonable.

10 Q. So in your opinion here, 5 percent is the margin  
11 of error that you would apply?

12 A. -- you're -- "my opinion here"? I'm not quite  
13 sure what "here" means.

14 Q. In this -- in this matter, in your report, in  
15 this proceeding, is 5 percent, in your mind, the margin  
16 of error that you're referencing in your report?

17 A. Yes.

18 Q. Thank you.

19 So you said that it's not necessarily impossible  
20 to measure a 4 percent increase in value if -- depending  
21 on the data that is being relied upon; is that right?

22 A. Yes. That's correct.

23 Q. So my question is -- I just want to understand  
24 how a 5 percent margin of error affects a calculation of  
25 a value increase that falls below that.

1           So, for example, our hypothetical where the  
2 increase in value has been calculated to be 4 percent.  
3 And assuming that the data is reliable, that 4 percent  
4 increase still falls below the 5 percent margin of  
5 error; isn't that right?

6           A.    Assuming the data is credible, then yes. I  
7 mean, the simple statement is 4 percent falls below  
8 5 percent; yes.

9           Q.    So how -- does that mean that that 4 percent  
10 increase is not credible and can't be relied upon?

11          A.    I've already testified to this. And that is as  
12 long as -- if there is a factual basis for maybe --  
13 maybe I haven't testified specifically to this.

14                If there's a factual basis for support of a  
15 4 percent increase in value, that's fine. But there is  
16 no support in the ABS appraisal for that level of  
17 adjustment.

18          Q.    And in your report -- again, this is  
19 Exhibit 55 -- I'm gonna bring us back to what's --  
20 what's called Exhibit 1 to your appraisal review.

21                And this Exhibit 1 is separately paginated. And  
22 so I would like us to turn to page 20.

23          A.    Yes.

24          Q.    And under No. 3 here, you -- you have a  
25 discussion of the LID boundary area.



1           And you state here that the improvements in the  
2 Pike/Pine corridor and the Pioneer Square appear to be  
3 more of an improvement program to neglected streets and  
4 not part of the larger LID project; is that correct?

5           A.    Yes.

6           Q.    Are you aware that ABS was studying the benefits  
7 of all six improvements combined as opposed to the  
8 individual improvements themselves?

9           A.    Yes.

10          Q.    Okay.  So next I would like to move to the  
11 specific properties that you testified about today.

12                So the first -- just to orient everybody, the  
13 first I'd like to talk about, are the two condos in the  
14 1521 Second Avenue building, which are Case Nos. 430 and  
15 431.

16                So you prepared an appraisal review on behalf of  
17 these property owners; is that correct?

18          A.    Yes.

19          Q.    And what was the scope of your engagement?

20          A.    Well, the scope of the engagement was pretty  
21 consistent with all of the properties; and that was to  
22 review the ABS appraisal for appropriateness.

23          Q.    For these condos, did you appraise the pre-LID  
24 value of the properties?

25          A.    We did not appraise the value of the properties.

1 Q. And did you appraise the after LID value of the  
2 properties?

3 A. We did not appraise the properties' value before  
4 or after.

5 Q. Is it your opinion that there is no increase in  
6 value to the condos as a result of the LID improvements?

7 A. Yes. That's correct.

8 Q. And you testified the ABS study has calculated a  
9 2.7 percent increase in property value as a result of  
10 the LID improvements; is that right?

11 A. Yes.

12 Q. And you also testified earlier that, in your  
13 opinion, there's no evidence in the study to support  
14 that percentage increase; correct?

15 A. Yes.

16 Q. Can you describe what evidence the report relies  
17 on for the increase?

18 A. Well, I've already testified about the case  
19 studies. I can go back and revisit each one.

20 None of them really specifically spoke to  
21 increases in value. There may be one or two that talks  
22 about some increases in value of the multifamily  
23 properties. They are the economic studies. And of the  
24 economic study, the Crompton work is the only one that's  
25 specific to residential properties. So I'm not sure

1 that answered your question or not.

2 Q. Okay. Maybe I'll ask it another way.

3 So your -- your testimony was that there is no  
4 evidence in the study to support the -- the increase  
5 that's been calculated by ABS.

6 Is -- is your testimony that no evidence in the  
7 study exists at all? Or is it that the evidence in the  
8 study relied on by ABS is evidence that you, yourself,  
9 would not rely on?

10 A. Trying to take a quick minute to look through  
11 the study. I just want to refresh my memory.

12 Q. Sure.

13 A. Maybe rather than do that, I'll go by memory.

14 And that is that any information that's in the  
15 ABS appraisal regarding the case studies is anecdotal.  
16 There's no factual statistical support for changes in  
17 property value. I guess in multifamily property values.

18 The Crompton report is discussed. There's some  
19 statistical information that's contained in that about  
20 multifamily property.

21 But short of that, there's no other evidence to  
22 support any increases in value because of the LID  
23 project in the ABS report.

24 Q. Thank you.

25 Let's move next to the Sound Vista condominium,

1 which is Case No. 345.

2 So you prepared an appraisal review on behalf of  
3 these property owners -- or this property owner; is that  
4 correct?

5 A. Yes.

6 Q. And did you appraise the pre-LID value of the  
7 property?

8 A. I did not.

9 Q. And did you appraise the after LID value of the  
10 property?

11 A. No.

12 Q. Is it your opinion that there is no increase in  
13 value to this condominium as a result of the LID  
14 improvements?

15 A. Yes. That's correct.

16 Q. And next let's move to the United Way building.  
17 This is Case No. 417.

18 So for this property you prepared an appraisal  
19 review for the owner; is that right?

20 A. Yes.

21 Q. And also a restricted appraisal; is that right?

22 A. That's correct.

23 Q. And earlier you testified that in arriving at  
24 your current market value of \$16,170,000, you used the  
25 income approach; is that correct?

1 A. That's correct.

2 Q. Did you use any other valuation approaches?

3 A. I didn't incorporate it in the appraisal, but I  
4 looked at some sale comparisons as a test of  
5 reasonableness.

6 Q. And what did you -- what did your review of  
7 those sales tell you?

8 A. Well, the problem is with a building like this  
9 that's in a downtown core that's limited to three  
10 stories in height for the historic designations, there's  
11 not much you can do with it. But it has a unique  
12 location.

13 So my point of explaining that for the property  
14 is that it's very difficult to find sales of other like  
15 properties. I've got about, I think, four of them that  
16 are similar in the sense that they display roughly the  
17 same characteristics, and I'm saying that very  
18 generally, size-wise up to to 90,000 feet, I think.  
19 Size-wise down to 30-, 40,000 feet, all in different  
20 locations in different state of repair.

21 That's the problem with the sales approach and  
22 that's why many people don't use it. It's going to  
23 be -- I mean, it's supportive. And that will be the  
24 same testimony that John Gordon is going to talk about  
25 hotels, is that you're trying -- back to the United Way

1 building, there just are no -- there are no properties  
2 that are exactly identical.

3 If it could be redeveloped, it might be a little  
4 different story but that's part of the challenge.

5 Q. Sure.

6 So did you make any adjustments to your  
7 appraised value after looking at the sale -- comparable  
8 sales?

9 A. No.

10 Q. And so -- and I'm looking -- I'm referencing for  
11 the record, this is Exhibit 56, is the restricted  
12 appraisal report for the United Way building.

13 On page 9 you provide a -- a table here of the  
14 capitalization of income --

15 HEARING EXAMINER VANCIL: I apologize.

16 MS. THOMPSON: Okay.

17 BY MS. THOMPSON:

18 Q. So you, in your restricted appraisal, have set  
19 out that capitalized -- capitalization of income for the  
20 United Way property; is that right?

21 A. Yes.

22 Q. And so my understanding of this table here is  
23 that it's performing this calculation -- the income  
24 approach calculation which looks at the net operating  
25 income and multiplies it by a capitalization rate to

1 reach the appraisal value; is that right?

2 A. Yes.

3 Q. And --

4 MS. LIN: I think -- I think maybe -- did  
5 you hear that correctly? Because she just said that you  
6 multiple the net operating income by the capitalization  
7 rate.

8 MR. SHORETT: Oh, yes, I did. I apologize.  
9 You don't multiply; you divide.

10 MS. THOMPSON: Oh, excuse me.

11 BY MS. THOMPSON:

12 Q. So the calculation, though --

13 HEARING EXAMINER VANCIL: I do -- I do ask  
14 if a witness mishears something that's an opportunity on  
15 redirect as opposed to something for an objection --

16 MS. LIN: Okay. I wasn't sure whether he  
17 actually --

18 HEARING EXAMINER VANCIL: I understand. But  
19 even correcting hearing, it's not a basis for an  
20 objection.

21 If you want to ask counsel's permission to  
22 try to correct it, you can do that or we can address it  
23 on redirect. But it was not a basis for an objection.

24 MS. LIN: Okay. Sounds good.

25 BY MS. THOMPSON:

1 Q. So, Mr. Shorett, maybe asking this a different  
2 way.

3 Could you tell me what the calculation is under  
4 the income approach to value?

5 A. Yes. The net income is divided by the  
6 capitalization rate to yield the value for the property.

7 Q. And earlier you testified about the  
8 capitalization rate that you chose for this property,  
9 which you said was 5.5 percent; is that right?

10 A. Yes.

11 Q. And you reach that capitalization rate, you  
12 said, by looking at a survey and summary of investment  
13 criteria in Downtown Seattle; is that right?

14 A. We happen -- we happen to track the sales  
15 characteristics and the number of office and retail  
16 properties in Downtown Seattle, so I was referencing  
17 those sales.

18 Q. And those sales had capitalization rates between  
19 5 and 6 percent; is that correct?

20 A. Something like that, yes.

21 Q. So the selection of a 5.5 percent for the United  
22 Way building, that was a judgment made by you; is that  
23 right?

24 A. Uh, yes, it was.

25 Q. It could be higher or lower than that?



1 A. Yes. I look at the various criteria of the sale  
2 comparisons and -- and concluded 5.5 percent was  
3 reasonable.

4 Q. You also talked about the TDR sales that  
5 happened, associated with the United Way building.

6 After a property owner sells its TDRs, what --  
7 what's left for the property owner?

8 A. That's a really good question.

9 By selling off the TDRs you lose the future  
10 development capacity for -- for a commercial  
11 development, and it basically negatively impacts the  
12 value of the property. Which is why this isn't a  
13 redevelopment site because it makes sense as -- and it's  
14 basically a commercial -- an investment, an  
15 income-producing investment. So that's what it is.

16 It's not uncommon to sell development rights to  
17 capitalize on some of the (indecipherable) equity.

18 Q. And I'm not familiar with TDR sales, so forgive  
19 me for my question.

20 But what relationship does a TDR holder have to  
21 the -- the landowner? You know, it's not a lease-hold  
22 interest, I understand that.

23 But how -- how would you describe that  
24 relationship after TDRs are sold to one entity?

25 A. Well, maybe I'll try to simplify it.

1           A property owner -- the United Way property  
2 owner, as we've explained, the 69,000 square feet of  
3 TDRs. He's basically giving up the right to build  
4 69,000 square feet of commercial space by selling them.

5           And the owner of that property would sell them  
6 to another developer within a certain parameter -- under  
7 certain parameters. These are banked -- these TDRs are  
8 banked by the City and then they can be purchased -- or  
9 you can either buy them from the City or you can buy  
10 them from property owners.

11           And what this -- what it does is it allows the  
12 person who's buying them to build a more dense building.

13           If you have an FAR maximum of 5 or 10 -- let's  
14 say 10. That's the most -- the highest FAR in the city,  
15 and you want to build a building with an FAR of 15, you  
16 need to acquire these development rights.

17           And so you'll go around and find buildings like  
18 United Way who would be, like, resellers of them,  
19 purchase those from them so that you can build a bigger  
20 development on your property.

21           Q.    So I just wanted to ask a couple of questions  
22 about your supplemental -- or excuse me, the supplement  
23 to appraisal reviews that you prepared. And this is  
24 Exhibit 49.

25           A.    All right.

1 Q. So this -- being a supplement, I -- it's  
2 correct, isn't it, that this was prepared after you  
3 issued your original appraisal reviews; is that right?

4 A. Yes.

5 Q. And did you review any additional information in  
6 preparing this supplement?

7 A. Yes.

8 Q. What information -- what new information did you  
9 review to prepare this supplement?

10 A. New information?

11 Well, it's hard to exactly explain what new  
12 information I did look at.

13 I can tell you for -- for the case studies, I  
14 have looked at their web sites previously and I felt it  
15 was important to convey the substantial difference in  
16 the scale of the projects which is why I added those in  
17 supplement.

18 There may have been some new information that I  
19 learned online from that. It really is more of a --  
20 just a detailed presentation of mostly what I already  
21 knew.

22 The economic studies to the Crompton report, I  
23 actually did spend some time reviewing the Crompton  
24 report so that I could understand a little bit better  
25 how that related to the analysis.

1           So that's -- those -- that's pretty much the  
2 extent of it.

3       Q.    And did anybody assist you in preparing this  
4 supplement?

5       A.    No.

6       Q.    So on page 13 of the supplement, there's a  
7 graph.

8       A.    Yes.

9       Q.    Did you prepare that graph?

10      A.    That's a good point.  No, that was prepared  
11 by -- I modified it.  That's the basis -- it's an  
12 algebraic equation that produces that graphic.  That was  
13 prepared by Vic Moses.  He sent me his Excel  
14 spreadsheet.  I reviewed it.  And I agreed with it and I  
15 incorporated it into my report.

16      Q.    And what about the graph on page 12, did you  
17 prepare that graph?

18      A.    That's directly out of -- I think I reference  
19 it, if not -- that's directly out of Crompton's report.  
20 So I just copied that exhibit.

21      Q.    So you relied on -- is it fair to say that you  
22 relied on information from Victor Moses in preparing  
23 this supplement?

24      A.    I think it's fair to say that I -- I used his  
25 Excel spreadsheet.  And I -- for later testimony when

1 his case comes up, I did talk to him about -- about his  
2 application of it and his experience and knowledge about  
3 Crompton and Mr. Crompton.

4 So the answer is yes, I relied on that  
5 spreadsheet. But again, I reviewed it and accepted it.

6 Q. So in preparing the supplement, is it fair to  
7 say that you reviewed the case study websites as well as  
8 the Crompton reports and information provided by  
9 Mr. Moses; is that right?

10 A. Yes, that's correct.

11 Q. Was there any other information that you used to  
12 prepare this supplement?

13 A. No. I mean, we talked -- the SHRA economic  
14 study that I reference in there that I put some verbiage  
15 in there. That's on page 11, excuse me. That's --  
16 there's some embellishment on the narrative that was in  
17 the ABS report in some commentary.

18 MS. THOMPSON: Thank you. No further  
19 questions.

20 HEARING EXAMINER VANCIL: Redirect?

21 MS. LIN: Sure.

22 REDIRECT EXAMINATION

23 BY MS. LIN:

24 Q. You testified regarding whether it is impossible  
25 to perform a special benefit analysis due to the size of

1 the LID, the number of properties, and the fact that  
2 these improvements are not constructed yet. And I just  
3 want to clarify.

4 Is it your testimony that it's impossible to do  
5 at all or that it's impossible to do with the level of  
6 precision implied in the final study?

7 A. It's impossible to do in the level of precision  
8 implied in the study. Without -- especially without the  
9 appropriate disclosures of the use of the hypothetical  
10 conditions.

11 HEARING EXAMINER VANCIL: Do you have  
12 additional questions on redirect?

13 MS. LIN: I do have a few.

14 HEARING EXAMINER VANCIL: Okay. You drifted  
15 that way. Could you come more this way, if you can?

16 MR. SHORETT: Actually, she's fine. I've  
17 got her in the screen.

18 HEARING EXAMINER VANCIL: Okay. Thank you.

19 BY MS. LIN:

20 Q. Did you -- did you see any matched-pair analysis  
21 in Mr. Macaulay's final study?

22 A. No.

23 Q. So you haven't had the occasion to review any  
24 final study that incorporates matched-pair analysis; is  
25 that correct?

1 A. Mr. Macaulay?

2 Q. Correct.

3 A. For -- for this particular --

4 Q. Yes.

5 A. -- project?

6 No, I have not.

7 Q. You also testified regarding margin of error.

8 If you're doing an individual appraisal of a  
9 property and you got information from the property  
10 owner, maybe you've got matched-pair analysis and you  
11 are relying on a number of different sources of  
12 information, does the margin of error sort of differ  
13 depending on how much data and information you have?

14 A. Yes.

15 Q. And is it -- is it correct to say that the more  
16 information and the more data you have, especially from,  
17 let's say, property owners, that that margin of error  
18 kind of decreases?

19 A. That's very fair, yes.

20 Q. So if you've got two appraisers who are both  
21 looking at a property and they both got a lot of  
22 information about the property, their values are likely  
23 to differ less; is that right?

24 Their estimation of values --

25 A. Well --

1 Q. -- are likely to differ less.

2 A. I -- I've already testified that assuming the  
3 appraisers have the exact same data, that they should be  
4 very close in their opinions. And it's -- we deal with  
5 this all the time and making sure the appraisers have  
6 the same instructions; or if they don't, the -- the  
7 values are substantively different.

8 Q. And when you're talking about this concept of  
9 margin -- margin of error, is it your testimony that --  
10 that when -- when you have two appraisers -- and you  
11 talked a little bit about this already. When you've got  
12 two appraisers looking at one property, you might come  
13 up with different -- different numbers and -- but both  
14 might be reasonable. And so if you're within, let's  
15 say, 5 percent, then that's -- that's generally accepted  
16 as -- as -- as reasonable for both -- for both  
17 appraisers; is that right?

18 A. Usually you would find in -- to answer your  
19 question, I'm using this data in the condition of an  
20 arbitration.

21 If in an arbitration you had three appraisers  
22 come within 10 percent, you are extremely happy, and you  
23 are likely going to have two appraisers within 5 percent  
24 and you are going to feel very good about that.

25 And so the answer is yes.



1 Q. And so when you are talking about margin of  
2 error, you aren't necessarily talking about a strict,  
3 "I've got to be within 5 percent of you," you're more  
4 talking about when appraisers are getting together  
5 and -- or not getting -- when appraisers are -- are both  
6 looking at the same property, that there -- it is  
7 reasonable to assume some difference.

8 A. There's going to be. You know, an example --  
9 you know, this is a good example of -- of it. And you  
10 can be doing a downtown high-rise office building where  
11 you are dealing with -- you all have the same leases and  
12 they all have the same market rent roll assumptions, but  
13 you may have one assumption that's different or a  
14 combination thereof. And you're going to end up with --  
15 you're not going to -- you're never going to have the  
16 exact same number.

17 MS. LIN: I don't have any other questions.  
18 Do you?

19 MR. MAHON: Nope.

20 HEARING EXAMINER VANCIL: All finished?

21 MS. LIN: All finished.

22 HEARING EXAMINER VANCIL: Thank you,  
23 Mr. Shorett.

24 We're going to take a break for lunch until  
25 1:30.

1                   What are we anticipating when we come back?

2                   MS. LIN: We'll be doing the property owner  
3 witnesses, so there's three of them. One for RRRR, one  
4 for Sound Vista, and one for United Way.

5                   And if we get through all of those, which we  
6 expect we will, we'll start with John Gordon's general  
7 presentation on valuation -- valuation of hotels.

8                   HEARING EXAMINER VANCIL: And yesterday  
9 there was some discussion about Mr. Moses having  
10 Mr. Shorett on.

