BEFORE THE HEARING EXAMINER OF THE CITY OF SEATTLE

In re Proposed Final Assessment Roll for Local Improvement District No. 6751 ("Waterfront LID")	Case Nos. CWF-0318, et al.
Parcel Nos: 6094670010; 6094670020; 6094670030; 6094680050; 0660000740; 0660000708; 2285130010; 6792120010; 6195000030; 0942000430; 6792120020; 7683890010; 1976200070; 1976200075; 1976200076; 7666202465; 7666202345; 1975700365; 0696000015; 1974700175; 1117080020; 1975700235; 0696000055; 0660000540; 0660000545; 066000-0575; 2538831460; 2438831480; 0939000240; 1974600025; 1974600035	

PORTIONS OF THIS TRANSCRIPT DESIGNATED CONFIDENTIAL

(Page 123-168, Page 206-22)

DEPOSITION UPON ORAL EXAMINATION OF

ROBERT J. MACAULAY, MAI

10:04 a.m.; February 27, 2020

10885 NW Fourth Street

Bellevue, Washington

REPORTED BY: Margaret Walkky, CCR, RPR, RMR, CRR

Court Reporter, License No. 2540

1 A P P E A R A N C E S

2

3 FOR CWF 0318, 0410, 0411, 0412, 0413, 0414, 0415,
4 0416, 0417, 0418, 0420, 0421, 0422, 0423, 0425, 0426,
5 0427, 0429, 0430, 0431, 0432, 0433, 0434, 0435, 0436,
6 0437, 0438, 0439, 0440, 0441:
7 R. GERARD LUTZ
8 MEGAN LIN
9 Perkins Coie
10 10885 NE 4th, Ste 700
11 Bellevue, Washington 98004
12 425-635-1432
13 jlutz@perkinscoie.com
14 mlin@perkinscoie.com
15
16 FOR CWF 336, 337, 339, 340, 342:
17 MOLLY A. TERWILLIGER
18 Yarmuth
19 1420 Fifth Ave, Ste 1400
20 Seattle, Washington 98101
21 206-516-3800
22 mterwilliger@yarmuth.com
23
24
25

1 A P P E A R A N C E S

2

3 FOR City of Seattle and witness:

4 MARK S. FILIPINI

5 K&L Gates

6 925 Fourth Ave, Ste 2900

7 Seattle, Washington 98104

8 206-623-7580

9 mark.filipini@klgates.com

10

11 FOR Hotel Monaco (133), Hotel Vintage (134), Thompson

12 Hotel and Sequel Apartments (168), Hotel Vintage

13 (134), 818 Stewart (218), Westlake Center (135), 1918

14 8th Avenue (219), Edgewater Hotel (136), 1800 9th

15 Avenue (220), Pioneer Square Hotel (333), Hilton

16 Hotel (353):

17 TODD REUTER (By phone)

18 Foster Garvey

19 618 West Riverside Ave, Ste 300

20 Spokane, Washington 99201

21 509-777-1604

22 todd.reuter@foster.com

23

24 ALSO PRESENT: Victor Moses, CWF 0375

25 Gene Burrus (By phone)

I N D E X

EXAMINATION		PAGE
By Mr. Lutz	5, 20, 43, 85, 153, 164,	240
By Ms. Lin	42, 73, 112, 142, 157,	169
By Ms. Terwilliger	37,	183
By Mr. Reuter	39, 80,	197
By Mr. Moses	15, 74, 142, 180,	230

EXHIBIT	DESCRIPTION	PAGE
1	Waterfront Seattle Project, Summary of Final Special Benefit/Proportionate Assessment Study, Macaulay, 11-18-19	5
2	Bob's list of mitigation ideas, 11-12-16	98
3	Email to Pearce and others from Curtis, 8-22-18	99
4	Spreadsheet, LID-funded element	106
5	PowerPoint: Beyond Real Estate Increment: The Value of the Central Seattle Waterfront, February 2019	132
6	RCW 35.43.050	236

1 ROBERT J. MACAULAY, MAI, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:
5
6 (Exhibit-1 marked.)
7
8 E X A M I N A T I O N
9 BY MR. LUTZ:
10 Q. Mr. Macaulay, my name is Jerry Lutz.
11 I'm representing a number of -- at Perkins
12 representing a number of the LID assessment
13 appellants.
14 Could you identify the document that's
15 in front of you?
16 A. Yes. This the Summary of the Final
17 Special Benefits/Proportionate Assessment Study we
18 did.
19 Q. Okay. I think the last time I met you
20 was in connection with the proposed Northeast 4th
21 Bellevue LID extension which failed.
22 A. Uh-huh.
23 Q. How many LIDs have you worked on over
24 the course of your career?
25 A. Over a hundred.