11                   MS. LIN: Yes.

12                   MR. MAHON: So I think our preference would  
13 be to -- to reserve -- I think he said 15 -- 10 or  
14 15 minutes at the end to close -- end our case  
15 presentations and let Mr. Shorett and Victor Moses  
16 present whatever they are going to present in their  
17 case. So it's -- because we don't really have a role in  
18 presentation of his case.

19                   Is that acceptable or?

20                   HEARING EXAMINER VANCIL: So what -- what --  
21 how this has been proceeding is that -- I think there  
22 may be -- I -- Mr. Williger and Docum (phonetic) had  
23 also mentioned there may be some testimony from a  
24 witness that's shared with your firm sometime during the  
25 time that's been set aside for the cases your firm is

1 representing. I don't know if that's still occurring or  
2 not. It may not be.

3 In which case, as an example, those cases  
4 are closed. We're not accepting -- once a case is done  
5 with its presentation, I'm not allowing more evidence to  
6 come pouring in after the fact.

7 In this case with Mr. Moses, he has finished  
8 his presentation. But there was an indication that  
9 there was a shared witness, Mr. Shorett, and that your  
10 firm was amenable during the time that's been allocated  
11 to your firm to present on behalf of your witnesses to  
12 allow Mr. Shorett to present because he was going to be  
13 here anyway.

14 So I'm not facilitating that. This is his  
15 chance. And I really -- I deferred that to objectors to  
16 work out amongst themselves. So I'm just curious on how  
17 that's -- what the proposal is to deal with that?

18 MS. LIN: So his -- Peter Shorett's  
19 supplemental analysis, I think, will apply to Victor  
20 Moses' case. So I think that's the shared part of it.

21 But Vic Moses also has -- I think his  
22 property-specific information he wants Peter to provide  
23 that we have nothing to do with.

24 And so that's why we're proposing we just  
25 end our cases at 4:30 or something today and then

1 Vic Moses can just take the rest -- the rest of the  
2 time, because -- that information will not be relevant  
3 to -- to our parcels.

4 HEARING EXAMINER VANCIL: And Mr. Shorett is  
5 gone.

6 So I'm assuming he's available to come at  
7 4:30.

8 MS. LIN: Yes.

9 MR. SHORETT: I'm actually here. I'm  
10 hiding. So 4:30, is that what you would like?

11 HEARING EXAMINER VANCIL: We can set a hard  
12 time. But again, I'm leaving this to objectors to work  
13 out amongst themselves.

14 MR. MOSES: It's 4:30 -- this is Mr. Moses.  
15 4:30 is acceptable to me and Mr. Shorett.

16 HEARING EXAMINER VANCIL: Okay. So for the  
17 cases that Perkins Coie is presenting on today, you're  
18 going to go through 4:30, and then the shared witness of  
19 Mr. Shorett is going to -- Mr. Shorett will re-appear  
20 and Mr. Moses will be here as well at 4:30. Okay.

21 All right. Great. We'll see you at 1:30.

22 MS. LIN: I'm sorry. Can I ask one more  
23 question?

24 HEARING EXAMINER VANCIL: We're still on  
25 record, yes.

1 MS. LIN: One of our witnesses, John Gordon;  
2 I just received an e-mail from him.

3 He's having difficulty with the technology  
4 and wants to know whether he can just appear in person.

5 If he cannot, we'll accommodate him at our  
6 offices downtown and have him set up with Skype there.

7 So I think his preference is just to come  
8 here.

9 HEARING EXAMINER VANCIL: The strong  
10 preference is to not have anybody here except myself and  
11 the legal assistant. We're trying to move to that to  
12 limit exposure for everybody.

13 So if it's possible for him to come in from  
14 your office, that would be preferable.

15 MS. LIN: Okay.

16 HEARING EXAMINER VANCIL: As long as you  
17 believe that your systems are functional enough to  
18 accommodate that last-minute request. I have a sneaking  
19 suspicion that Perkins Coie can probably do that.

20 MR. MAHON: We'll work on it.

21 HEARING EXAMINER VANCIL: All right. If we  
22 could do that, since we -- we have no way of knowing the  
23 health status -- and I don't mean to disparage the  
24 witness in any way around that, we're all experiencing  
25 the same thing. We're protecting the witness as well by

1 not having him come here, for -- as far as I care. So  
2 if that's possible, it would be best.

3 MS. LIN: All right.

4 HEARING EXAMINER VANCIL: We're off the  
5 record.

6 (A luncheon recess was taken.)

7 HEARING EXAMINER VANCIL: Very good. You  
8 may continue with objectors.

9 MR. MAHON: This is Robert Mahon for  
10 objectors. And we would like to call as our next  
11 witness for Cases 430 and 431, Mr. Bryon Madsen.

12 HEARING EXAMINER VANCIL: And, Mr. Madsen,  
13 can you hear me?

14 MR. MADSEN: Yep.

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

17 MR. MADSEN: It's Bryon, B-r-y-o-n. Madsen,  
18 M-a-d-s-e-n.

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

22 MR. MADSEN: Yes.

23 HEARING EXAMINER VANCIL: Thank you?

24 ///

25 ///

1 BRYON MADSEN, witness herein, having been  
2 first duly sworn on oath,  
3 was examined and testified  
4 as follows:

5

6 DIRECT EXAMINATION

7 BY MR. MAHON:

8 Q. Mr. Madsen, thank you for joining us.

9 Could you please explain what your duties are  
10 with RRRR "Quadruple R" Investments?

11 A. Yes. So as its -- I'm its business manager, so  
12 I'm responsible for dealing with all investments or  
13 other business-related items that come to this entity;  
14 whether that's review of financial documents,  
15 agreements, et cetera.

16 Q. Does RRRR property -- I will refer to RRRR  
17 Investments as "Quadruple R" if that's okay?

18 Does RRRR --

19 A. Yes.

20 Q. -- Investments own property that's been subject  
21 to a final assess- -- proposed final assessment by the  
22 waterfront LID --

23 A. Yes.

24 Q. -- District No. 6751?

25 Is that a yes?

1 A. Yeah. Yes. Just so -- if there's an exhibit I  
2 need to refer to, I don't think I have it.

3 Q. No, I'm sorry.

4 HEARING EXAMINER VANCIL: Did you go over  
5 with Mr. Madsen the protocol if you raise your hand --

6 MR. MAHON: Yes. So, Mr. Madsen, we've had  
7 some glitches with sometimes cutting -- witnesses  
8 cutting in and out.

9 If you see me raise my hand, that will be a  
10 signal that we can't hear you. So -- and similarly if  
11 you have any challenge on your end, if you can signal by  
12 raising your hand.

13 MR. MADSEN: Okay.

14 BY MR. MAHON:

15 Q. So the prior question was just, does RRRR own  
16 property that's been subjected to a proposed final  
17 assessment?

18 A. Yes.

19 Q. And can you indicate the street address of that  
20 property?

21 A. 1521 Second Avenue.

22 Q. And are there -- can you please describe the  
23 property?

24 A. So there are two units in that property, both  
25 located on the 38th floor. One unit is approximately



1 3,000 square feet, 2 bed, 2-1/4 bath with a rooftop  
2 terrace. The other one abuts it; there's a wall.  
3 That's roughly 2,800 square feet, 2 beds, 2-1/4 bath,  
4 also with a rooftop terrace.

5 Q. And I assume your description of bedrooms, that  
6 these are residential condominium units?

7 A. That's correct.

8 Both facing west.

9 Q. Okay. And would you describe --

10 A. Or south.

11 Q. Would you describe the views from -- from those  
12 two units?

13 A. Yes. So the first unit being unit 3800 -- which  
14 if you need to identify it towards parcel number, I  
15 believe 3800 is associated with a parcel number that  
16 ends 1460. That one is west-facing to the Olympics  
17 right across Elliott Bay. And then also north-facing  
18 view. And its rooftop terrace is also at the northwest  
19 corner of the building.

20 Then 3802 is also across Elliott Bay, I believe  
21 west -- mainly west-facing views with some south views.  
22 And that rooftop terrace is essentially all west-facing  
23 and goes around the southwest corner of the building.

24 Q. Are these units on the top floor of the  
25 building?

1 A. They -- so, technically, the 39th floor is the  
2 top floor. But there -- that is just common space where  
3 there is, like, a conference room and a kitchen area for  
4 the tenants. And it is located in the very center of  
5 the building it. Doesn't go all the way out to the  
6 edges of the building. And that's why the units on 3800  
7 have all rooftop terraces.

8 Q. Okay. Could -- are the views from those units  
9 protected? So let's focus on the west views towards  
10 Puget Sound.

11 Are those views protected?

12 A. Those are protected by an easement that is owned  
13 that covers the air space by 1521 Second Avenue, the  
14 building.

15 Q. And the -- the view easement covers the property  
16 that is directly west of 1521 Second?

17 A. That's correct.

18 Q. And then the -- if we continued west from that  
19 parcel, is it the market? Is it -- is the market the  
20 only property that separates you from the -- from the  
21 waterfront?

22 A. That's correct.

23 Q. Does -- how long has RRRR owned unit, let's  
24 start with 3800?

25 A. So 3800, since March of 2012. And 3802 April of

1 2012.

2 Q. Does RRRR own any other property in Seattle?

3 A. No.

4 Q. Let's shift gears to the notices of assessment.

5 Do you recall when you received the notices of  
6 assessment for the LID?

7 A. Not specifically. I just know it was in 2020,  
8 after the first of the year.

9 Q. After you received your notice, what did you do  
10 to prepare your objections?

11 A. Mainly just contacted legal counsel and an  
12 appraiser.

13 Q. And prior to receiving your notices of  
14 assessment, did the City ever request any information  
15 from you about your property?

16 A. No.

17 Q. How about Robert Macaulay or ABS Valuation, did  
18 they ever request any information about your property?

19 A. No.

20 Q. Did the City ever request site access to your  
21 units prior to the valuation notice?

22 A. No.

23 Q. How about Robert Macaulay or ABS Valuation?

24 A. No.

25 Q. Did anyone from the City or ABS Valuation ask

1 for any feedback or comment on their proposed or  
2 preliminary valuations or assessments?

3 A. No.

4 Q. Let's shift to the Local Improvement District  
5 improvements.

6 Are you generally familiar with the nature of  
7 those improvements or proposed improvements?

8 A. I don't know how to define the word "generally."

9 But I guess I can say I know that they are  
10 supposed to begin somewhere around King Street, extend  
11 all the way up to Bell Street, running along Alaskan Way  
12 to Western Avenue and some amount of changes, I think,  
13 to the Seattle Aquarium; and then of course landscaping,  
14 walkways. That's what I know.

15 Q. Okay. Are any of those proposed improvements  
16 necessary for the continued use and enjoyment of -- of  
17 your units as a residence?

18 A. No.

19 Q. Right now could -- could you describe the -- the  
20 access that your units have to the waterfront currently?

21 A. So the access just simply comes from going down  
22 to where Second Street intersects with Pike. And you  
23 can just simply go right into the market and go straight  
24 down and go straight to the piers and the water.

25 Q. Would the Local Improvement District

1 improvements improve that access?

2 A. From what I've seen on the renditions, I would  
3 actually say it increases impediments to the access from  
4 the renditions I've seen for landscaping and other  
5 things. Whereas right now, you can go to the market, go  
6 straight down and walk almost directly across Western  
7 Avenue and to the piers.

8 And then once the improvements are done, the  
9 amount of -- if you want to look at it from this  
10 perspective, the amount of time that it would take one  
11 to walk from those units to the water would likely take  
12 longer based upon just the renditions I've seen.

13 Q. And do they propose Local Improvement District  
14 improvements enhance the views from your units?

15 A. No. So as we've mentioned, the views are  
16 already protected, and so that does nothing.

17 I think it's fair to say that during the entire  
18 years of construction, it actually provide a tremendous  
19 amount of de-evaluation in the views, if you were to  
20 look down.

21 But, obviously, it doesn't require or it doesn't  
22 help in any way to have the LID improvements along the  
23 streets below to improve the views that already exist.

24 Q. Let's focus a little bit on construction.

25 Do you have a view on how construction of these

1 improvements will impact your property and the value of  
2 that property?

3 A. So, I like the fact that you asked it in my  
4 view.

5 So, yes. So in my view, right now, there is  
6 fairly decent -- I mean, not -- there's good access to  
7 local shops and to local restaurants. There's no  
8 obstructions of any kind.

9 And then if you think about all during the years  
10 of construction, you know, if you were to just look at  
11 other places in the past, this large of a project take  
12 place, there are restaurants that are currently along  
13 Western Avenue, shops along Western Avenue, other  
14 locations that will certainly be impacted by access and  
15 other means for all of the -- you know, for those things  
16 that we, as residents, currently enjoy at 1521 Second  
17 Avenue. Some of those could potentially go bankrupt and  
18 never return.

19 You would definitely have an increase in the  
20 flow of traffic that can no longer be below, if you  
21 will, First Avenue. It's all going to get shoved off  
22 onto First Avenue and to Second Avenue. So it's going  
23 to increase traffic, vehicle traffic.

24 I mean, I will tell you over the five-year  
25 construction period, it would be -- it's definitely

1 going to be negatively impacted and not positively  
2 impacted in any meaningful way on an ongoing basis.

3 Q. So let's shift from construction and let's focus  
4 on the date when the improvements may theoretically  
5 possibly be in place.

6 Do you have concerns about whether your units  
7 would receive -- or be negatively impacted by the  
8 improvements once they're constructed and in place?

9 A. Yes. For -- going back to what I had just  
10 mentioned, because once those improvements are in place,  
11 that current vehicular traffic that's along Alaskan Way,  
12 you know, they -- they obviously can handle more flow  
13 currently that's going to be able to handle, if at all.

14 Obviously, parking is impacted as well. Because  
15 there is some parking that still exists down below First  
16 Avenue that will obviously go away. So you will  
17 obviously have cars, you know, constantly trying to find  
18 parking space now up and along First and Second Avenue.  
19 That will be for forever more, which isn't the case  
20 currently.

21 And then I suppose, maybe, depending on the  
22 residents that you speak to, but most residents like to  
23 have enjoyment of their property.

24 So, obviously, there would be increased foot  
25 traffic around 1521, which isn't necessarily desirable

1 to the extent that there's permanent impact on shops or  
2 restaurants that can no longer exist along that area  
3 because it would be taken away where they currently are.  
4 So those, then, are negatively impacted, never to be  
5 seen in that area before will... locate.

6 Q. The last sentence or two cut out. If you could  
7 repeat the last two sentences.

8 A. Yeah. So I was just saying that because of the  
9 LID improvements, then obviously the foot traffic and  
10 the vehicular traffic would be permanently put up  
11 further onto First and Second Avenue.

12 And while most residents like to have private  
13 enjoyment of their property, you're able to go down into  
14 a lobby, you're able to walk out onto the sidewalk.  
15 It's not that crowded.

16 Obviously, I think, the expectation -- it's a  
17 reasonable expectation that for forever more, the amount  
18 of pedestrian traffic would increase demand on the  
19 restaurants that end up remaining after all the  
20 improvements are done would increase. So I actually  
21 consider it to be a negative impact long-term.

22 Q. In -- in your opinion, will the proposed LID  
23 improvements increase the fair market value of your  
24 property?

25 A. No. So the very reasons I have just stated, I



1 actually would tell you, I will have to probably try  
2 harder to sell the units in this location.

3 Q. How about any immediate impacts or benefits to  
4 your property of the proposed improvements? Let me  
5 rephrase that.

6 Are there any immediate benefits to your  
7 property from the proposed improvements?

8 A. None.

9 Q. In your opinion, does the proposed final  
10 assessment overstate the special benefits to the two  
11 units?

12 A. Yes. I mean, there's zero special benefit,  
13 frankly, more towards negative benefits.

14 Q. Are there any negative benefits that you didn't  
15 cover previously or describe previously, or negative  
16 benefit?

17 A. So, obviously, there's no benefit that the LID  
18 provides for purposes of views. There's never any  
19 reason -- there's no reason why those -- yeah, the  
20 improvement project isn't going to help that. There  
21 will be increased traffic. I believe fewer shops. I  
22 believe fewer restaurants remaining.

23 I suppose the other negative -- and this isn't  
24 meant to be a political statement. I'm just stating a  
25 fact. But one could, which we all do, as you know, have

1 a concern with regards to parks that are not well  
2 maintained or protected that it could be an attractive  
3 nuisance. And that, obviously -- if that was to be the  
4 case and what we've experienced in Downtown Seattle in  
5 similar locations, well, that would be a huge detriment  
6 to the property.

7 Q. Do you anticipate any benefit that wouldn't  
8 apply equally to any other property owner in the city or  
9 the region?

10 A. Well, so stop me if it's speculation and  
11 wouldn't be appropriate for the record. But I suppose  
12 if you were a well-located restaurant that currently  
13 doesn't receive much foot traffic and because foot  
14 traffic is pushed up to you because of the LID  
15 improvements, like that restaurant could potentially see  
16 a benefit.

17 So, basically, if there is businesses or  
18 restaurants that rely upon foot traffic and that's how  
19 they get their business, and to the extent that the LID  
20 pushes foot traffic in different areas, those -- those  
21 businesses could benefit.

22 Beyond that, I don't see it.

23 Q. Is there any benefit to your property -- or is  
24 there any increase in value to your property by virtue  
25 of increased foot traffic?

1 A. Zero. None. Negative benefit.

2 Q. Likewise, one of the purported benefits of the  
3 proposed improvements is an increase to tourism.

4 Is an increase in tourism, do you anticipate  
5 that being a -- a benefit to your residential  
6 condominium units?

7 A. No. Again, I think that would be the -- broadly  
8 considered to be negative.

9 That's not to say I'm against tourism. But if  
10 you're just looking at the valuation and the purpose for  
11 this building, which it is, which is residential living;  
12 it's negative.

13 MR. MAHON: We're done with direct.

14 CROSS-EXAMINATION

15 BY MS. THOMPSON:

16 Q. Good afternoon, Mr. Madsen.

17 I'm here on behalf of the City, and I just have  
18 some follow-up questions for you.

19 A. Yes.

20 Q. So RRRR Investments is the owner of these two  
21 condos; is that right?

22 A. That's right.

23 Q. And these properties, are they rented out to  
24 people as residences?

25 A. No. They are used by the principals of RRRR.

1 Q. So principals of RRRR --

2 A. Yep.

3 Q. -- live in them?

4 A. Not to name names, but they are owned and used  
5 by the entity that owns them. They are not rented out.  
6 There's not a business.

7 Q. So they are used as residential condos by --

8 A. Yes.

9 Q. -- members of RRRR?

10 A. Yes.

11 Q. And earlier you testified that the City did not  
12 contact you to seek information about the properties as  
13 part of the ABS study.

14 Did you or anyone at RRRR independently provide  
15 information to the City or ABS Valuation regarding the  
16 properties?

17 A. No.

18 Q. I'm wondering if you could speak about what  
19 impact, if any, removal of the viaduct had on the value  
20 of these properties?

21 A. I would say there could be a slight improvement,  
22 because the only thing that could have improved, I  
23 suppose, most -- you know, our building along the  
24 waterfront which is the reduction of noise; and  
25 obviously the removal of the viaduct did that.

1           And so, if you think about it from that  
2 perspective, quiet enjoyment is what people enjoy. And  
3 to the extent that you've now removed the noise and then  
4 you put a LID project on that maybe then they have  
5 outdoor concerts, rock concerts; that's the negative  
6 impact that I currently don't have now.

7           Q.    And you also expressed the opinion that the  
8 properties will receive no special benefit as a result  
9 of the LID improvements.

10           What experience do you have in calculating  
11 special benefits?

12           A.    Zero. Well, common sense.

13           Q.    Similarly you mentioned that in your opinion the  
14 fair market value of the properties would either not be  
15 affected or would be negatively affected by the LID  
16 improvements.

17           What experience do you have in calculating fair  
18 market value of residential properties?

19           A.    So the experience -- I mean, obviously I'm not  
20 an appraiser. I mean, that's why you've got, you know,  
21 Mr. Shorett for that.

22           But I certainly have been involved in purchasing  
23 and selling other real estate and dealing -- and I'm  
24 talking real estate that's not in this exact type  
25 situation, but real estate that is worth multimillions

1 of dollars. And the points that I'm speaking to, I have  
2 seen negatively impact valuations of those properties.

3 Q. And did Mr. Shorett prepare an individual  
4 valuation for these properties?

5 A. I believe he testified that he did. My  
6 understanding is yes.

7 Q. Do you know what the results of those appraisals  
8 were?

9 A. That there's no benefit. That there should be  
10 no increase. I think it was quoted at 2.7. It should  
11 be zero.

12 Q. So I'm speaking about the appraised value of the  
13 property.

14 Did Mr. Shorett calculate what fair market value  
15 of the properties was?

16 A. That I'm not aware of. I've always been focused  
17 on special benefit.

18 MS. THOMPSON: No further questions. Thank  
19 you.

20 HEARING EXAMINER VANCIL: Any redirect?

21 MR. MAHON: No.

22 HEARING EXAMINER VANCIL: Thank you,  
23 Mr. Madsen.

24 MR. MADSEN: Yep.

25 MR. MAHON: Thank you.

1           Mr. Vik, if you're able to click on the --  
2 there he is.

3           MR. VIK: Can you see me okay?

4           MR. MAHON: I can, thank you, Mr. Vik.

5           MR. VIK: And you can hear me too, it sounds  
6 like.

7           HEARING EXAMINER VANCIL: Yes, we can hear  
8 you.

9           Mr. Vik, please state your name and spell it  
10 for the record.

11          MR. VIK: My name is Greg Vik. First name  
12 G-r-e-g. Last name V-i-k.

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

16          MR. VIK: I do.

17          HEARING EXAMINER VANCIL: Thank you.

18

19 GREG VIK,                   witness herein, having been  
20                               first duly sworn on oath,  
21                               was examined and testified  
22                               as follows:

23                               DIRECT EXAMINATION

24 BY MR. MAHON:

25        Q. Mr. Vik, could you -- you were -- you faded out

1 a little bit occasionally.

2 Did you hear the instructions about hand-raising  
3 being a signal that we can't hear you?

4 A. I did.

5 Q. Okay. Could you move a little closer? I'm not  
6 picking up your -- thank you.

7 I know it's awkward.

8 A. How is that?

9 Q. That's better.

10 And if you -- but if you see the hand raised,  
11 that's the signal that -- that we're having some issues.

12 A. All right.

13 Q. First, could you describe -- I should -- I  
14 should say that Mr. Vik is testifying in Case No. 437,  
15 Sound Vista Properties.

16 Mr. Vik, could you please state your position  
17 with Sound Vista Properties?

18 A. I'm president.

19 Q. And does Sound Vista Properties own a property  
20 that's been subjected to a proposed final assessment by  
21 the waterfront Local Improvement District?

22 A. Yes. One property.

23 Q. And do you -- can you provide the street address  
24 of that property?

25 A. It's 99 Union Street, Suite 1602.



1 Q. Can you describe that property?

2 A. It's a high-end condo. 7700 square feet.  
3 It's -- it has three full bed; three three-quarter bath,  
4 one-half bath. It's got a fireplace. Some parking  
5 stalls assigned to it.

6 Q. Okay. Is -- is the building that that unit is  
7 in, is that the same building that has the Four Seasons  
8 Hotel, so we're all familiar?

9 A. Yes.

10 Q. How long has that property been owned by Sound  
11 Vista?

12 We're not able to hear you, Mr. Vik.

13 A. (Indecipherable) 2009.

14 Q. Would you repeat that one more time, Mr. Vik?

15 A. February 2009.

16 Q. Thank you.

17 Shifting to the notice of assessment, do you  
18 recall when you received the notice of assessment from  
19 the City of Seattle?

20 A. It should have been late December or early  
21 January. Not -- I don't recall precisely.

22 Q. Okay. That's close enough.

23 After you received the notice, what steps did  
24 you take to prepare your objections?

25 A. Engaged an appraiser and engaged legal counsel.

1 Q. And prior to receiving your notice of  
2 assessment, did the City request any information from  
3 Sound Vista about your property?

4 A. No.

5 Q. And did Mr. Macaulay or ABS Valuation make such  
6 a request?

7 A. No.

8 Q. Did the City -- Mr. Macaulay -- I'll ask a  
9 compound.

10 Did the City, Mr. Macaulay, or ABS Valuation  
11 request site access to your property?

12 A. No.

13 Q. Did anybody from the City, Mr. Macaulay, or  
14 ABS Valuation ask you to provide any feedback on their  
15 proposed or preliminary special benefit valuations?

16 A. No.

17 Q. Are the proposed improvements --

18 Well, first of all, are you familiar, generally,  
19 with the improvements that are proposed by the Local  
20 Improvement District?

21 A. Generally, yes.

22 Q. And are any of those improvements -- proposed  
23 improvements necessary for the continued use or  
24 enjoyment of the property as a residence?

25 A. No. No. I -- I would say that the perspective

1 buyers and residents at the Four Seasons residence are  
2 probably more focused on the amenities and the various  
3 features of the hotel property when they are making the  
4 buying decisions.

5 I think that the -- probably the residential  
6 brokers involved in those transactions would say the  
7 waterfront is not a factor.

8 Q. Thank you.

9 MR. MAHON: I'm going to ask...

10 BY MR. MAHON:

11 Q. Mr. Vik, I am -- we're introducing two pictures  
12 that you had previously provided me.

13 Do you have -- are you familiar with the photos  
14 that we're talking about or the pictures that we're  
15 talking about?

16 A. I am.

17 Q. And do you have those in front of you?

18 A. I don't currently.

19 I'm familiar with the photos.

20 Q. Okay.

21 HEARING EXAMINER VANCIL: Exhibit 62. Those  
22 are marked as Exhibit 62 and 63.

23 MR. MAHON: And just so I'm clear, do we  
24 have a number for the one with the dead-end?

25 HEARING EXAMINER VANCIL: 62 is the one with

1 the dead-end sign; and the wheel is included in 63 with  
2 the tax number.

3 BY MR. MAHON:

4 Q. All right. So, Mr. Vik, I want to ask you first  
5 about what has been marked Exhibit 63. And that, for  
6 your benefit, is -- appears to be a picture of the end  
7 of Union Street looking down to the big wheel -- the  
8 Ferris wheel.

9 A. Yes.

10 Q. Could you describe what we're seeing in that  
11 photo besides the description I just gave you?

12 A. Yeah. The top of the Union Street stairs, and  
13 that's -- that's our property's primary access to the  
14 waterfront is right there roughly in the center of the  
15 photo. Again, I don't have that in front of me.

16 To the immediate right, from the perspective of  
17 the viewer is a -- a small fountain area with a water  
18 feature. (Indecipherable) at the top of the stairs, I  
19 believe you can see the entrance to the -- the Four  
20 Season's garage. And then further to the left of that  
21 is the main entrance to the Four Seasons.

22 Q. And just so we're clear, when we talk about the  
23 Four Seasons, is -- is your property's garage entrance  
24 the same as the Four Season's garage entrance?

25 You've cut out again, Mr. Vik.

1           Let's try it again.

2           A.    So this -- this property parking can be accessed  
3 either through this entrance or an entrance off an  
4 opposed alley.

5           Q.    And how about the access by foot, is that  
6 entrance to the left of that photo?

7           A.    It is.

8           Q.    That's for both the hotel and the residences?

9           A.    Yes.  Correct.

10          Q.    And I'd like to direct your attention or ask you  
11 to speak about exhibits -- marked Exhibit 62, which  
12 appears to be a view of the same stair but from -- from  
13 a perspective that I assume is western.

14                Can you describe that photo?  Or that picture.

15          A.    Yes.  Whereas, the -- whereas, the first photo  
16 was more or less west-facing, this one is pretty much  
17 east-facing.  And so it shows the actual staircase as it  
18 drops down to Western Avenue.

19          Q.    And these are -- both images -- both exhibits  
20 are from Google Earth, did you download these?

21          A.    I did, yes.

22          Q.    And do they reflect current conditions?

23          A.    They do, yes.

24          Q.    Do you -- based on the proposed improvements, do  
25 you anticipate that your property will see improved

1 access to the waterfront?

2 A. There will be -- I would say, no change in  
3 access to the waterfront.

4 This corridor is the primary access. So I don't  
5 see that changing.

6 Q. Are you concerned about any potential negative  
7 impacts of the Local Improvement District -- the  
8 proposed Local Improvement District improvements?

9 A. Yes. Yes. And I guess on the top of waterfront  
10 access, we've had issues, to date, dealing with  
11 pedestrian vehicle conflicts there at the garage  
12 entrance and in the turnaround area for pedestrian  
13 traffic, either coming up off of the stair -- stairs or  
14 entering the stairs from Union Street at the top.

15 To the extent that that traffic increases with  
16 any additional waterfront improvements, we would  
17 anticipate that that's going to become -- that's going  
18 to exacerbate what's already a challenge.

19 Q. Will you -- will your property benefit -- I  
20 retract that.

21 During the course of construction of the  
22 proposed improvements, do you anticipate impact to  
23 the -- the value of your property?

24 A. Well, I would say that there's going to be a  
25 negative impact, at least in the near term, based on

1 noise, based on dust.

2 So it's certain constructions impacts, I think  
3 will have a detrimental impact on value. I would say  
4 that there was a detrimental impact on the values or at  
5 least it made units harder to sell while -- while the  
6 viaduct was coming down just because of the additional  
7 dust, and it required additional cleanings of the  
8 building.

9 Q. And one of the purported benefits of the Local  
10 Improvement District is they will attract more people to  
11 the waterfront.

12 How might that, if it occurs, impact your  
13 property?

14 A. Well, I think, in a couple of ways. Like I  
15 mentioned, we've got some -- some current challenges in  
16 terms of managing pedestrian traffic in front of the  
17 hotel. Coupled with that are security challenges that  
18 add some resources both at the front door and then at  
19 the garage entrance.

20 One of the issues that we have with the garage  
21 is that it's not a public garage. But it's -- it -- at  
22 least, to date, we've managed to -- to keep it open.

23 I think that during the tourist season, we do  
24 have situations where people are looking for parking who  
25 are trying to get down to the waterfront, but... the

1 public --

2 Q. If I could stop you, Mr. Vik.

3 A. Sure.

4 Q. Would you repeat --

5 HEARING EXAMINER VANCIL: Mr. Vik, repeat  
6 from the point where you were describing tourists and  
7 their potential entry to the garage.

8 And you're still -- we're still not hearing  
9 you. So just take it slow and we'll signal you.

10 MR. VIK: Okay. We have situations during  
11 the tourist season... where people who are looking for  
12 parking mistakenly think that our parking garage is fair  
13 game. And we have had to deal with, you know, turning  
14 people around.

15 And I think, again, to the extent it becomes  
16 a bigger problem, and I can certainly see the potential  
17 for that, we will likely have to add resources both at  
18 the front door and at the garage in some form in order  
19 to manage that.

20 So I guess, long story short, the -- the  
21 impact to value is in terms -- is in terms of increased  
22 operating expenses, which have been allocated to all of  
23 the residents.

24 BY MR. MAHON:

25 Q. And just to make that point clear, is it the



1 case that adding security for the garage or the front  
2 door or adding traffic management, employees in charge  
3 of traffic management, those get passed through to the  
4 owners of the units --

5 A. Yes --

6 Q. -- building?

7 A. -- direct pass-through. Generally, the -- the  
8 residents share in those costs at ratios of about 40 to  
9 50 percent with the -- with the hotel representing the  
10 other portion of that.

11 Q. One of the purported benefits of the proposed  
12 Local Improvement District improvements is an increase  
13 in tourism.

14 In your experience, does an increase in tourism  
15 increase the value of residential condominiums?

16 A. In my experience, no. For the -- both for the  
17 aforementioned reasons, but I think also probably in --  
18 increased tourist traffic. Tourists compete for the  
19 same thing; so shops, restaurants to the extent those  
20 become crowded, I don't think are -- I don't think  
21 that's necessarily a positive for residents.

22 Q. In your opinion, will the proposed Local  
23 Improvement District improvements increase the fair  
24 market value of your property?

25 A. In my opinion, it won't. If there's any benefit

1 at all, I think it's more than offset by some very real  
2 cost issues for us.

3 Q. In your opinion, does the proposed final  
4 assessment overstate the special benefit to your  
5 property?

6 A. Yes. Yes, for the aforementioned reasons.

7 Q. Do you anticipate --

8 HEARING EXAMINER VANCIL: Mr. Vik, can you  
9 repeat that? You answered in the affirmative but you  
10 added some qualifying statement following that. You  
11 said "yes." And then something after that.

12 MR. VIK: Yes. I just said for the  
13 aforementioned reasons.

14 HEARING EXAMINER VANCIL: Thank you.

15 MR. MAHON: Thank you.

16 BY MR. MAHON:

17 Q. Do you anticipate receiving any benefit that  
18 would not -- to your property, that would be -- that  
19 would not equally apply to any other resident or  
20 property owner in the city or the region?

21 A. No.

22 MR. MAHON: No further questions.

23 HEARING EXAMINER VANCIL: Cross?

24 CROSS-EXAMINATION

25 BY MS. THOMPSON:

1 Q. Good afternoon, Mr. Vik.

2 I'm here on behalf of the City and I have some  
3 follow-up questions to ask you.

4 A. Good afternoon.

5 Q. So the -- the residential unit in the Four  
6 Season's building, that's a condominium; correct?

7 A. Correct.

8 Q. And is it currently vacant?

9 A. No.

10 Q. It's -- is it rented to somebody, then?

11 A. It's not rented.

12 Q. So does Sound Vista -- Sound Vista owns the  
13 property; is that right?

14 A. Correct.

15 Q. So who -- who lives in the property?

16 MR. MAHON: Object to the question, it's not  
17 relevant. It's not relevant. And it is prejudicial to  
18 the privacy of the -- the owner of the unit is Sound  
19 Vista.

20 HEARING EXAMINER VANCIL: Well, on grounds  
21 of -- do you have any response?

22 MS. THOMPSON: I mean, I -- I would just --

23 HEARING EXAMINER VANCIL: You got the answer  
24 you wanted last round with a different way of phrasing  
25 it.

1 In this round you're asking "who's there."

2 That's the question was relevant. The  
3 objection was relevance as to who's actually living  
4 there.

5 So on that grounds, I would sustain it.

6 MS. THOMPSON: Okay.

7 BY MS. THOMPSON:

8 Q. And you mentioned a few minutes ago that the  
9 increase costs related to maintenance or security,  
10 things of that nature at the building are passed on to  
11 the residential owners; is that right?

12 A. That's correct.

13 Q. And is that through, like, HOA fees?

14 A. It is.

15 Q. Do you know how many residential units are at  
16 the Four Seasons?

17 A. The total number of residential units?

18 Q. Yes.

19 A. Thirty-seven.

20 Q. And earlier you testified that the City --  
21 neither the City nor ABS sought information from Sound  
22 Vista regarding the property.

23 Do you know whether you or anyone at Sound Vista  
24 provided information to the City or ABS?

25 A. We did not.

1 Q. You also stated your opinion that the LID  
2 improvements would not increase the fair market value of  
3 your property.

4 What experience do you have in assessing fair  
5 market value of residential properties?

6 A. Though, I've not been involved in any similar  
7 condo properties, I've been involved in other  
8 residential properties both in and out of Seattle.

9 I think probably the most relevant experience  
10 has been on my side and having to scrutinize the impact  
11 on value of HOA dues and taking that into account when  
12 assessing the overall value of the property.

13 Q. And you also stated the opinion that the final  
14 assessment in the ABS study overstates the special  
15 benefits to Sound Vista's property.

16 What experience do you have in calculating  
17 special benefits?

18 A. None.

19 MS. THOMPSON: No further questions.

20 HEARING EXAMINER VANCIL: Any redirect?

21 MR. MAHON: No.

22 HEARING EXAMINER VANCIL: Thank you,

23 Mr. Vik.

24 MR. VIK: All right. Thank you.

25 MS. LIN: I was trying to project, and I

1 have our next witness calling in at 2:15. It's 2:13, so  
2 I just let him know to go ahead and call in now.

3 HEARING EXAMINER VANCIL: So why don't we do  
4 some housekeeping; we've got 62 and 63.

5 MR. MAHON: The admission of  
6 (indecipherable) exhibits.

7 HEARING EXAMINER VANCIL: Any objection?

8 MS. THOMPSON: No objection.

9 HEARING EXAMINER VANCIL: 62 and 63 are  
10 admitted.

11 (Exhibit Nos. 62 and 63 admitted.)

12 HEARING EXAMINER VANCIL: I'll swear the  
13 witness in when they call -- they call in. But what's  
14 the case number and witness name?

15 MS. LIN: 417.

16 HEARING EXAMINER VANCIL: 417.

17 MS. LIN: And the witness name is David  
18 Brown.

19 HEARING EXAMINER VANCIL: Thank you.

20 MS. LIN: David, if you can hear me, just  
21 click on the video button as well so that we can see  
22 you.

23 MR. BROWN: Yeah, I'm here.

24 MS. LIN: Okay.

25 MR. BROWN: Okay. I'm good.

1 HEARING EXAMINER VANCIL: Mr. Brown, please  
2 state your name and spell it for the record.

3 MR. BROWN: My name is David Brown.  
4 Spelling is D-a-v-i-d. Last name is B-r-o-w-n.

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

8 MR. BROWN: I do.

9 HEARING EXAMINER VANCIL: Your witness.

10 Please, if you haven't already explain the  
11 protocol of being aware of --

12 MS. LIN: David, we're working with this  
13 remote technology. If you can't hear me for some  
14 reason, please raise your hand. And if I do this, it  
15 means I can't hear you. So please stop talking and then  
16 we'll wait for the system for you to repeat what you've  
17 just said.

18 MR. BROWN: Understood.

19

20 DAVID BROWN, witness herein, having been  
21 first duly sworn on oath,  
22 was examined and testified  
23 as follows:

24 ///

25 ///

1 DIRECT EXAMINATION

2 BY MS. LIN:

3 Q. Are you the representative for the United Way,  
4 who's the tax payer for the Foster & Marshall Building?

5 A. If that's 720 Second Avenue; then yes. Yes, I  
6 am.

7 Q. And is that property subject to the proposed  
8 final assessment by the City of Seattle for the LID  
9 district No. 6751?

10 A. It is, to the best of my knowledge.

11 Q. And what is your role with United Way?

12 A. I'm a facilities manager. I take care of our  
13 property and help manage operations within the  
14 organization.