Q. Over a hundred, okay. How many of them have been finalized and collected and the improvements built?

A. Maybe half. I mean, a lot of them are, they start out as feasibility studies like the Northeast 4th, and they find different funding mechanisms so they don't end up going all the way through. It could be half, 75 percent, a good percentage.

Q. How many have involved local improvement districts to fund park improvements?

A. We've done a couple. We did one for the City of Vancouver relative to a park improvements on the Columbia River and we did another one that had some park amenities for Point Ruston in Tacoma.

Q. Do you remember in those how many properties were assessed?

A. Well, Point Ruston was one entity that owned the whole property and they did of number of LIDs comprising that entity, mixed use development. The --

Q. Before you move past that, so it was one owner, but they were doing an LID assessment that would then somehow bind future owners when they split the property up? I didn't understand exactly how you

1 explained that.
2 A. I don't know how they ultimately split
3 up the assessments, but there was one property owner
4 at the time we did it and I assume that he would
5 subdivide and redevelop the property.
6 Q. So that was an LID for one owner?
7 A. Correct.
8 Q. And then what about Vancouver? You
9 started to answer that and I interrupted you.
10 A. I don't recall the exact number.
11 Probably 15, 20 different ownerships. There was a
12 large development group that owned a large percentage
13 of the property.
14 Q. Have you ever done an LID that involved
15 this many parcels?
16 A. Yes.
17 Q. And what was that?
18 A. We've done the City of Ocean Shores a
19 couple of times, it had about 10,000 parcels. We did
20 a study for the City of Bellevue that involved the
21 whole downtown area from city hall to Lincoln Center,
22 so we included all the hotels and property downtown.
23 MS. LIN: I'm sorry, can I interrupt?
24 I forgot to open the line for Todd. Do you mind if I
25 open the line?

MR. FILIPINI: Yeah, sure.
MR. LUTZ: One more.
(Discussion off the record.)
MR. LUTZ: Todd, can introduce yourself to the court reporter? We can be off the record for this part, I guess.
MR. REUTER: Todd Reuter, Foster Garvey for Hotel Monaco, the Hotel Vintage, the Thompson Hotel, Hilton Hotel, the Edgewater Hotel.
MR. LUTZ: And before we move past that, Todd, you might want to send Margaret your case numbers via email.
(Discussion off the record.)
MR. LUTZ: Back on the record.
Q. So we were talking about the Bellevue LID and the Ocean Shores LID. So the Bellevue LID you said was the entire downtown?
A. Yes, pretty much the entire CBD, yes.
Q. Did you do that with Bruce Allen?
A. No, no.
Q. Okay.
A. This was a study we did. It was around the time we did the Northeast 4th project.
Q. And there was an LID formed out of that?

A. No, it was a feasibility study looking at options for the light rail system.

Q. I see. You talked about Ocean Shores with 10,000 parcels?

A. Correct.

Q. What was that improvement?

A. We've done two LIDs for the City of Ocean Shores. One was for a wastewater improvement system that involved the whole city and the second one was for a road improvement project that involved the whole city.

Q. So were those LIDs or were they service fees?

A. They were LIDs.

Q. Okay. When you do an LID for the entire city, do you make any distinction between general and special benefits in your feasibility study?

A. A general benefit is by definition general and it's not measurable in the marketplace. It can extend for a long area, and so typically our scope of services is just to do a special benefits study, which is a measurable difference in market value, just in -- estimated market value of properties that are specially benefited have a

1 measurable difference in value, versus a general
2 benefit, which is just general benefit is the benefit
3 that benefits the public at large.
4 Q. Well, okay, but I mean, when you say
5 you're doing the entire City of Ocean Shores, your
6 analysis is -- well, tell me if I'm wrong, your
7 analysis is the before the water improvement and
8 after the wastewater improvement, the value of every
9 property in the city?
10 A. It's the market value difference before
11 and after. In that particular LID, it's the market
12 value difference before and after sewer service is
13 available to the property. Prior to that, they were
14 on septic systems.
15 Q. That's the entire city?
16 A. I think a couple of the -- well, I
17 think some of the commercial property in that
18 instance may have had an existing system and I can't
19 recall if they were -- some of them were included and
20 some of them weren't. So there may have been a few
21 commercial properties that weren't included in that
22 project.
23 Q. But the idea, your construct of it is
24 that anybody who gets the new sewer system has a
25 special benefit?