15 Q. And how long have you been in that role?

16 A. I've been in this role for approximately  
17 10 years.

18 Q. Are you pretty familiar with the property?

19 A. I am.

20 Q. Can you describe the property?

21 A. Sure. We're a four-level office building on the  
22 corner of Second and Columbia Street. Second  
23 Avenue/Columbia Street. Originally, Seattle First Bank  
24 built in 1921. We've been in the property since 2003,  
25 having moved over from the Lowman Building which is on



1 Cherry Street.

2 We're fully office space with a little bit of  
3 storage, mechanical spaces. We own the property and it  
4 is occupied exclusively by United Way of King County.  
5 We have no tenants.

6 Q. And I think you already answered this, but  
7 any -- do you have any retail in the building?

8 A. No, we do not.

9 Q. And you described the location, but can you just  
10 describe the location in relation to the waterfront?

11 A. Sure. We're, what, two, three blocks uphill  
12 east of the waterfront on Second Avenue. I would say  
13 just about directly uphill from the ferry terminal.

14 Q. And about how many offices are in the building?

15 A. Let's see, we probably have about -- I would say  
16 there's about 60 offices in the building, roughly.  
17 We've got a lot of cubical space as well.

18 Q. And that's fully occupied by United Way  
19 personnel?

20 A. Correct.

21 Q. And can you briefly describe, what is United  
22 Way?

23 A. United Way is -- we are a member of the United  
24 Way Worldwide. However, we're a unique entity. Each  
25 United Way is unique. We're not a franchise. We're not

1 a chain. But United Way is a health and human services  
2 organization. They all focus on trying to serve  
3 community needs, serving the neediest people in their  
4 particular community. Our United Way is no different.

5 We focus on serving those that we think are most  
6 at need in King County and working with many other  
7 agencies whose focus may be a little more narrow or a  
8 little more specialized. We work with many of them in  
9 the county supporting them to do the same.

10 Q. And you're -- United Way is a nonprofit  
11 organization?

12 A. It is.

13 Q. Do you know whether the property is in a  
14 historic district?

15 A. I do. I know we've been designated as a  
16 historic, as a landmark property based on our  
17 architecture.

18 Q. Let's shift gears a little bit to the assessment  
19 notices.

20 Do you remember when you received the -- the  
21 notice of the assessment?

22 A. Of the actual assessed -- the dollar amount  
23 assessed?

24 Q. This would be the notice of assessment that  
25 would have told you the amount of the assessment and the

1 fact that you've got -- you've got a certain amount of  
2 time to file an objection.

3 A. Sure. Yeah. Sure, it was January 8th.

4 Q. And during that time, what did you do to  
5 prepare?

6 A. Upon having received the notice, we -- I reached  
7 out to a firm in town whom we worked with in the past  
8 for property matters, primarily related to our landmark  
9 designation and our transferrable development rights.

10 I reached out to them for advice on how to  
11 review this and make sure this is appropriate? Is it  
12 relevant to us and appropriate? And what steps, if any,  
13 should we take related to this?

14 They, in turn, suggest that I contact Peter  
15 Shorett. And we did, and Peter agreed to work with us.  
16 We also reached out to Perkins Coie for assistance in  
17 representing us in this case with the City.

18 Q. And did you delay at all in -- do you remember  
19 about what -- what day, or how much time passed before  
20 you did your first reach-out?

21 A. Well, I don't recall if I contacted McCall --  
22 McCall Hill (phonetic), who reached out to originally.  
23 It's either the day I received the notice or the day  
24 after I received the notice.

25 So no, we didn't delay, because I -- what from

1 what I understood from the notice, we were going to have  
2 to respond to this pretty quickly, by I think the 3rd or  
3 the 4th of February. So no, we didn't delay at all. We  
4 immediately reached out for help.

5 Q. And did the City or ABS Valuation or  
6 Mr. Macaulay ever request information from you or anyone  
7 at United Way about the property?

8 A. In relation to the LID?

9 Q. Correct.

10 A. No, not -- not me. Not that I'm aware of anyone  
11 at United Way.

12 Q. And were you or anyone at United Way ever asked  
13 to provide feedback on preliminary assessments?

14 A. No.

15 Q. And did anyone from the City or ABS Valuation  
16 ever request site access to the property?

17 A. No. Not to my knowledge. And speaking with my  
18 superiors, not to theirs either.

19 Q. We're gonna switch gears a little bit to talk  
20 about special benefit.

21 Are you familiar with the proposed LID  
22 improvements?

23 A. I am.

24 Q. In your opinion, will the proposed LID  
25 improvements benefit United Way differently or specially

1 in any way that is different from members of the  
2 community at large?

3 A. No, I wouldn't think so. Not differently.

4 Q. Do you have any thoughts about that? You seem  
5 like you were thinking.

6 A. Well, I was just trying to think what benefits  
7 being what and how might they -- these benefits, you  
8 know, impact the community at large versus United Way,  
9 specifically.

10 And no, I don't -- I mean -- they wouldn't  
11 benefit us more, they might -- we might be less impacted  
12 by them than others.

13 Certainly not benefit us peculiarly --  
14 peculiarly or more. If anything less than.

15 MS. LIN: One second.

16 MR. BROWN: Sure.

17 MS. LIN: We're getting feedback from  
18 another participant. Okay. Thank you.

19 BY MS. LIN:

20 Q. Can you explain that -- that your statement that  
21 we might be benefitted less but certainly not more so  
22 than the community at large?

23 A. Sure. Just that, you know, the condition of the  
24 waterfront, the roadway, whatever -- what all is being  
25 done to that strip along the waterfront shouldn't affect

1 us in that our business isn't impacted by the condition  
2 of the -- of the waterfront there.

3 The people we work with, I don't imagine they're  
4 impacted by that. Our business certainly isn't. I  
5 think, if anything, you know, the waterfront -- we don't  
6 have to access the waterfront.

7 Aside from it being a place that, you know, a  
8 place to go have lunch, maybe a place to take your walk  
9 at lunch. It's not an area or a feature for that I  
10 would say it is in our -- certainly not in our business  
11 aware -- awareness.

12 And I see no reason -- it hasn't in the past,  
13 and I see no reason now why it's benefitted or  
14 necessarily harmed us at this point. I think about the  
15 only thing you can do to impact United Way is, let's  
16 say, if you had a lot of construction. If you had  
17 traffic re-routed, perhaps it would lead to congestion  
18 in our neighborhood that normally would not be there.  
19 That's not the only impact I could see from the  
20 waterfront.

21 Q. Okay. In talking about constructions, do you  
22 have any concerns that the construction of the LID  
23 improvements which aren't scheduled to be in place or  
24 completed until 2024, do you have any concerns that that  
25 construction will impact United Way?

1 A. Sure. A little bit. You know, not to one  
2 extent. Like everybody else downtown to some degree, I  
3 think we've been living with certain amount of  
4 disruption due to, you know, the 99 Tunnel, the viaduct  
5 going away.

6 Certainly we've had some impact related to the  
7 Columbia Street work which is adjacent to our building  
8 in preparations for the new bus lane, which it just  
9 opened. That's nice that it's now open.

10 But -- you know, so there's been kind of ongoing  
11 impact throughout Seattle and particularly throughout  
12 our part of Seattle with less parking, more traffic  
13 congestion, the buses being on alternate routes.

14 And I kind of expect that will continue  
15 throughout the waterfront improvement period. To what  
16 degree, I don't know. But I'm assuming that it will to  
17 some extent. It will just make it a little harder for  
18 us to get to and from work and get around the city in  
19 our work.

20 Q. Any -- any concerns about impacts on parking?

21 A. Yeah, a little bit. Things, not a huge factor  
22 for us.

23 One other factor, we do have to access our  
24 building with vehicles to support our various and  
25 ongoing programs. The harder that is to do, of course,

1 the harder it is for us to serve those programs.

2 You know, the changes on Second Avenue out  
3 front, the bike lanes have impacted us a bit. We used  
4 to be able to park out front; now it's very difficult to  
5 do that. We used to have parking on Columbia Street;  
6 now that's gone.

7 So it's gotten a little -- it's gotten a little  
8 worse. I'm not sure how it's going to get worse beyond  
9 that, but it may. So, yeah, that's a little bit of a  
10 consideration.

11 Q. It sounds like the impacts of the LID  
12 improvements are likely minimal, if anything -- if  
13 anything, negative?

14 A. Well, I think so. I mean, obviously having a  
15 nicer area down there, that's a benefit to everybody to  
16 some degree just knowing that it's there.

17 I mean, for us, I guess, knowing, hey, it's  
18 done; it looks nice. We can go walk there on lunch.  
19 That will be a plus. That's primarily it.

20 Q. On the water -- you've sort of answered some of  
21 these questions already.

22 But are the waterfront LID improvements  
23 necessary to the continued use of your property as  
24 offices for United Way?

25 A. Not that I'm aware of.



1           You know, if they didn't take place, I expect  
2   our business would continue as it is. Yeah. So I don't  
3   think that they are at all essential for our current  
4   operations.

5       Q.   And you've already stated that your current  
6   operations are not dependent on access to the  
7   waterfront.

8           But does your property already have access to  
9   the waterfront?

10       A.   Sure. We do.

11       Q.   And that's just via walking down to the  
12   waterfront?

13       A.   Yeah. Correct. Sure. Any number of streets  
14   have it this -- getting to walk, sometimes you -- you  
15   could drive down, if you really wanted to.

16           But, certainly, it is pretty easy to walk down  
17   to the waterfront. We're just a couple blocks up.

18       Q.   One of the rationales for underlying the special  
19   benefit study is that an increase in tourism will drive  
20   up property values and -- do you --

21           In your opinion, would an increase in tourism  
22   impact United Way?

23       A.   Boy, I can't say. Um... I don't know how it  
24   would impact us. So I could only speculate. And I  
25   don't want to do that.

1 Q. Okay. That's okay.

2 Will United Way realize any sort of economic  
3 benefit from an increase in tourism?

4 A. Again, I think that it is pure speculation. You  
5 know, it's possible that increased tourism, healthier  
6 economic climate can lead to a healthier fundraising  
7 environment. You know, those things could all go hand  
8 in hand. But again, that's speculation on my part.

9 Q. It sounds, though, that it isn't necessarily --  
10 that tourism isn't necessarily tied to your mission.

11 A. No, certainly not tied to our mission.

12 Q. Do you have plans to lease any space in the  
13 building?

14 A. No, we do not.

15 MS. LIN: Okay. I think that's it for me.

16 MS. THOMPSON: Nothing on cross.

17 HEARING EXAMINER VANCIL: Thank you,

18 Mr. Brown.

19 MR. BROWN: Certainly.

20 MS. LIN: All right. Thank you.

21 MR. BROWN: Thank you.

22 Bye-bye.

23 MS. LIN: Okay. Peter, can you hear us?

24 I mean, John, can you hear us?

25 MR. GORDON: Yes.

1 Can you hear me?

2 MS. LIN: Yes.

3 MR. GORDON: Good.

4 MR. MAHON: (Indecipherable). Would you  
5 refresh my memory when were you hoping to take a break?  
6 Is it three o'clock?

7 HEARING EXAMINER VANCIL: Oh, somewhere  
8 around 3:00. Depending on where we are with witnesses.  
9 Sometime between 3:00 and 3:30.

10 MR. MAHON: Mr. Gordon, while we're  
11 waiting -- just -- I'm going to be out of frame.

12 But if you have trouble hearing us, just  
13 raise your hand and we'll try to improve that.

14 MR. GORDON: Okay.

15 MR. MAHON: And conversely, if we can't hear  
16 you, we'll do the same. If you would stop speaking and  
17 we'll try to work out the connection.

18 MR. GORDON: Okay.

19 MS. LIN: Okay.

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

22 MR. GORDON: John David Gordon. J-o-h-n,  
23 D-a-v-i-d, G-o-r-d-o-n.

24 HEARING EXAMINER VANCIL: And do you swear  
25 or affirm that the testimony you will provide in today's

1 hearing will be the truth?

2 MR. GORDON: I do.

3 HEARING EXAMINER VANCIL: Thank you.

4 MS. LIN: Mr. Gordon has already testified  
5 on February 18th as well, and we would like to  
6 incorporate that testimony to the extent it's relevant  
7 and not specific to the properties there into our cases.

8 Specifically he talks about generally the  
9 appraisal of hotels and -- and sort of the steps for --  
10 for valuing hotels, and we would like all of that to be  
11 part of our record.

12 HEARING EXAMINER VANCIL: Okay.

13 MS. LIN: And would you like me to rattle  
14 off the case numbers for which I would like his  
15 testimony to apply?

16 HEARING EXAMINER VANCIL: Are they --

17 MS. LIN: They are the same ones I rattled  
18 off yesterday.

19 HEARING EXAMINER VANCIL: For Mr. Shorett?

20 MS. LIN: Yes.

21 HEARING EXAMINER VANCIL: No. You don't  
22 need to do that.

23 MS. LIN: Okay.

24 ///

25 ///

1 JOHN D. GORDON, witness herein, having been  
2 first duly sworn on oath,  
3 was examined and testified  
4 as follows:

5

6 DIRECT EXAMINATION

7 BY MS. LIN:

8 Q. Mr. Gordon, you've already testified in this  
9 hearing, and so we're going skip some of the normal  
10 introductory remarks.

11 I will go through -- you've already testified  
12 specifically about your background and experience.

13 But I will ask a couple questions about that,  
14 and we'll start with that.

15 If you can turn to the final special benefit  
16 study, which is Exhibit 3, pages 115 to 116.

17 A. Is that directed at me?

18 I don't have a copy of the study with me.

19 Q. Okay. I think you might be familiar with this  
20 section anyway. It's the section on the hotel market  
21 that references your -- your analysis.

22 A. Yes. I'm extensively quoted in it -- on those  
23 pages.

24 Q. Well, let's go ahead and try to -- I will read  
25 out the portions that I think are relevant to you, and

1 if this doesn't work, then we'll have to -- we'll get  
2 this testimony in later.

3 A. Okay. I'm pretty familiar with what he said  
4 about me.

5 HEARING EXAMINER VANCIL: And can you give  
6 the page numbers?

7 MS. LIN: Yeah. It's pages 115 to 116.

8 BY MS. LIN:

9 Q. So on the third paragraph down on page 115 it  
10 starts "Per the Kidder Mathews fourth quarter 2017 hotel  
11 market review," and then it goes on to explain hotel  
12 occupancy rates in the Seattle area.

13 Can you tell us what the Kidder Mathews hotel  
14 market review is?

15 A. Yes. For the last ten years or so I have  
16 published on our website a summary of conditions in the  
17 launching market.

18 The document, the review is titled Seattle, but  
19 it actually extends around the greater Seattle area.

20 I talk about the performance of hotels as a  
21 group, the aggregate performance of various hotel  
22 markets, recent sales of hotels, hotels that are under  
23 development or proposed and those that have recently  
24 opened.

25 I started out publishing it just once a year.

1 And a few years ago we decided to -- to increase that  
2 frequency to twice a year.

3 So it's referred to as the fourth quarter  
4 report. It's actually only the second of the two for  
5 that year.

6 But I did publish a fourth quarter report in  
7 2017.

8 Q. How widely is this distributed? And to whom is  
9 it distributed?

10 A. I distribute it to any of my clients. But it's  
11 posted on our website. Anybody with access to a  
12 computer can download it for free. It's not a money  
13 maker for us. It's more in the nature of -- of a  
14 marketing item or something to demonstrate our  
15 competence in certain areas.

16 The company that I work for, Kidder Mathews, is  
17 a general real estate company dealing not just with  
18 hotels, but a lot of types of real estate.

19 And various experts within the company  
20 publish -- or they write up reviews for their property  
21 type and post them on the website.

22 So we have quarterly or semi-annual reviews for  
23 the multifamily market, the office market, the retail  
24 market, and the industrial market, as well as hotels.

25 Q. And why would someone pull this report up? What

1 would they be using it for?

2 A. Well, anyone who has a general curiosity about  
3 the hotel market in the area. It might be appraisers  
4 who are trying to, you know, get additional support  
5 for -- for their analysis. It could be hotel owners or  
6 people interested in buying hotels who just want to get  
7 a feel for the market.

8 The information that's in there is not  
9 comprehensive enough to allow somebody to actually do an  
10 appraisal by itself just for that information.

11 But it does provide it, at least the framework.  
12 For example, in -- in the most recent report that we did  
13 at the end of 2019, we had -- we had information about  
14 watching markets in Downtown Seattle and Sea-Tac and  
15 Bellevue. So that can be of interest to people who --  
16 who have an interest in those markets.

17 Q. And is it your understanding that Mr. Macaulay  
18 is relying on your reports in order to understand the  
19 hotel market in Seattle?

20 A. I can't speak to his motivation for looking at  
21 it.

22 He quoted extensively from my report, which is  
23 fine. I have no objection to anybody doing that, as  
24 long as they have attribution to it.

25 But as to how much he relied on it, I can't say.



1 Q. So you previously testified regarding how unique  
2 hotels are for purposes of valuation, and you've  
3 summarized the appraisal process for hotels. And we're  
4 incorporating that testimony here, so there's no need to  
5 repeat all of it.

6 But can you give us a quick summary of both of  
7 those things, the uniqueness of hotel properties and the  
8 process for valuation. Just a quick summary.

9 A. The -- the thing that -- sorry, did somebody  
10 speak?

11 Q. No. Just you.

12 A. The thing that -- that in my opinion makes  
13 hotels unique is the very short leasing period.

14 When you're dealing with office or retail space,  
15 you're typically talking about a five or ten or  
16 sometimes longer year lease. So that makes those types  
17 of real estate very predictable for a buyer or a  
18 potential investor. Because they can anticipate what  
19 their income is going to be.

20 With hotels, your lease term is one day. The  
21 rent varies every day. It's to the point now where the  
22 hotels -- most hotels don't even quote prices, because  
23 it depends when you show up, how busy they are and how  
24 badly they want your business.

25 Hotels are very management-intensive. It's not

1 unusual to have expenses at 60 or 70 or even 80 percent  
2 of the total revenue that the hotel is bringing in.

3 And that's in quite stark contrast to an  
4 apartment building or an office building where the  
5 operating expenses of the owner are usually quite low.

6 Hotels don't charge their guests a utility  
7 reimbursement, the way an apartment owner might. They  
8 don't charge -- they don't have CAM charges that they --  
9 that they float back to the guest. I'm not sure how  
10 much else -- how much more you want, but --

11 Q. I think that's good.

12 And then if you could give a quick summary of  
13 the appraisal process for hotels.

14 A. It's -- it's actually simpler than -- than  
15 people assume. I mean, it's like any income property,  
16 you want to know how much money it is going to make.  
17 And then you relate that amount of money to the value of  
18 the property through a capitalization rate or a yield  
19 rate or some combination of the two.

20 That's the same with -- with virtually any  
21 income property that's being appraised.

22 The difference in hotels is that it is so  
23 complex to come up with that income amount.

24 So it's not the valuation process, per se,  
25 that's complex, it's the hotels themselves.

1           There are various sources of revenue. Most  
2 important, typically, is room revenue. And there you  
3 have to anticipate what the room occupancy is going to  
4 be either in the coming year or on a stabilized basis or  
5 over a number of years.

6           You need to estimate what the average rate will  
7 be that the hotel will be able to command. How much  
8 they can charge per night on average for their rooms.  
9 That information allows you to project room revenue.

10           But a lot of hotels have other sources of  
11 revenue as well. It could be a restaurant. It could be  
12 a parking garage or a gift shop. Some hotels rent  
13 bicycles. Some hotels have a health spa and they  
14 charge -- charge for that.

15           So the complexity in the revenue forecast for  
16 anything other than rooms; not only do you need to  
17 project those numbers, you need to -- you need to have  
18 some idea of how much of that revenue is going to come  
19 from hotel guests and how much is going to come from  
20 anybody else, which could be local neighbors, it could  
21 be businesses in the local area, it could be people  
22 staying at another hotel that does not have a  
23 restaurant. So they walk over to your hotel and eat in  
24 your restaurant.

25           The reason that you want to differentiate

1 between guest revenue and local revenue -- we use the  
2 word "local" as a shorthand for anything that's not a  
3 guest. The reason that we want that differentiation is  
4 that the occupancy rate of our hotel is expected to  
5 fluctuate in the near term, we need to -- we want to tie  
6 that into the amount of revenue that hotel guests are  
7 generating.

8 So, for example, in a restaurant, if a third of  
9 the restaurant's revenue is coming from -- from hotel  
10 guests, if the occupancy were to double, then the -- the  
11 percentage coming from hotel guests would go up as well.  
12 It wouldn't be two-thirds, but it would go up  
13 substantially.

14 Conversely, if there was something happening in  
15 the local market. If a new business was opening, or an  
16 existing business was going to shut down, that could  
17 affect the amount of local revenue that's coming to the  
18 restaurant.

19 The same argument would be made for a health spa  
20 or parking garage or gift shop. In any case, you want  
21 to find out how much of the revenue is generated by the  
22 guest and how much is generated locally.

23 Once you've made those estimates, you compile  
24 your forecast of how much revenue is going to come into  
25 the hotel that, not surprisingly, turns a total revenue

1 of the hotel.

2 The other component of income, of course, is the  
3 operating expenses. And I believe in prior testimony I  
4 cited the Uniform System of Accounts for the lodging  
5 industry. It's a book that the accountants have put out  
6 that lays out a standard for how hotel expenses should  
7 be categorized. Not every hotel does that. Generally,  
8 the more sophisticated hotels will use the uniform  
9 system and small mom-and-pop properties may not use it.  
10 May not know it exists.

11 All of the properties -- all of the hotels that  
12 we're dealing with in these hearings are quite  
13 sophisticated and they all use some version of the  
14 uniform system.

15 Q. So you would take this total revenue and you  
16 would subtract the operating expenses, and then what  
17 would you end up with?

18 A. Well, before I -- you end up with net operating  
19 income.

20 Let me say one more thing about expenses.

21 There are a dozen or so line items typically of  
22 expenses where all the food and beverage expenses are  
23 consolidated in one line item. The administrative  
24 expenses are consolidated on one line item. But within  
25 each of those lines, they are going to be fixed

1 invariable components.

2           There are certain expenses that go up when your  
3 occupancy goes up and there's certain expenses that are  
4 not affected by occupancy.

5           So it's really important at putting together a  
6 forecast for a hotel that's not completely stabilized.  
7 If you're putting together a forecast you need to  
8 differentiate between variable expenses and fixed  
9 expenses within each line item.

10           There are very few that are entirely fixed.  
11 There are very few that are entirely variable.

12           But to get back to your question, the bottom  
13 line on the forecast is net operating income.

14           That's the income generated by the hotel before  
15 deducting depreciation, mortgage interest, or income  
16 taxes.

17           Q.   And so this net operating income is dependent on  
18 the revenue information and operating expense  
19 information.

20           Where does one typically get this information  
21 from?

22           A.   Well, there's several sources.  If you are  
23 dealing with an existing hotel, your first stop is:  How  
24 have they actually been performing?

25           When we're doing an appraisal of a hotel, we

1 usually ask for three years of operating data because  
2 one year can always be an odd year. You want to have  
3 some basis for knowing what's -- what's reasonable at  
4 that particular hotel.

5 I also look at the performance of similar  
6 hotels. We're fortunate to have done enough of them so  
7 that we have a pretty good library of -- of operating  
8 results.

9 We never disclose which hotels those are, but we  
10 do rely on them when we're looking at -- when we're  
11 developing an expense forecast for our property.

12 And, finally, there are published industry  
13 averages for hotels. There's -- the publication we use  
14 is put out by CBRE hotels. It's called "Trends®" in the  
15 hotel industry. It's published once a year, and it  
16 breaks down -- they have 2- or 3,000 participating  
17 hotels in their survey and they group them by size, by  
18 type of hotel, and by the number of -- I'm sorry, the  
19 average daily room rates that the hotels are achieving.

20 So you can pick out from several dozen samples  
21 in that -- in that report. You can pick out a few that  
22 you think are most relevant to your property.

23 So between the historical operating expenses of  
24 your hotel, the actual expenses of similar hotels, and  
25 the published industry averages. Those are the three,

1 you know, basic legs of the footstool for coming up with  
2 the forecast.

3 Q. And are you familiar with STAR Reports?

4 A. Yes.

5 Q. And what are STAR Reports? Do they fit into one  
6 of those buckets?

7 A. No. A STAR Report -- I think at the risk of  
8 repeating a little bit, I want to be sure we understand  
9 what a STAR Report is.

10 A company called "Smith Travel Research"  
11 developed STAR Reports in the 1980s, with the purpose of  
12 collecting occupancy and room rate information about  
13 hotels across the country, and then making it available  
14 in -- making it available in reports that do not  
15 disclose the individual property data.

16 Those hotels that participated in the monthly  
17 survey receive a monthly or in some cases weekly report  
18 on the performance of the hotels that they define to be  
19 in their competitive set.

20 There are some limits on -- on how they can  
21 define their set. But the shorthand is that six or  
22 eight hotels that they feel are their most direct  
23 competitors, the numbers -- the operating numbers,  
24 occupancy and room rate of those hotels will be  
25 aggregated and then reported back to the participating



1 hotel, the survey participant in their monthly STAR  
2 Report.

3 It's capitalized that "PAR" doesn't really stand  
4 for anything, but -- but -- that's STR Global calls  
5 their monthly report.

6 The STAR Report shows a record of room occupancy  
7 for the participating hotel and the aggregate results  
8 for the competitive hotels.

9 The line that shows competitive hotels doesn't  
10 actually include the participant. So the people using  
11 the STAR Report need to be aware of that.

12 But it's extraordinarily useful information.  
13 It's something that every hotel appraiser relies on.  
14 Every participating hotel -- at least they receive the  
15 report. I don't know if they read it or not, but they  
16 receive it.

17 And virtually every hotel that carries a brand  
18 is participating in a survey.

19 Randy Smith, who founded the firm, was very  
20 successful at persuading hotel chains to participate.  
21 And, as a result, there's a massive quantity of data  
22 that they collect. And they are scrupulous about not  
23 disclosing individual results.

24 Q. So --

25 A. So it's really -- it's a -- it's a real life

1 flood of hotel appraisals.

2 Q. So drilling down to just -- at room rates and  
3 occupancy, that's just one element of revenue.

4 If you were trying to determine room rates and  
5 occupancy rates for a particular hotel, is it your  
6 testimony that that information would come from hotel  
7 management in the STAR Reports?

8 A. If you're asking how we would determine the  
9 occupancy and rate for the hotel that we're  
10 appraising --

11 Q. Yeah.

12 A. -- the individual property.

13 Q. Yes.

14 A. It can come from the STAR Reports. It can come  
15 from their individual operating statements.

16 Some hotel managers don't retain the STAR  
17 Reports. They are -- they are e-mailed to the manager  
18 in an Excel file. But there's been casing when I've  
19 been appraising the hotel and they say, oh, yeah, we  
20 delete those. So they have to go back and re-create the  
21 numbers that were there.

22 But they're -- the underlying source of the  
23 occupancy and room rate history of the property is the  
24 manager or owner of the hotel.

25 The STAR Reports themselves are not disclosed --

1 are not given to anybody except the manager of the  
2 hotel.

3 Q. So without information from the hotel management  
4 and without the STAR Reports, is it possible to come up  
5 with an accurate room -- average room rate and occupancy  
6 rate from a particular hotel?

7 A. No.

8 Q. Do you know whether Mr. Macaulay had access to  
9 hotel management input or the STAR Reports?

10 A. I -- I don't know if he did. But none of the  
11 managers that I spoke with indicated that they had  
12 shared the STAR Reports with him. And his report does  
13 not cite information from STAR Reports.

14 Q. Does the fact that Mr. Macaulay did not have  
15 input from the hotel management and did not have STAR  
16 Reports affect the liability of his pre-LID valuation of  
17 the hotels?

18 A. In my opinion, it reduces the reliability of it.

19 Q. I'm going to read one more -- a couple more  
20 sentences from the final benefit study, and hopefully  
21 you'll just be able to respond without it -- without it  
22 to look at. And if you're having trouble, we can -- we  
23 can move on.

24 A. Okay.

25 Q. So we're going to go to Exhibit 3. And I'm

1 going to go to page 81.

2 Page 81, the last paragraph, there's a  
3 subheading that says, "Hotel Properties."

4 And it says, "As with the retail market, Seattle  
5 hotel properties typically experience a slightly larger  
6 change in value compared to similarly situated --  
7 compared to a similarly situated commercial building due  
8 primarily to projected increases in tourism resulting  
9 from the LID project. Higher room rates, restaurant  
10 event sale increases, and lower vacancy and  
11 capitalization rates result in higher overall property  
12 values with the LID in place."

13 Do you understand that to be the basis for  
14 Mr. Macaulay's reasoning that hotel properties will  
15 experience a property value increase due to the LID?

16 A. Yes. It sounds like that's what he's saying.

17 Q. And do you agree with this?

18 A. I don't see any evidence of that.

19 Q. Have you spoken with any hotel managers that  
20 might indicate that that would be correct?

21 A. I spoke with the manager of one downtown hotel  
22 that felt that their value -- their appeal at the hotel  
23 would actually be damaged by the park because they felt  
24 that it would end up -- in using the term, but  
25 effectively, that it would end up looking like Third and

1 Pine. That it would be a rough area and something that  
2 their guests would want to avoid rather than enjoy.

3 Q. So we're gonna turn to -- we're gonna turn --  
4 I'm gonna ask you some questions about Mr. Macaulay's  
5 spreadsheets. And we're going to talk about them mostly  
6 in general. And we'll use one of the spreadsheets as an  
7 example. But we don't necessarily have to talk about it  
8 specifically. And we'll just proceed that way and I'll  
9 let you know if we run into any issues.

10 A. Okay. I'm grabbing that sheet right now.

11 Q. Okay.

12 A. Okay. Go.

13 Q. So have you reviewed Mr. Macaulay's spreadsheets  
14 that informed his special benefit analysis for the  
15 hotels that you've also reviewed?

16 A. Yes.

17 Q. And it looks like Mr. Macaulay had four  
18 scenarios for each of the commercial -- for each of the  
19 hotel properties.

20 Can you briefly explain what his methodology was  
21 and what each of these scenarios entailed?

22 A. I don't know entirely what -- what his purpose  
23 was of doing these scenarios. He refers to low and high  
24 impacts using -- using slightly different percentages  
25 of -- for the impact of the LID improvement.

1           In this example that we're looking at, the low  
2    impact is 0.15 percent. The high impact is  
3    0.45 percent.

4           Q.    And let's -- I'm gonna stop you right there.

5           So this is a high-low percent increase to  
6    revenue while holding the cap rate constant; is that  
7    correct?

8           A.    Let's see what he did on the cap rate.

9           Yes, holding the cap rate constant.

10          Q.    Okay. And then let's talk about the scenarios  
11    three and four.

12                   MS. THOMPSON: Sorry. If I could interrupt?

13                   MS. LIN: Yes.

14                   MS. THOMPSON: Just so that I could follow  
15    along, could you tell me which spreadsheet you're  
16    referencing?

17                   MS. LIN: Yes.

18                   Because we are gonna be referencing the  
19    numbers, can we go off the record for just one moment?

20                   HEARING EXAMINER VANCIL: I'm sorry. Mr.  
21    Edlund-Cho had to step out, so how long do you need?

22                   MS. LIN: Just two minutes.

23                   HEARING EXAMINER VANCIL: All right. We'll  
24    go off the record.

25                                   (A break was taken.)

1 HEARING EXAMINER VANCIL: Okay. We're back  
2 on the record.

3 BY MS. LIN:

4 Q. Mr. Gordon, picking up from where we left off.  
5 You were explaining that in these first two scenarios  
6 Mr. Macaulay is applying a high and a low percentage  
7 increase to the revenue while keeping the cap rate  
8 constant; is that right?

9 A. That's correct. I should expand a little bit on  
10 that, if I could.

11 The -- there are five different scenarios on  
12 these pages. And what it amounts to is a sensitivity  
13 analysis; where you take what you think is the most  
14 likely scenario. In this case, the left-hand side of  
15 the page is where he concludes to. But then you test  
16 that.

17 In the center section of the page, he's testing  
18 it by using different LID ratios, different impact  
19 ratios for the improvement.

20 On the second half of -- I mean, the right-hand  
21 side of the page, he's testing his result saying that  
22 suppose we less the income -- we didn't change the  
23 income, but we used slightly lower cap rates.

24 So scenarios A-1 and A-2 are saying what if the  
25 growth rate was something other than we anticipate?

1           And if you look toward the bottom of that center  
2 section, you'll see a line labeled "percentage change."

3           One -- in the first column, 0.26 percent; in the  
4 second column 0.78 percent. Those ratios bracket his  
5 conclusion of 0.5 percent, which is what he uses to come  
6 up with the -- with his final conclusions as to what the  
7 special benefit is... so these...

8           Q.   Actually, can you repeat that. Just that --  
9 just your last sentence.

10          A.   He -- his final -- his final conclusion as to  
11 the value of the special benefit is based on his income  
12 forecast. And an assumption that the -- the value will  
13 increase by half a percentage point.

14          Q.   Okay. --

15          A.   Now, this is -- oh, go ahead.

16          Q.   Let's talk a little bit about that first method  
17 that's applying a high-low percentage increase to  
18 revenue while holding the cap rate constant. And this  
19 is scenario A. And there's a high and a low percentage  
20 that you noted, which was .15 percent and .45 percent.

21          A.   Well, those -- yeah, those are the ratios put on  
22 at the top for the room rate. What -- what percentage  
23 increase he's anticipating; it appears to be in the room  
24 rate or the room revenues, which he doesn't vary  
25 occupancy.



1 Q. Okay. So those --

2 A. The percentages -- the percentages at the bottom  
3 of the table are the percentage increase in net  
4 operating income in value.

5 Q. Understood.

6 But let's actually walk through the top part  
7 first, if you don't mind?

8 A. Okay.

9 Q. Okay. So just going through that .15 percent  
10 and then .45 percent. So it's .15 on the low end and  
11 .45 on the high end. And that's the percentage  
12 increase -- that's the expected percentage increase to  
13 the room rates due to the LID. Is that -- is that how  
14 you read this?

15 A. Yes. That's correct.

16 Q. Okay. Do you know what the basis is for these  
17 two numbers? What the basis is for con- -- for  
18 estimating that the room rates might increase by  
19 .15 percent up to .45 percent?

20 A. I -- I do not.

21 Q. We talked a little bit about increase in tourism  
22 as being the basis for Mr. Macaulay's conclusion that  
23 property -- that property values and presumably room  
24 rates could increase.

25 In your experience appraising hotels, how much

1 does tourism affect room rates?

2 A. Oh, it can affect it very strongly. It depends  
3 on the hotel. Hotels in urban areas, even Downtown  
4 Seattle, gets a significant amount of tourism. There's  
5 a strong base of business travel in Downtown Seattle and  
6 in most urban areas.

7 And that's usually the majority of the business  
8 that comes to -- to the hotel.

9 But there is significant tourism. It tends to  
10 be seasonal, and it -- in the off season, it is just  
11 more focused on weekends.

12 But, yes, tourism can certainly effect -- effect  
13 demand; and that could be realized both in occupancy and  
14 in the average room rate.

15 Q. And can you talk about what -- what other  
16 factors might affect a room rate?

17 A. Well, the quality of the hotel, the location of  
18 the hotel, first and foremost. The quality of the  
19 facilities that are there. The age and the condition of  
20 the property. The level of services offered.

21 If you walk into a very high, top-end, luxury  
22 hotel and another hotel down the street, you might not  
23 immediately see what the difference is and why somebody  
24 would pay a hundred bucks more to stay at a really nice  
25 place because the services are not necessarily visible.

1 But they do go into the -- they are all part of the  
2 package.

3 The proximity of the hotel to where a person is  
4 working or -- the reason why they came to the area is  
5 important as well because it might mean that you don't  
6 need a car. If -- if you can fly in or -- or ride the  
7 train and the bus and end up in your hotel, and then be  
8 able to walk to the business that you are visiting and  
9 not have to rent a car and pay for parking, that's  
10 certainly a -- a benefit. And that could be reflected  
11 in people's willingness to pay a higher room rate.

12 Q. Do you know -- these percentages are applied to  
13 the before room rate; is that correct?

14 A. Yes, that's how I interpret that -- the  
15 spreadsheet.

16 Q. Do you know how Mr. Macaulay came up with the  
17 before room rates?

18 A. I do not.

19 Q. Do you know if -- if he used actual room rates  
20 from the hotels?

21 A. The room rate that he has is significantly  
22 different from the actual room rate that we were -- we  
23 were provided with STAR Reports, so we see the actual  
24 room rates.

25 And the room rates that he used in this -- in

1 this case was significantly different than what they are  
2 actually achieving.

3 Q. And how was it different? Was it higher or  
4 lower?

5 A. His room rate was higher.

6 Q. If you use a higher room rate, are you going to  
7 end up with a higher revenue number?

8 A. Yes. Well, all things being equal. If nothing  
9 else changes, yes.

10 Q. And, in fact, did Mr. Macaulay end up with the  
11 higher revenue numbers than what you have seen as any  
12 actual revenue numbers?

13 A. In most cases, yes, he did.

14 Q. Did he give us kind of a range, like percentage?

15 A. Um...

16 Q. It's okay.

17 A. No, not really.

18 Q. Okay. That's all right.

19 A. They vary case by case.

20 Q. And it looks like he applied this percentage  
21 increase, this .15 to .45 percentage increase to room  
22 rates and then he applied that same percentage to food  
23 and beverage revenue; is that correct?

24 A. That's what he did.

25 Q. And then he applied that same percentage to

1 parking and other income; is that correct?

2 A. Yes.

3 Q. And then he added all of those up to come up  
4 with a total revenue; is that right?

5 A. Yes.

6 Q. Okay. Now, let's talk about operating expenses.  
7 You've already explained what operating expenses  
8 would encompass.

9 If there's an increase in room rates or  
10 occupancies, would you expect operating expenses to  
11 increase as well?

12 A. Some -- some rates -- some operating expenses  
13 are tied to revenue. So if the room rate went up, then  
14 the operating expenses would go up as well.

15 Other expenses are tied to occupancy. So a  
16 change in the room rate might not affect them, but a  
17 change in occupancy would.

18 And some expenses are basically fixed that they  
19 are not affected by either.

20 Q. Okay. And in Mr. Macaulay's methods, he applied  
21 this percentage increase to the revenue, but he held all  
22 operating expenses -- expenses constant; is that  
23 correct?

24 A. No.

25 Q. Oh.

1           A.    He did vary -- it looks like he varied franchise  
2 fees and management fees.  And he also varied the  
3 replacement reserve.