1 A. If the market dictates it, yes.
2 Q. So how did you in Ocean Shores assess
3 whether the market dictated 10,000 parcels were
4 getting a special benefit from wastewater?
5 A. As much as possible you look at
6 properties that have similarities in the before
7 condition and properties that have similarities in
8 the after condition.
9 Q. So you paired sales essentially?
10 A. As much as possible, yes.
11 Q. So where were you looking for
12 properties that had sewer service in Ocean Shores in
13 the before?
14 A. Well, there really weren't any. One of
15 the main factors was the fact they were on septics.
16 And there was a lot of risk and costs associated with
17 having a septic system, so in that case that was a
18 consideration.
19 Q. So where did you look for the market
20 data on the benefit that's derived from the sewer
21 system for those people?
22 A. Well, in the before condition, there
23 was some outlying areas that didn't have sewer that
24 we looked at, and you'd have to go into Aberdeen,
25 Hoquiam to find properties that had sewer. It's a

1 different market area. Ocean Shores, as you know, is
2 pretty isolated, so we based our analysis on the best
3 available market information that was available.
4 One would be looking at sales. Other
5 would be looking at more or less kind of a cost to
6 cure basis, because if they were on septic systems, a
7 lot of them were failing, they would have to do mound
8 systems. It was very costly versus the benefit of
9 having sewer. Also some properties could subdivide
10 and create greater economic value with sewer than
11 with the septic.
12 Q. When you did your analysis, was the
13 sewer system already in place and you were
14 back-assessing or was the sewer system still to be
15 built?
16 A. I don't recall. I think there might
17 have been a smaller system that was servicing some of
18 the commercial property. This would have been a big
19 expansion of it to encompass the whole rest of the
20 city. I would have to go back and check on that.
21 Q. Yeah, I mean, the reason I ask the
22 question was, I interpreted your earlier answer that
23 you had areas within Ocean Shores that had sewer in
24 place and you were using that to inform your --
25 A. Yeah, they may have. I would have to

1 go back. That was a number of years ago. I would
2 have to go back and look at the file and see if some
3 of the commercial properties were excluded and what
4 the conditions were. It was a long time ago.
5 Q. So tell us about your work on the
6 Seattle waterfront LID. When did you start?
7 A. What do you want to know?
8 Q. When did you start?
9 A. Originally probably back in 2012 or
10 2013, we were hired on a consultation basis with the
11 legal department. And then around 2015, we were
12 hired to do a feasibility study. And then 2017, '18,
13 we were hired to do a formation study. And then in
14 2019, we were hired to do a final special benefits
15 study.
16 MR. LUTZ: So just as a question, Mark,
17 is the 2012 consultation with legal privileged or is
18 that producible?
19 MR. FILIPINI: It is. It is
20 privileged. I think, you could correct me if I'm
21 wrong, but I think it just resulted in Bob looking at
22 someone else's work and then advising the city
23 attorney's office on it. But I'm okay if you ask
24 questions about it.
25 I guess if it goes into a privilege

1 area, you don't know this, but I had a chance to talk
2 to the city attorney's office about this after we
3 spoke about it, I think I'm going to be pretty
4 liberal in allowing you to ask questions about it.
5 MR. LUTZ: Okay.
6 MR. BURRUS: This is Gene Burrus.
7 MR. LUTZ: We can go off the record for
8 a second.
9 MR. BURRUS: My apologies for joining
10 late. My name is Gene Burrus.
11 (Discussion off the record.)
12 MR. LUTZ: Back on the record.
13 Q. When you were doing the initial
14 engagement, so you were reviewing primarily Bates
15 McKee's earlier work?
16 MR. FILIPINI: Yes, that's right.
17 A. Yes.
18 Q. Did you discuss in that consultation
19 what the benefited area would look like?
20 A. I was reviewing the work that he had
21 done and he had a defined boundary area.
22 Q. Did you have any initial discussion of
23 whether it was too small, too big or --
24 A. No, it's my recollection for the most
25 part, it was pretty reasonable given the scope of the

assignment.

Q. So I don't think I have anything else on that.

MR. MOSES: I have a couple of quick questions, I think.

MR. LUTZ: Do you mind if we jump a little out of order, Mark?

MR. FILIPINI: No, that's fine.

E X A M I N A T I O N

BY MR. MOSES:

Q. City of Vancouver and Point Ruston, those were done by petition I assume?

A. No, they were formed by resolution.

Q. By resolution, okay, one owner?

A. It was an unusual situation. There was one developer and part of the project was the City of Ruston and part of if was the City of Tacoma, so it was unique.

Q. Then Ocean Shores in Tacoma, those were resolution?

A. Correct.

Q. And which were those, did any of those four go forward?

A. Both of the Ocean Shores ones did, yes.

Q. Tacoma?
A. Tacoma did as well.
Q. Okay. I'll get these out of the way then so I don't have to interrupt again.
Have you ever done a local improvement district specifically for a park?
A. As I mentioned, the Vancouver.
Q. Was a park, period?
A. Yeah, yes.
Q. What about a street beautification project?
A. We've done one for the City of Puyallup. We did a feasibility study for the City of Arlington a long time ago.
Q. Have you had any formal training in the situation of public green spaces?
A. By that you mean? If you could elaborate on that question.
Q. Street beautification, common area.
A. Well, as part of my work, I've appraised hundreds of LID projects that have all sorts of different elements. Some very few are necessarily just street beautifications, those are the two I can think of. A lot of the projects have elements of street beautification. A number of them

I've done have those type of elements, but they also have other elements such as utilities or road infrastructure improvement or a lot of different elements.