4                   All of those do have variable components.  I  
5 haven't gone through the number to see if he was  
6 consistent in the way he did that.  If he took a  
7 straight percentage of revenue for each one or if he  
8 tried to blend fixed and variable elements.

9                   The management fee and the replacement reserve  
10 should be entirely variable in relation to total  
11 revenue.

12                   The franchise fee should be entirely variable in  
13 relation to room revenue.  So, ideally, he would have  
14 kept the same percentages for those three line items  
15 that were applied, well, across the page, all -- in all  
16 columns.

17           Q.    And do you if -- and he's applying these to  
18 before operating expenses; correct?

19           A.    No, he -- well, when he's calculating those  
20 expenses by ratios, he's applying them to the -- to his  
21 new forecast of revenue, including that little .15  
22 adjustment for .45 adjustment.

23           Q.    I see.

24           A.    The fixed expenses -- or what he treats as fixed  
25 expenses is the first line where it says "admin,

1 marketing, utilities, maintenance, insurance," he lumps  
2 those all together and considers them all fixed.

3 I would not think that they are entirely fixed,  
4 but at least the majority of them would be. He does not  
5 change those at all. He assumes that those would not be  
6 affected by a change in revenue.

7 The same is true with real -- with real estate  
8 taxes. He holds those constant as well, which is  
9 appropriate.

10 Q. So because he starts off with actual room rates  
11 that are a little bit higher -- sorry, because he starts  
12 out with estimated room rates that are a little higher  
13 than average room rates and he applies a percentage  
14 there and then calculates operating expenses based on  
15 that revenue, does he generally end up with a -- a total  
16 net operating income that would be greater than what you  
17 would expect?

18 A. Yes.

19 Q. Let's talk about the second method.

20 So the second method appears to hold room rates  
21 constant but changes the cap -- capitalization rate; is  
22 that right?

23 A. That is correct. He's testing what would be  
24 (indecipherable) back instead of -- instead -- if the  
25 LID improvements -- if instead of increasing the guests'

1 willingness to pay a higher room rate, instead of -- if  
2 instead of increasing how much the guests were willing  
3 to pay to stay in the hotel, if instead they reduced the  
4 events at risk.

5 Q. Okay.

6 A. And so he's holding the constant income and then  
7 ratcheting down the cap rate by these little fractions  
8 to go from 7.5 to 7.44 and 7.48.

9 Q. And you said 7.5 --

10 A. That's really precise.

11 Q. So he goes from 7.5, you said in the before, and  
12 then --

13 A. 7.5 is what -- yeah, that's his base -- that's  
14 his starting point --

15 Q. Right.

16 A. -- for calculating current value.

17 Q. And then in the second methodology he also has a  
18 high-low for cap rates. And those high-lows in this  
19 example are 7.44 and 7.48.

20 A. You are speaking of the right-hand side of the  
21 spreadsheet --

22 Q. Yes.

23 A. -- scenarios. What are they called? B-1 and  
24 B-2.

25 Yes. That is correct.



1 Q. And so those differences in cap rate from the  
2 before are -- from 7.5 to 7.44, that's a .06 difference.

3 And then --

4 A. Yes.

5 Q. From 7.5 and 7.48, that's a .02 percent  
6 difference.

7 A. Yes.

8 Q. Do you know what the basis is for -- for him  
9 changing those cap rates?

10 A. No.

11 Q. Is your -- is it your opinion that a .02 percent  
12 difference in cap rate is a measurable difference in the  
13 market?

14 A. No. To my mind, it would not be. I could see  
15 doing this as sort of an exercise to see what the impact  
16 would be if we shaved rates. But it's very unusual --  
17 at least in my experience, it's very unusual for a cap  
18 rate to -- to -- usually we're looking at quarter point  
19 ranges. So you might say 7 percent or 7-1/4 or 7-1/2  
20 percent. You wouldn't say 7.002 or some, you know,  
21 ridiculous tiny little -- little shaving of cap rates.

22 So other than this being a mathematical  
23 exercise, I'm not sure what the point is. And I don't  
24 see any -- I can't imagine any support for shaving a cap  
25 rate by that very narrow margin and -- and trying to

1 maintain that it's accurate.

2 Q. And, again, this scenario also builds on  
3 information from the before scenario, and that  
4 information does not come from hotel management; is that  
5 correct?

6 A. That is correct.

7 Q. So now let's go down to the special benefits  
8 summary at the bottom.

9 A. Yes.

10 Q. Okay.

11 A. Bottom left.

12 Q. And can you explain what he does in his special  
13 benefit summary?

14 A. Well, he -- he's basically showing the  
15 sensitivity of his analysis and listing out all of  
16 the -- all of the results. What values does he come up  
17 with under these different assumptions?

18 Q. And that's scenario A-1, A-2, B-1, and B-2?

19 A. Right. Those numbers are just taken from the  
20 center and right-hand sections of the spreadsheet. They  
21 are just copied down.

22 The top line under the "special benefits"  
23 section is taken from the left-hand side of the  
24 spreadsheet. That's his estimate of what's the value  
25 today. The value without the LID improvement.

1           So he uses his four -- his four different  
2 scenarios and -- I don't know what he thinks.

3           The average in this -- in this particular  
4 example, the average of his four scenarios is 188,266 --  
5 \$188,266,000.

6           Logically, you would think maybe since he used  
7 four scenarios this is gonna be what he's gonna conclude  
8 to. But it's not.

9           Logically, you might say, well, I'll round it  
10 off to 188,300,000. But, in fact, he comes in at  
11 188,200,000, as his -- which is the bottom line of the  
12 left-hand side of the page.

13           So I don't know where that -- maybe it's just a  
14 rounding error or maybe he had some reason for giving  
15 slightly greater weight to one scenario or another.

16           But in any case, I -- I can't -- I can't follow  
17 where he ended up with that specific number.

18       Q.    So it looks like -- thank you for that.

19           So looks like he's taking -- well, is it your  
20 testimony that he's taking these four scenarios and each  
21 scenario results in a percentage increase for the  
22 property?

23           So scenario one is an increase of .21 percent;  
24 scenario two is an increase of .84 percent; scenario  
25 three is .87; and scenario four is .22. And then he

1 takes an average of those percentages, and that average  
2 is .54. But he doesn't actually use that average. He  
3 ends up using the number .50. And so --

4 A. It may be -- it may be what he's doing is  
5 rounding off the percentage rather than rounding off the  
6 dollar value.

7 That -- that way we can at least follow it.

8 So he's saying his four scenarios, on average,  
9 suggested LID -- LID lift of -- an LID lift of  
10 0.54 percent. We're gonna round that off to half a  
11 percent. And then we're going to apply that to the  
12 before value to end up with the after value. And then  
13 we're gonna round that off, so if -- if there is a  
14 logical consistency there. But it's all founded on an  
15 income forecast that has no support.

16 Q. And did he generally use this approach with each  
17 of the hotels?

18 A. Yes.

19 Q. This -- these four scenarios and two of them  
20 being increasing the room rates and revenue by a certain  
21 percentage while holding cap rate constant, and the last  
22 two scenarios being -- holding the revenue constant  
23 while varying the capitalization rate.

24 A. That's correct.

25 Q. Okay. Based on this method of pulling this

1 before information from non-STAR Reports by hotel  
2 management, so presumably other sources, and then  
3 applying these percentages or cap rate increases, do you  
4 think this method yielded a reliable measure of special  
5 benefits to the hotels you analyzed?

6 A. No.

7 Q. And why is that?

8 A. No. Because -- well, appraisers have -- and it  
9 is not just appraisers. Appraisers and accountants, I  
10 think as well, have a common expression of garbage  
11 in/garbage out.

12 If you don't start out with a good basis for  
13 your income forecast, you cannot possibly come up with a  
14 reliable value conclusion.

15 MS. LIN: I think I'm done with the direct  
16 for the general -- for all of the properties, and we can  
17 turn to specific properties.

18 But it might be an opportunity now to take a  
19 break, if you wanted?

20 HEARING EXAMINER VANCIL: How long will  
21 your -- we can -- how long will the individual  
22 properties take?

23 MS. LIN: Well, we're about to start a  
24 large -- the Hedreen parcels. So they are all the high  
25 parcels; there's seven of them.

1           So we -- I did -- in our planning we sort of  
2 thought we would start that the next day just because  
3 they are all under one client. But we can go ahead and  
4 start with some of them today. But...

5           HEARING EXAMINER VANCIL: So you were  
6 planning on doing them today? Yes or no?

7           MS. LIN: We could start.

8           MR. MAHON: We're not planning on --

9           MS. LIN: But we were not planning for doing  
10 them today.

11          HEARING EXAMINER VANCIL: So what were you  
12 planning on doing?

13          MS. LIN: Up until his general testimony.

14          HEARING EXAMINER VANCIL: And that's all you  
15 had for today?

16          MS. LIN: Yes.

17          HEARING EXAMINER VANCIL: Okay. So we do  
18 have quite a bit of time. We will take a break. But we  
19 do need use -- I want to be efficient and use all of the  
20 time.

21          MS. LIN: That makes sense.

22          HEARING EXAMINER VANCIL: We've got the  
23 witness here and sounds like you are ready to go. So it  
24 would be best if we just use it, even if we have to stop  
25 mid conversation on a single property, but that we can

1 easily -- as far as the record goes, (indecipherable)  
2 without the video basically.

3 MS. LIN: I think we've got to stop at 4:30  
4 for Mr. Moses.

5 HEARING EXAMINER VANCIL: Yeah, we'll stop  
6 at 4:30. But we'll take a break and come back at 3:40  
7 and resume with testimony from Mr. Gordon.

8 (A break was taken.)

9 HEARING EXAMINER VANCIL: We'll return to  
10 the record. Mr. Gordon on direct.

11 BY MS. LIN:

12 Q. Mr. Gordon, we're going to be talking about case  
13 418, in that regard to the Renaissance Hotel in Seattle.

14 Did you review this property?

15 A. Yes, I did.

16 Q. And did you perform a restricted -- a restricted  
17 appraisal for this property?

18 A. Yes, I did.

19 MS. LIN: We'd like to enter in the  
20 restricted appraisal.

21 HEARING EXAMINER VANCIL: It will be  
22 Exhibit 64.

23 BY MS. LIN:

24 Q. And can you just describe the property  
25 generally.

1           A.    The Renaissance Hotel was the last of several  
2 hotels to open in the early 1980s in Downtown Seattle.  
3 It's 557 guest rooms. I don't know the story height,  
4 but it's around 30 stories.

5           The -- it has a restaurant on the main floor.  
6 There's a good deal of meeting space. It's a bit  
7 further from the Convention Center than the other -- the  
8 other full-service, convention-oriented hotel; so it's  
9 probably at a bit of a disadvantage in that respect.

10           But the rooms have very nice views. It's on --  
11 it's at Sixth and Madison. It's at the top of the hill.  
12 So if you were looking west, you have a pretty nice  
13 view.

14           What else do you want to know?

15           Q.    What is its location in relation to the  
16 waterfront?

17           A.    It's about seven or eight blocks east of the  
18 waterfront.

19           Q.    So is it closer to I-5 than the waterfront?

20           A.    It's right across the street from I-5. Yes, you  
21 could literally hit the freeway with a rock.

22           Q.    And just, generally, could you discuss the  
23 Renaissance's operating strategy in the Seattle market?

24           A.    Well, like most of the downtown hotels, they go  
25 for a mix of business travellers, groups, and leisure



1 travel.

2 Renaissance is a Marriott brand. But there are  
3 a lot of Marriott brands in Downtown Seattle and I don't  
4 know that it gets a dramatically high benefit because of  
5 that.

6 Their main focus is on business -- individual  
7 business travel and -- and then groups. Some of the  
8 group business is what we would refer to as  
9 self-contained. It is groups that come to the  
10 Renaissance, they hold their meetings in the  
11 Renaissance, and everybody sleeps there.

12 But the other groups that they get are generated  
13 by the Convention Center. And there, they're sharing  
14 that business with a lot of the hotels. That would  
15 apply to -- to the very large events that -- that we  
16 have in town.

17 Q. And so do you see seasonal fluctuations in  
18 demand?

19 A. Yes. Almost all the hotels have some  
20 seasonality. The tourism, the leisure travel is  
21 concentrated on weekends throughout the year, but  
22 primarily during the summer. And so Memorial Day to  
23 Labor Day. Seattle is not unique in that respect.  
24 That's when people travel. That's when schools are out.  
25 So you get more leisure travel then.

1           So the occupancy rates at the hotel are higher  
2 during -- in the summer months and late spring, early  
3 fall than they are for the remainder of the year.

4           Q.    And can you discuss, generally, the  
5 Renaissance's growth in occupancy, history, and  
6 projections?

7           A.    I can -- I can discuss the history for the last,  
8 I believe, three years.

9           I should preface this by saying that the tables  
10 that I'm referencing, we're -- we have permission from  
11 the property owners to share this information in the  
12 hearing. The Renaissance ran annual occupancy rates of  
13 84.3 percent in 2017, 82.3 percent in 2018, and  
14 86.7 percent in 2019.

15           Their average room rates during those same years  
16 were \$203, \$210, \$204.

17           Q.    So would you -- would you consider those to be  
18 pretty stable numbers?

19           A.    Well, their occupancy is quite strong. In  
20 hotels -- for most hotels it is very unusual to be able  
21 sustain occupancy above 80 percent. A lot of the hotels  
22 in Downtown Seattle have done that for several years.

23           And every year I come out in my -- in my review,  
24 half yearly review and say it can't continue, and it  
25 does. Because Amazon is generating a great -- has been

1 generating a great deal of business, and other companies  
2 as well. So the hotels have been doing extremely well  
3 for a number of years.

4 I don't think that's sustainable at those  
5 extremely high levels for most of the hotels. But it's  
6 hard to argue with what they have actually done.

7 Q. And you testified earlier regarding Macaulay's  
8 methods generally about hotels; correct?

9 A. I didn't hear a couple words there. Sorry.

10 Q. Sorry.

11 You testified earlier, generally, about  
12 Mr. Macaulay's methods for -- and analyzing the special  
13 benefit for hotels; is that correct?

14 A. Yes.

15 Q. And that -- during that testimony, we were  
16 looking at the spreadsheet for the Renaissance; is that  
17 correct?

18 A. Yes.

19 Q. But your testimony about those methods apply  
20 more generally to all of the hotels; is that correct?

21 A. As far as I know, he used the same method in  
22 all -- all the ones that I saw he used the same method.

23 Q. So it's fair to say that Mr. Macaulay used the  
24 income method and valuation for -- for this hotel and  
25 all the hotels?

1 A. The income approach, yes.

2 Q. And let's turn to page 10 of your restricted  
3 appraisal where you discuss projected performance. And  
4 this is Exhibit 64. And you talk about occupancy rates  
5 and room rates.

6 And you state that "We are projecting an average  
7 room rate of \$209."

8 Is that based on actual information from the  
9 hotels?

10 A. Well, that's my estimate of the average room  
11 rates at the hotel we'll get in a future stabilized  
12 year, a future typical year stated in current dollars.

13 Q. Okay. And --

14 A. But it's based on the information that I got  
15 from them about what their actual average room rates  
16 have been, along with the supplemental market research  
17 that we did.

18 Q. Can you talk a little bit about that  
19 supplemental market analysis and just what information  
20 went into this \$209 figure?

21 A. Well, the STAR Reports that we spoke of earlier  
22 include aggregate information for the hotels that the  
23 management of the Renaissance feels to be its direct  
24 competitors.

25 Can I reference these packets yet or not?

1 Q. Sure. And are you going to be referencing the  
2 table -- the -- the one-page table to start?

3 A. I was gonna be referencing the supplemental  
4 tables.

5 Q. Sure.

6 MS. LIN: We'll introduce this as the next  
7 exhibit.

8 HEARING EXAMINER VANCIL: Marked as  
9 Exhibit 65.

10 MR. GORDON: Would you like me to explain  
11 what everyone is looking at?

12 MS. LIN: Yes, please. Oh, I can ask.

13 BY MS. LIN:

14 Q. Can you please explain what we're all looking  
15 at?

16 A. Okay. When we did our restricted appraisals, we  
17 did not have permission to disclose any proprietary  
18 information.

19 And in an abundance of caution, we decided not  
20 to put any supporting tables in the appraisals  
21 themselves. But we did prepare those tables and use  
22 them in our analysis and used them to come up with our  
23 value conclusions.

24 We now have permission from this owner, the  
25 owners of the four Hedreen hotels to share these tables

1 with -- for purposes of this hearing.

2 So for each of the four hotels, I put together a  
3 packet of the tables that we used to come up with our  
4 analysis in the appraisals.

5 The City may recall that when I last testified,  
6 I provided a sample of tables from unrelated properties  
7 to try to illustrate the methodology that I use -- what  
8 I use in my analysis.

9 And I -- in retrospect, I think I just created  
10 more confusion than was necessary.

11 These supplemental tables for the Renaissance  
12 are specific to this hotel. The numbers do tie to my  
13 restricted appraisal. This is what I used to come up  
14 with my conclusions.

15 If you look at the packet, you'll see that there  
16 are 11 tables. They are numbered sequentially. And you  
17 can refer to them by table number or page number, your  
18 choice.

19 On the cover sheet, I identified the case  
20 number. So if you need -- if it makes it easy to do  
21 that. As well as the tax parcel, the location ID that  
22 ABS Valuation used in their -- their mapping number,  
23 basically, and our job number.

24 Table 1 is a competitive set of hotels that were  
25 identified by the management of the Renaissance. There

1 are no hard numbers in here of occupancy or ADR, but  
2 this gives you some details about the hotels that they  
3 consider to be their primary competition.

4 Q. And why would you be looking at that?

5 A. Well, I want to understand their set.

6 In these appraisals, we accepted what the  
7 managers said were the primary competitors. But I want  
8 to understand why it is that they feel that they're  
9 competitive.

10 One line that you might -- or one column you  
11 might look at is in the center. There's a line -- for  
12 each property, there's the line showing how much meeting  
13 space they have.

14 That's very important if you are dealing with  
15 convention hotels and wondering if the hotel is going to  
16 have the capacity to bring in group business.

17 As we look down the page, the second entry is  
18 the Renaissance, the subject of this appraisal. They  
19 have 26,781 square feet of dedicated meeting space.  
20 That's a lot.

21 It is not as much as The Westin, just above  
22 them, who has 55,000. It's not nearly as much as the  
23 Hyatt Regency which has 100,000. But the management of  
24 the Renaissance did not include the Regency in their  
25 competitive set, so we don't include it on this page.

1           They are owned by the same people anyway.

2           Q.   And is meeting space one of those things that --  
3 that would fluctuate with tourism or occupancy rates?

4           A.   Well, this is physical meeting space --

5           Q.   Oh, no -- yeah. I'm saying revenue from meeting  
6 space.

7           A.   Yes. Well, yes and no. The group business is  
8 partly just -- the group statement of market demand is  
9 partly business-based and partly leisure-based.

10           If you have a casual association that meets once  
11 a year and they all get together and go out to the  
12 restaurants, but they want to have big meetings, they  
13 want to -- I'm trying to think of an example.

14           A.A. sometimes comes to -- Alcoholics Anonymous  
15 sometimes comes to Seattle. They book a whole bunch of  
16 hotel rooms.

17           That wouldn't really be considered a business  
18 group. It's more of a social group, but it's still  
19 considered in the group segment.

20           So when you refer to leisure travel, that would  
21 not really be affected by the amount of meeting space  
22 you have in the hotel, because pure leisure travel is  
23 individuals and couples and, you know, groups of one to  
24 four rooms, not large blocks that you would see in the  
25 group setting.



1           It's really -- that's really more semantics.

2           Q.   And is it your --

3           A.   If I could, I would like to call your attention  
4 to one quick column on this page.

5           But the right-hand column in Table 1. The top  
6 line for each hotel is the rack rates of that hotel.  
7 That's the range in advertised rates that's available --  
8 that's information that's available publically. Well,  
9 actually everything else on the page is available  
10 publicly.

11           And that shows the difficulty that Macaulay may  
12 have faced in trying to come up with the achieved  
13 average rate at the hotel when the range in rack rate is  
14 so wide.

15           In the case of the Renaissance, it goes from  
16 \$159 a night to \$300 a night. And if you thought that  
17 \$300 was what everybody was paying, you would be  
18 ignoring the fact that in the off season they -- they  
19 charge less. They offer at more discounts.

20           So that's -- I think it's important to  
21 distinguish the rack rates on this table from the actual  
22 achieved average room rates.

23           Q.   And just to round that out, the rack rates, how  
24 do those -- are they higher or lower than actual rates,  
25 generally?

1           A.    They could be higher.  Because the range in rack  
2 rates goes from the -- the smallest room at the worst  
3 time of the year to the best room at the most busy time  
4 of the year; busiest time of the year.  So it's a very  
5 wide range.  And the achieved average that they get will  
6 fall somewhere in the middle.

7                    But if -- it's going to depend on the hotel  
8 itself on how busy they are and how often they offer  
9 those discounted rates.  How much of their business  
10 comes in the off season versus the peak season.

11          Q.    And would reliance on the STAR Reports have  
12 revealed more accurate actual room rates as opposed to  
13 rack rates?

14          A.    Yes.

15          Q.    And is it your testimony that actual room  
16 rates -- room rate information would more reliably  
17 predict revenue for hotels than rack rates?

18          A.    Yes.

19          Q.    And is it your testimony that the only place to  
20 get actual room rate information is from hotel  
21 management or the STAR Reports?

22          A.    Well, and the STAR Reports are only available  
23 from hotel management.

24                    So I would shorten it down to only the operators  
25 of those hotels will disclose those rates.

1           The only people who know the actual room rates  
2     are -- is the management of the hotel itself and their  
3     franchisor. Because they have to report their results  
4     to the franchisor who then turns around and reports them  
5     to the STAR Report.

6           There's a -- and you can't get that information  
7     from the franchisor. They're not gonna -- they're not  
8     gonna release individual property data (indecipherable).

9           HEARING EXAMINER VANCIL: I have a  
10    clarifying question.

11           Mr. Gordon, I just want to clarify, when  
12    we're talking about the actual room rate, you've just  
13    identified that as coming from the hotel management.

14           MR. GORDON: Yes.

15           HEARING EXAMINER VANCIL: And -- but also  
16    possibly the STAR Report.

17           Now, I understood from your earlier  
18    testimony that the STAR Report was more of an averaging  
19    from a set and so you wouldn't get the actual room rate  
20    from a specific hotel. Is -- am I mistaken in that?

21           MR. GORDON: The STAR Report shows -- shows  
22    two things.

23           It shows the average rate of the individual  
24    hotel that's participating in the survey -- in this case  
25    the Renaissance -- and it shows the average for a group

1 of competitors.

2 HEARING EXAMINER VANCIL: Okay.

3 MR. GORDON: STAR does not -- would not give  
4 you the average of The Westin -- the average rate of The  
5 Westin Hotel for example.

6 But it would show -- the reason that they do  
7 that is so that the person using the STAR Report, the  
8 manager of the Renaissance, can have a side-by-side  
9 comparison of how did we do and how did everybody else  
10 do.

11 But the everybody else is always an  
12 aggregate number. They don't show three individual  
13 numbers of all of these competitors in table one; they  
14 only show the group -- the group result. The combined  
15 result. So it's better than nothing.

16 HEARING EXAMINER VANCIL: And I think that's  
17 what I was getting at, if you're looking at a STAR  
18 Report, you're either looking at -- you're either the  
19 manager of your hotel and you've either got the  
20 information yourself or you put that information in the  
21 STAR Report from yourself.

22 MR. GORDON: Correct. That's right.

23 HEARING EXAMINER VANCIL: You're not getting  
24 access via the STAR Report to any individual actual  
25 rates except what you put in there.

1 MR. GORDON: Correct.

2 HEARING EXAMINER VANCIL: Okay. Thank you.

3 MR. GORDON: That's correct.

4 BY MS. LIN:

5 Q. Can individuals other than hotel managers either  
6 purchase or gain access to STAR Reports?

7 A. Yes and no. You cannot buy an individual STAR  
8 Report that would show individual property data.

9 You can buy what STR Global refers to as a  
10 custom Trend® report, or hotel Trend® report. They  
11 allow anybody with 550 bucks to order a report that will  
12 give you a six-year monthly history of performance for a  
13 group of hotels.

14 Now, they limit the groups. You have to have at  
15 least four hotels. They can't all be the same owner.  
16 They can't all be the same brand. So there's some  
17 limitations.

18 But by and large, if you wanted to find out how  
19 the competitive market was doing for the Renaissance  
20 Hotel, you could pick a group of six or eight hotels  
21 that you felt were similar to the Renaissance, order a  
22 Trend® report and see how that group is performing  
23 monthly.

24 And if you happen to pick the same hotels that  
25 were in the competitive set as the Renaissance, you

1 would get the same numbers that show up in the STAR  
2 Report as the results of the competitors.

3 Q. And would that information in that type of STAR  
4 Report be more reliable than the rack rates?

5 A. Enormously. That -- I do that. If I don't have  
6 access to individual STAR Reports, I almost invariably  
7 order an STR Trend® report to go with it.

8 It's -- it's just so critical to -- to hotel  
9 analysis to know how the market is doing, that you  
10 really got those two sources; the STAR Reports that  
11 management can give you if they chose, or an STR report  
12 that you can purchase.

13 It's all the same -- it's all the same data.

14 Q. Turning back to Table 1.

15 Is there anything else you would like to  
16 highlight on Table 1?

17 A. It's all pretty basic. This is -- the sources  
18 are a mix of county records about square footages and --  
19 and -- and when the buildings were built.

20 The AAA tour book shows you information about  
21 what -- what amenities are in the hotel. And if they  
22 are not listed in AAA, then you just go to their website  
23 and you can read about the hotels.

24 The county will tell you how tall the hotel is;  
25 how many stories. This isn't really rocket science.

1           On the -- the column "standard and suite." I'm  
2 breaking -- I'm splitting the room count up between  
3 standard rooms and suites. And I'm using the  
4 traditional -- my generation definition of a suite which  
5 is two rooms with a door in between.

6           That word has been bastardized lately to where  
7 it's if you have a microwave oven, it's called a  
8 "suite."

9           But really these are two-room suites in here.  
10 And there aren't very many downtown, as you can see.

11          Q.    And let's turn to Table 2, then.

12           Unless you have -- do you have anything more to  
13 say about Table 1?

14          A.    Nope.  Nope.

15          Q.    Let's turn to Table 2, then.

16           Can you explain what we're looking at?

17          A.    Okay.  On Tables 2 and 3, we're looking at my  
18 summary of market conditions.

19           Table 2 is how the market actually performed  
20 based on the numbers in the STAR Report.  And here I'm  
21 combining the performance of the Renaissance and its  
22 primary competitors.

23           So taking the numbers that are in the STAR  
24 Report, which show -- which breaks them out separately  
25 as the Renaissance by itself and the competitors by

1 themselves, I've combined those and calculated the  
2 actual numbers for what we term the "competitive set."  
3 That includes the Renaissance in this case.

4 So here we have a three-year history. They were  
5 only -- we were only able to get a three-year history of  
6 their competitive set because they changed their set in  
7 2019 picking different hotels. So if I had gone back to  
8 the older years, they would have been an  
9 apples-and-oranges comparison.

10 But these -- these three years are for the same  
11 set of hotels. It's the hotels in Table 1.

12 Q. Okay.

13 A. This is -- at the top, it's how many rooms there  
14 are. Available room nights is just the number of rooms  
15 times 365. So that's for the year how many room nights  
16 are available.

17 "Occupied" is how many were rented.

18 The occupancy percentage is pretty obvious.

19 The market average room rate, market rev par and  
20 market revenue at the bottom of the page are just what  
21 they say. The revenue is the total revenue -- the  
22 aggregate revenue for all these hotels.

23 So, for example, in 2019, the set of properties  
24 on -- in Table 1 generated 200 -- almost \$226 million in  
25 room revenue. These are some big hotels.



1 Q. Can you explain what "market rev par" is?

2 A. "Rev par" is the product of the occupancy rate  
3 and the average room rate. The market room rate.

4 It also can be -- you can divide the market  
5 revenue by the available room nights and get the same  
6 number.

7 Rev par -- the easiest way to think of it is --  
8 and it stands for "revenue per available room." In case  
9 that wasn't obvious.

10 The easiest way to think of it is it's the  
11 balance between occupancy and average room rate. Most  
12 hotels can manipulate their occupancy by changing their  
13 room prices.

14 If I lower my prices, more people will come in.  
15 But if I lower my prices a lot and only a few more  
16 people came in, then that was not a good idea.

17 So hotel managers look at rev par because it  
18 allows them to say, should -- what was the impact of  
19 lowering the rates or raising the rates?

20 Was it a good idea or not?

21 Did occupancy -- is occupancy really elastic  
22 compared to room prices or is it not very elastic at  
23 all?

24 And if it's not elastic at all, you don't want  
25 to cut your rates because you won't get any benefit out

1 of it.

2 So I think currently there's a lot of hotels  
3 paying a lot of attention to rev par.

4 Q. Looking at the market room rate, which is right  
5 above market rev par, those numbers 222, 229, and 215,  
6 how do those numbers compare with the average room rate  
7 in the before condition in Macaulay's spreadsheet?

8 A. Well, this is the average room rate for the  
9 market, not for the individual property.

10 Q. Yeah, I understand that.

11 A. His rates were -- his before room rate was \$300  
12 for the Renaissance. So he was estimating that the  
13 Renaissance was doing \$85 more -- that their average  
14 rate was 85 bucks higher than what the competitive set  
15 actually achieved last year.

16 Q. And this -- this competitive set information,  
17 this is information he might have gotten had he ordered  
18 one of those compendium STAR Reports?

19 A. Yeah.

20 Q. Anything else you want to highlight about  
21 Table 2?

22 A. No. It feeds right into Table 3. If you have  
23 them side by side, all of the lines would line up  
24 together.

25 Table 3 is my forecast of what the market is

1 going to do. So Table 2 is historical. Table 3 is my  
2 forecast.

3 And this is way more complex than you probably  
4 want to get into.

5 But what I'm doing in short summary is saying  
6 what new hotels are gonna open in the market that I  
7 think are going to compete with the Renaissance.

8 What is the underlying growth rate in market  
9 demand?

10 How do I think demand is going to grow based on  
11 demographic growth and how demand is grown in the past  
12 and how much capacity there is in the market to  
13 accommodate it?

14 And also underneath the heading of "Market  
15 Demand" is a line called "Induced Demand." That's how  
16 many room nights I think that the new hotels are going  
17 to bring into this set.

18 Anytime a new hotel opens either with a new  
19 brand or in a market where there's peripheral demand,  
20 they can bring new guests in who would not otherwise  
21 have been in this market, either because they couldn't  
22 be accommodated or because they didn't want to be there.

23 In this case, we're talking about two new hotels  
24 opening. And an example would be 505 Madison. That's  
25 the F5 Tower. That's a hotel that's basically ready to

1 rent. It's in the -- it's across the street from the  
2 City admin building. It's been ready for over a year,  
3 but the owner wanted to be able to sell the building  
4 without incumbering the hotel with a management  
5 agreement or franchise agreement, so we just didn't open  
6 the hotel.

7 The building did sell and the new owners say  
8 that they will open by the summer. Whether they  
9 actually do or not remains to be seen.

10 That's 184 rooms.

11 Because of where it's located at Fifth and  
12 Madison or Columbia, it's -- it's likely to bring in  
13 people who -- whose offices are down in that general  
14 area; that southern part of the downtown.

15 People who might not now be staying at the  
16 Renaissance or the Renaissance's direct competitors, but  
17 who want to be in that area.

18 So that would be an example of a new guest who's  
19 induced into the market by virtue of a new hotel  
20 opening.

21 Q. And we talked about historic numbers. But  
22 why -- why are these projected numbers important to  
23 valuation?

24 A. Well, because the buyer of a hotel, the value of  
25 a hotel is based on what somebody will pay for it. And

1 the buyer of a hotel, as curious as they might be about  
2 how you performed last year, they really know -- want to  
3 know how you're gonna perform next year when you own it,  
4 because that's how they're gonna get their return on  
5 their purchase price.

6 Q. And let's look at the market room rate  
7 information again, which is the third line from the  
8 bottom.

9 And those are projected market room rates for  
10 2020 through 2024; is that correct?

11 A. That is correct.

12 Q. And these are based on your projections for the  
13 market based on existing hotels and potentially new  
14 hotels coming on and -- and other market information?

15 A. Right. It also looks a lot at the historical  
16 growth of -- in room rate.

17 If you look back on page 2, you'll see that room  
18 rates actually decline -- I'm sorry, Table 2. Room  
19 rates actually decline in 2019. And that happened  
20 throughout most of Downtown Seattle because of all the  
21 new supply that came on board. Everyone was competing  
22 to keep their guests and they had to offer discounts.

23 We don't think that that's a permanent  
24 condition. At least as of the date of this appraisal.

25 All of our appraisals have an effective date of

1 January 1, 2020.

2 Things have been happening since then that might  
3 have an impact on hotels. But we're not taking that  
4 into account because our value date is January 1, 2020.

5 As of that time, we thought that room rates  
6 would return to growth, to positive growth, and we groom  
7 out at 2-1/2 percent a year. That's also the rate that  
8 we -- oh, go ahead.

9 Q. Just -- actually exploring that a little bit  
10 further, you mentioned there are current factors that  
11 are influencing the market for hotel rooms right now.

12 Are you referring to COVID-19?

13 A. Yes.

14 Q. And how is that impacting the market for hotels  
15 right now?

16 A. I was at the Sheraton trying to have lunch; all  
17 their restaurants are closed and the hotel is not  
18 entirely empty, but sure felt like it.

19 All of their events have been canceled. They  
20 have no group functions. The Convention Center has had  
21 to cancel most of the events. They may have something  
22 below 250 people. But I don't know.

23 If you walk around downtown, as I did today,  
24 it's a ghost town. It's frightening. And hotels are on  
25 the frontline of that. Because if I -- if I ran office

1 space, I've rented it for five years, and I'm gonna keep  
2 paying that rent even if -- even if things go soft.

3 If I am thinking about staying in a hotel, I may  
4 think otherwise of -- just because I don't want to come  
5 to Seattle or I have the option or I can work at home or  
6 postpone a trip.

7 I don't want to get too deep into it. This is  
8 going to be the worst year that -- that hotels have seen  
9 at least since the recession.

10 Q. And so, is it safe to say that there are a lot  
11 of factors other than the waterfront LID that are gonna  
12 influence hotel revenue?

13 A. Yes.

14 Did you want to know them?

15 Q. No. No. No.

16 I have follow-up questions.

17 A. Okay.

18 Q. And the fact that these improvements, what is  
19 the impact on hotel revenue of assessing these  
20 properties right now for improvement that are not going  
21 to be in place for five years?

22 A. Well, if they have -- if they have to pay the  
23 bill immediately.

24 The benefit of the improvement is realized by  
25 the person who owns the hotel in five years. It might

1 be the same person, but it might not.

2 And if you're trying to come up with an estimate  
3 of market value before the improvements, the before  
4 situation in market value, then the improvements aren't  
5 there. There's no benefit if -- assuming that there is  
6 a benefit to them, it hasn't happened yet. And yet, the  
7 owner of the hotel may be receiving a bill for the cost.  
8 So that would reduce the current value of the hotel  
9 because it's adding a liability. The same as if you  
10 increase the property taxes.

11 Q. And, in your experience, have any hotels been  
12 able to immediately increase room rates due to the  
13 anticipated improvements?

14 A. I've never heard of that happening.

15 Q. And, in your experience, have any of the hotels  
16 experienced an increase in occupancy due to the  
17 anticipated improvements?

18 A. No. To -- to the LID improvements you are  
19 referring to --

20 Q. Correct. Correct?

21 A. -- to these improvements?

22 Q. Yeah.

23 A. My answer is no. No.

24 Q. Okay. Is there anything --

25 Actually, going back to the market room rates on



1 Table 3, those numbers, 220, 226, all the way to 243,  
2 how did those compare to the estimated room rate in  
3 Macaulay's spreadsheet for the Renaissance?

4 A. Well, again, his room rate is for the  
5 Renaissance Hotel by itself.

6 Q. Right.

7 A. But his rate of \$300 is above the rates that I  
8 think his competitive set will achieve in all of the  
9 next five years.

10 Q. Got it.

11 A. In fact, it will probably be another five years  
12 before they -- before they got up to \$300.

13 Q. Understood.

14 A. It -- I think it's helpful to tie in Tables 4  
15 and 5 at this point, if that's --

16 Q. Let's talk about Tables 4 and 5.

17 A. Okay. These two tables compare the performance  
18 of the Renaissance Hotel to the performance of the  
19 market.

20 Table 4 is historical. Table 5 is projected.

21 So they -- they sort of go hand in glove with  
22 the historical and projected Tables 2 and 3.

23 On Table 4, we show what the actual occupancy  
24 is -- actual occupancy rate of the Renaissance hotel was  
25 for the past three years and what its actual average

1 room rate was.

2 So the -- on Table 4, the second section is  
3 entitled "room occupancy."

4 And I go through all the calculations of how  
5 they -- how they ended up with this particular occupancy  
6 rate.

7 But the bottom of that section is the room  
8 occupancy rate at the Renaissance on an annual basis for  
9 the last three years: 84.3, 82.3, 86.7. So they were  
10 doing really well. And particularly in 2019, they had a  
11 really -- pretty strong occupancy.

12 Their average room rate in the next section down  
13 was 203, 210, 204. So their room rates went down in  
14 2019, as did many room rates. But their occupancy went  
15 up.

16 An economist would say that that's elasticity,  
17 evidence of elasticity. You drop the rate; you get more  
18 people.

19 We don't know -- we can never know exactly if  
20 that's why the more people came because the rates were  
21 down. But it's a pretty good correlation. It's an  
22 interesting correlation to look at.

23 The bottom section shows the room revenue that  
24 they generated. And these room revenue numbers  
25 sometimes are slightly different from what's in the

1 annual operating statements because of the way we round  
2 the analysis. Haven't been able to come up with a  
3 solution that makes them come out exactly the same every  
4 time.

5 But the bottom -- the bottom lines of Tables 4  
6 and 5 should be really, really close to the total room  
7 revenue that was generated by the hotel those years.

8 Now, Table 5, flipping the page --

9 Q. Can you ask you -- can -- I want to ask you a  
10 few questions about Table 4 before we move on to  
11 Table 5. If you don't mind?

12 A. Okay. Yep.

13 Q. So talking about -- in the second section about  
14 room occupancy, all the way down at the bottom is the  
15 subject "occupancy," and that's referring to the  
16 occupancy rate -- actual occupancy rates for the  
17 Renaissance Hotel; is that correct?

18 A. Correct.

19 Q. And those seem like they pretty much line up  
20 with the market occupancy during these times, with the  
21 exception a little bit of 2019, but only by a small  
22 2 percent degree; is that correct?

23 A. Yeah. All of these hotels in this group tend to  
24 move in the same direction.

25 Q. Right. And so -- and the market occupancy,

1 which is the second line in that section, that's  
2 information that someone could have gotten from those  
3 compendium STAR Reports?

4 A. Correct.

5 Q. And -- and the Renaissance tracking pretty  
6 closely with those?

7 A. Yes. I mean, it's not exact, but it's pretty  
8 close.

9 Q. And on the room rates, the subject "room rate,"  
10 which is the last heading under that third section, the  
11 203, 209, 204.

12 These are the actual room rates from 2017 to  
13 2019 for the Renaissance Hotel?

14 A. That's correct.

15 Q. And how did these compare with Mr. Macaulay's  
16 estimated room rates?

17 A. Well, he estimated at \$300. And these are just  
18 over \$200.

19 Q. So that's an increase of almost \$100; is that  
20 correct?

21 A. Yeah. He was about -- he was about 45 to  
22 50 percent higher than the actual.

23 Q. Okay. Let's move on to Table 5.

24 A. Okay. Table 5 looks a lot like Table 4. And,  
25 again, it's my projection, instead of actual numbers,

1 the first five columns are trended forward for each  
2 year; so that's a five-year forecast.

3 The last column on the right is for a stabilized  
4 year, which in this case is 2024, but stated in current  
5 dollars.

6 This is something we used in the analysis. It  
7 just confuses people when they look at it. But it's --  
8 it's a step in our process. It's to say, if we were  
9 stabilized today, what -- what kind of an average room  
10 rate would we be getting?

11 Q. Can you --

12 A. That's not always the same average room rate as  
13 what we expect for the current year. In this case, it  
14 actually is. It is \$209. It's the same rate.

15 But our occupancy percentage on a stabilized  
16 basis, we think 84 percent is more realistic than the 82  
17 to 87 percent that they have been doing over the last  
18 three years.

19 Q. And can you explain this concept of stable --  
20 stabilized numbers?

21 A. The easiest way to think of it is the stabilized  
22 year is the year at which we think that the market and  
23 the subject hotel are both going to be operating at a  
24 typical level.

25 Hotels go up and down all the time. There's

1 never a truly stabilized year, because next year is  
2 always going to be higher or lower than this year.

3 But once you get to a typical point, you've  
4 taken into the hotel that you know are going to open in  
5 the next few years. You're taking into account  
6 inflation. You've taken into account where we think our  
7 position will be in the market on average.

8 At that point you're in what we would call a  
9 stabilized year. That's 2024 in this case.

10 If we took all those numbers in the column  
11 marked "2024" and deflated them back to today at what we  
12 think the inflation rate will be of 2-1/2 percent,  
13 that's how you get the last column.

14 The only difference between those last two  
15 columns should be inflation.

16 Q. Okay. And let's look at the room rate, which is  
17 the third section down. And it says "subject room  
18 rate."

19 And the subject here is the Renaissance  
20 Hotel; is that correct?

21 A. Yeah.

22 Q. And it looks like the stabilized -- it looks  
23 like you projected numbers all the way out through 2024  
24 with the highest being in 2024 at \$231; is that correct?

25 A. Yes.

1 Q. And is that still below Mr. Macaulay's estimate?

2 A. Yes. It's about \$70 less than his estimate.

3 Q. And then your stabilized number is 209. You had  
4 already said that. And that is also --

5 A. Right.

6 Q. -- significantly less than Mr. Macaulay's?

7 A. Yes.

8 Q. Is there anything else you would like to  
9 highlight in Table 5?

10 A. Only that these -- there are several lines that  
11 refer to -- that use the word "index." "Occupancy  
12 index," "room rate index," and "rev par index."

13 Those indices are the ratios of how our hotel is  
14 doing versus how the market is doing.

15 So in the case of an average room rate, I'm  
16 anticipating that the Renaissance will get an average  
17 room rate that's 95 percent of the market average.

18 In the case of occupancy, I think that the --  
19 the Renaissance will match the market average 100  
20 percent index. 100 percent index means you're doing  
21 just what the market is doing. 95 percent means you're  
22 a little short. 105 percent means you're a little -- a  
23 little over.

24 Q. If you would just assume that the Renaissance  
25 was going to match the market exactly, would you have a

1 reached a number close to Mr. Macaulay's estimate?

2 A. No. I mean -- or -- I guess that I'm not sure I  
3 understand the question.

4 Q. I think you did.

5 Yeah. Would you like me to explain my question?

6 A. Well, if you want. Sure.

7 Q. Go ahead. Why don't you -- why don't you  
8 explain.

9 A. If -- if he had access to the STAR numbers -- if  
10 he purchased a STAR Report and somehow had defined which  
11 hotels were most competitive with the Renaissance and  
12 agreed with management on that decision, he would have  
13 had access to all the market numbers.

14 And if he -- if he was doing this for a number  
15 of different hotels and perhaps had purchased several  
16 STAR sets, several STR Trend® reports, he would have  
17 realized that the variation in occupancy is pretty  
18 narrow downtown.

19 And that's because the seasonality and the  
20 distribution. The hotels run half empty on Sundays  
21 throughout the year. Doesn't matter. Sunday nights are  
22 lousy. And there is a seasonality where it is high in  
23 the summer and not as high in the winter.

24 But all the hotels are running such high  
25 occupancy or have been up until -- up until this year



1 that there's just not a lot of room to move up. And  
2 there's no reason to move down because there's a lot of  
3 people that want to stay there. So most of the hotels  
4 end up getting an occupancy index that's pretty close to  
5 100 percent.

6 If you study the market thoroughly enough  
7 that -- that fact becomes self-evident, that there isn't  
8 a whole lot of variation in occupancy.

9 And, in fact, in his forecast, for all the  
10 hotels that I looked at in every case except one, he  
11 projected occupancy at 80 percent. And that's not a  
12 terrible number. It was a little bit less aggressive  
13 than what I projected for most of these hotels. There  
14 was one property projected at 75 percent for no apparent  
15 reason. But the -- but occupancy is really not going  
16 vary that much.

17 So a hundred percent occupancy index isn't  
18 unreasonable. It's much more important to look at the  
19 average room rate. And the index that the hotel is --  
20 where is the average room rate of the hotel compared to  
21 the market? How is that likely to change in the future?  
22 Is it likely to change?

23 If you walk in and just assume in the dark that  
24 our hotel is gonna do 50 percent higher than the market  
25 average, you're gonna come up with an odd result.

1 Q. Right. And so you testified that he --  
2 occupancy isn't going to vary very much due to these  
3 factors in the Seattle market, but the room rate index  
4 is quite important to look at here.

5 And for the Renaissance, it looks like it's  
6 projected to be around 95 percent of market across the  
7 board.

8 And I guess my question was if you had just  
9 assumed that -- that the Renaissance was gonna perform  
10 exactly at market, so exactly at 100 percent, would you  
11 have reached an estimate close to what Mr. Macaulay  
12 reached?

13 A. No. It would still be lower than his estimate.  
14 It would be slightly higher than what I have here.

15 Q. Okay. Anything else you would like to say about  
16 Table 5?

17 A. Nope.

18 Q. Let's flip to Table 6. And --

19 A. Table 6 is the historic -- shows the historical  
20 operating performance of the Renaissance Hotel. It  
21 showed two years on this table. We actually had access  
22 to three years for most of these properties, but two --  
23 if you put three years on, it is fairly legible. So I  
24 put two years on.

25 We did not have access to the 2019 results,

1 because this was being done in January before they  
2 actually had 2019 results.

3 The only thing I'd point out on this table is  
4 the breakdown of revenue and expenses is -- lines up  
5 with the uniform system of accounts for hotels, and it  
6 shows how the different line items are normally  
7 segregated.

8 In Macaulay's analysis, he combined several of  
9 these line items, which makes it a little bit more  
10 difficult -- it is more difficult to follow his train of  
11 thought.

12 Q. Based on his combination, do you think that he  
13 included everything he needed to include?

14 A. Yes, it appears so. That he included all the  
15 necessary expenses.

16 Q. And this -- this analysis is informing your  
17 ultimate -- your ultimate restricted appraisal which  
18 gives a pre-LID valuation; is that correct?

19 A. Right. If you turn to pages 7 and 8 -- I'm  
20 sorry, Table 7 and Table 8, that's showing my estimate  
21 of performance in a future stabilized year stated in  
22 current dollars, again deflating back from a future  
23 stable year.

24 And on Table 8, I'm showing the five-year  
25 forecast.

1           And all of this flows out of the -- the forecast  
2 of occupancy and room rate. Room revenue is what -- is  
3 what triggers all of the other revenue and expense line  
4 items. Everything -- everything hinges on the room  
5 revenue forecast.

6           Q.    Okay.

7           A.    I know we're close on time. I would like to at  
8 least explain tables -- the last three tables.

9           Q.    I actually have a couple questions about  
10 Tables 7 and 8.

11          A.    Okay.

12          Q.    We have about three minutes, so I'll just finish  
13 some questions on Tables 7 and 8.

14                   HEARING EXAMINER VANCIL: Sure. Yeah, just  
15 go until 4:30.

16                   And then there will be an opportunity -- you  
17 will have the opportunity, Mr. Gordon, to finish your  
18 testimony on another day.

19                   MR. GORDON: Okay.

20 BY MS. LIN:

21          Q.    So looking at Table 7, you testified that --  
22 that everything sort of hinges off of the room revenue;  
23 is that right?

24          A.    Yeah. Everything is dependent on the room  
25 revenue and the room occupancy.

1 Q. Okay. So we're looking at the stabilized room  
2 revenue on Table 7, and that figure says it's about  
3 35,770,000?

4 A. That's correct.

5 Q. And how does that compare with the room revenue  
6 from Mr. Macaulay's before -- before analysis?

7 A. He estimated that the room revenue for the  
8 Renaissance Hotel before the LID improvement at  
9 \$48.8 million.

10 Q. So it's more than 10 million --

11 A. So he's -- he's \$13 million higher than I was.

12 Q. And would this 13 million difference have  
13 affected his other estimates?

14 A. It would have affected some. There are certain  
15 expenses that are tied to the volume of revenue:  
16 management fees, the capital replacement allowance,  
17 franchise fees, and although he doesn't mention it in  
18 his report, credit card commission. Those are all  
19 percentages of revenue.

20 So if the revenue goes up, those expenses go up.  
21 But together they only amount -- they amount to less  
22 than 20 percent of the total. So overstating the  
23 revenue will -- will also overstate the net operating  
24 income.

25 Q. And the net operating income is what ends up

1 being divided by the cap rate to come up with a value;  
2 is that right?

3 A. That's -- that's one method. That's the method  
4 he used, yes.

5 I used that method as well. But I also used the  
6 second method as a check.

7 HEARING EXAMINER VANCIL: Why don't we stop  
8 there. That's a good time. Just about 4:30.

9 Thank you, Mr. Gordon.

10 I'm not sure he heard me.

11 MS. LIN: Mr. Gordon, I think we're done  
12 with you now and we're going to switch over to Peter and  
13 Vic.

14 MR. GORDON: Okay. So I am -- I will hang  
15 up.

16 MS. LIN: Okay. Thank you so much.

17 HEARING EXAMINER VANCIL: Thank you.

18 MR. GORDON: Thank you, all.

19 MS. LIN: Is Peter on? Do we know? I think  
20 that might be him.

21 HEARING EXAMINER VANCIL: Yes, it looks like  
22 we have everybody.

23 MR. SHORETT: Hello.

24 HEARING EXAMINER VANCIL: Mr. Shorett, you  
25 are back.

1           Mr. Shorett, you remain under oath or  
2 affirmation from earlier.

3           Mr. Moses, I just want to confirm how it is  
4 you intend to proceed with your witness. You have two  
5 options. You may proceed with having your witness  
6 simply make a statement, in which case you do not ask  
7 the witness questions; or you may introduce his  
8 testimony by asking questions.

9           Just as a cautionary note; if you choose to  
10 proceed with a question-answer format, you're  
11 essentially -- there's no exception for pro ses in this  
12 forum. "Pro se" meaning individuals who are not  
13 attorneys. And so you're going to have to play by the  
14 same rules as an attorney would.

15           You're welcome to take advantage of  
16 whichever option you would like, but I just want to give  
17 a fair warning of the rules.

18           MR. MOSES: We're going to take the simple  
19 route here. I think Peter is prepared just to make a  
20 statement.

21           The only thing I would like to say  
22 beforehand is that in order to save time, I would like  
23 to incorporate his previous testimony from today and  
24 yesterday, I guess, into my objections so we don't have  
25 to repeat any of that.

1 HEARING EXAMINER VANCIL: Certainly. Not  
2 necessary -- no need to do that. We're sort of going  
3 reverse format for you, actually. This will be  
4 incorporated into what you've already presented.

5 MR. MOSES: Perfect.

6 And then Peter will only be speaking to kind  
7 of the last part of his paper and to the --  
8 (indecipherable) of information. And I'll turn it over  
9 to Peter.

10 THE COURT: Thank you.

11 MR. SHORETT: All right. Hello, again.

12 So I'm reading from a statement, I assume  
13 that's okay. Acceptable to read from a document.

14 HEARING EXAMINER VANCIL: Let's pause,  
15 though. I don't know what exhibit number that is. And  
16 I don't know if you do either.

17 Can you help us figure that out, Galen?

18 MR. SHORETT: It's not an exhibit. It's  
19 basically --

20 HEARING EXAMINER VANCIL: This has not been  
21 introduced yet?

22 MR. SHORETT: It is basically -- I'm sorry,  
23 I think Mr. Moses, you gave him the option of having me  
24 read a statement.

25 HEARING EXAMINER VANCIL: That's correct.



1 MR. SHORETT: And so that's what I'm  
2 reading.

3 HEARING EXAMINER VANCIL: All right. So  
4 you're not referring to any report that's been  
5 introduced in the record yet?

6 MR. SHORETT: The only report I'm referring  
7 to that's been introduced into the record is Exhibit 2  
8 of the appraisal review I prepared for Mr. Moses, who I  
9 believe submitted that as evidence --

10 THE COURT: Right. And that's what I was  
11 asking to get the exhibit number for, because it's not  
12 Exhibit No. 2. That's your exhibit number. We have a  
13 record number here that I need to identify. If you are  
14 going to refer to that, just so that we have a clear  
15 record.

16 MR. SHORETT: Unfortunately, I wasn't there,  
17 so I'm going to have --

18 HEARING EXAMINER VANCIL: I'm not asking you  
19 to. We're going --

20 MR. MOSES: Is it -- is this exhibit -- it's  
21 Exhibit 4.

22 HEARING EXAMINER VANCIL: Okay. So you do  
23 know that is your -- all right. Thank you.

24 Go ahead, Mr. Shorett.

25 MR. SHORETT: All right. Thank you. For

1 reference, I'm referring to what is identified as  
2 Exhibit 2 to the appraiser review that I prepared for  
3 Mr. Moses.

4 And I -- in addition to what's written there  
5 in Exhibit 2, I had some conversations, direct phone  
6 conversations with Mr. Moses.

7 I reviewed his work on the Crompton model,  
8 and his -- and his application of it in determining an  
9 appropriate special benefit to the 1521 condominium unit  
10 with regard to the waterfront LID, if one were to assume  
11 that is the correct approach to use.

12 I reviewed the e-mail correspondence that he  
13 had with John Crompton, primarily to see confirmation of  
14 the 500-foot standard and essentially the other metrics  
15 that he employed in his analysis.

16 That was established, and the accuracy of  
17 the original calculation is apparent in the graphs he  
18 generated. And you've seen my graphs on that as well.

19 But in his graphs, we both used the 500-foot  
20 measurement that matches the premium for proximity to  
21 the park and to capture 75 percent of the benefit with  
22 25 percent for a balance of the remaining 1,500 feet.

23 I reviewed Mr. Moses' calculation analysis  
24 of the relativity of the over -- Overlook Walk in  
25 setting the distance to the 1521 condominium project at

1 1,000 feet or about three city blocks.

2           And Mr. Moses made an adjustment to the  
3 percentage of benefit received from the 5 percent stated  
4 in the ABS report to 2-1/2 percent, to reflect the  
5 immaturity of the landscaping, which is an allowed  
6 variable in the Crompton analysis. Essentially  
7 recognizing that it will take many years for the trees  
8 to mature to the level implied in the Crompton analysis  
9 of more mature parks.

10           He talked about the impact of the Pike/Pine  
11 street changes, which I've already testified that I  
12 agree that there are more of a beautification project  
13 and, in some instances, a detriment because of the lost  
14 parking, lost access, increase pedestrian flow. That's  
15 gonna concur with his analysis on the special benefit  
16 being .34 percent. That's the percentage that's used at  
17 the end of the appraisal review that I provided for him  
18 under the assumption that one accepts Crompton as an  
19 appropriate method for determining the special benefit.

20           And that's all I have.

21           HEARING EXAMINER VANCIL: Okay. Thank you.

22           Cross?

23                                   CROSS-EXAMINATION

24           BY MS. THOMPSON:

25           Q. Hello, again, Mr. Shorett.

1           You mentioned that you were reading from a  
2 statement.

3           Who prepared that statement?

4           A.    Mr. Moses provided a draft, and I made  
5 substantial edits to them.

6           Q.    And when did he provide you with that draft?

7           A.    It was yesterday.

8           MS. THOMPSON: No further questions.

9           HEARING EXAMINER VANCIL: Thank you.

10          MR. SHORETT: All right. We're done?  
11 Thank you very much.

12          HEARING EXAMINER VANCIL: All right. We  
13 have Exhibit 65 from Perkins Coie with Mr. Gordon's  
14 testimony. It's not been admitted yet.

15          Any objection to 65?

16          MS. THOMPSON: No objection.

17          HEARING EXAMINER VANCIL: Everything has  
18 been admitted.

19          How are we proceeding, then, for your cases?  
20 We're done for the day?

21          MS. LIN: We are.

22          HEARING EXAMINER VANCIL: All right. I  
23 guess we're done with Mr. Gordon. We could throw him on  
24 for another 20 minutes, but that's fine.

25          At this time, we're anticipating reconvening

1 on April 2nd at 9:00 a.m.

2 We're anticipating -- we'll be making  
3 efforts to have counsel and witnesses remote.

4 So far, the remote works relatively well for  
5 witnesses. So we'll try to work our way through that.

6 We'll be in touch about that through  
7 Mr. Edlund-Cho. We have a couple other hearings before  
8 that to test that to see if it works and how it goes.

9 We'll also be asking that exhibits be  
10 submitted electronically in advance so that I can access  
11 them here or they can be printed out and I can have  
12 physical copies here.

13 So I'm afraid it is a little extra  
14 complications for counsel. But hopefully it also helps  
15 preserve our health. At least if not ours, others.

16 All right. With that, we'll go off the  
17 record.

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C E R T I F I C A T E

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 12, 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 3rd day of April, 2020.

*Crystal McAuliffe*



CRYSTAL R. McAULIFFE, RPR, CCR #2121