Q. So experience but no formal training?

A. I don't know if you could call 30 years of doing LIDs that have the vast amount of variety not training.

Q. No, there's experience and there's training. I'm just asking if there was like any other kind of formal type of training you've taken.

A. Well, I've taken a number of appraisal classes dealing with a broad spectrum of issues over the 30 years of my appraisal training.

Q. Have you consulted with any experts on the valuation of public green spaces, in particular the ones in the Seattle area, the waterfront LID?

A. We hired a hotel consultant, Mark Lukens of LW Hospitality Advisors, regarding the hotel market. I don't know of any people that specialize in green space valuation. Obviously, like the HR&A study we reviewed that was done and things of that nature that were available to us.

Q. Did you review any research papers on public green space in preparation for this?

1 A. Yes. If you read the report, there's a
2 number of studies that we reviewed.
3 Q. Well, you cited the H&R study and you
4 cited John Crompton and then NYC did a study. Were
5 there any other studies outside of those?
6 A. If you read the report, there was
7 Boston, Chicago, New York, Portland, San Francisco.
8 Q. No specific cites there, kind of
9 anecdotal information.
10 A. Well, a lot of those studies had
11 specific controls where they looked at market sales
12 and did comparisons of the market.
13 Q. Are you planning on introducing or
14 using any of that in your testimony for the city?
15 A. If I'm asked, I'll answer the question.
16 Q. Is that information proprietary?
17 A. No. It's in the report, if you read
18 the report.
19 Q. What's in the report are some
20 summaries. I'm asking for the actual report.
21 A. That would be what we've provided
22 already in discovery.
23 Q. I'm not aware of the provision of any
24 of those reports, so if they're there, I apologize
25 for taking people's time, but if somebody could point

them out.

MR. FILIPINI: Yeah, I mean, we'll have to talk about it. You've got the report and the addenda. I'm not sure. I guess, are you looking, Vic, for the underlying source documents?

MR. MOSES: Yeah, I'm looking for the actual empirical evidence that shows these benefits exist. I've got a summary in his report, but I don't have anything hard that I can actually look at that says oh, yeah, it makes sense and it's applicable. So we can work that out afterwards.

MR. FILIPINI: We can work that out.

MR. MOSES: That was the first kind of information I was asking for in my discovery request, which is give me all the stuff and let me read it.

Q. Do you consider yourself as an expert on parks and green space?

A. I consider myself an expert in special benefit studies that deal with the broad spectrum of properties, that green spaces would be one of them.

MR. MOSES: I'm sorry if I talked over you here and it made it hard for her to hear, I apologize. That's the end of my questions for this.

1 E X A M I N A T I O N
2 BY MR. LUTZ:
3 Q. So let's go back to your initial
4 consultation with the city attorney's office. I'm
5 just interested in this idea of general versus
6 special benefit and the definition of the specially
7 benefited area. Did you have discussions then about
8 how to define, how to define the specially benefited
9 area and who would have that job?
10 A. Not that I recall. The main scope of
11 that assignment was reviewing the report that McKee
12 had done and the element of the boundary was one that
13 I looked at, and there were other, many other aspects
14 of the report that I looked at and consulted with the
15 city on.
16 Q. Okay. Well, so then in 2017, you did a
17 feasibility study for the city?
18 A. Correct.
19 Q. When you're doing the feasibility
20 study, what are the components of the feasibility
21 study that you're responsible for?
22 A. Well, the components of the feasibility
23 study I'm responsible for were, as I recall at that
24 time would be looking at various potential LID
25 boundary areas, and then on a more high level basis

1 breaking the properties into classifications and
2 providing a special benefit range before and after
3 the LID project elements.
4 Q. So when you are looking at the LID
5 boundary at that point, what are you doing in the
6 feasibility study to identify the -- well, does the
7 boundary -- is the boundary the limit of special
8 benefit?
9 A. Yes.
10 Q. And how do you determine that limit?
11 A. Largely by judgment. As you move
12 further and further out from the main elements that
13 affect the market value of the property, you get to a
14 point to where it's just not measurable in the
15 marketplace anymore and that's where special benefit
16 stops. The whole LID area is generally benefited and
17 the general benefit is just simply not measurable in
18 the marketplace. So it's to the point where you can
19 stop measuring the market value difference, and then
20 outside of that is just purely general benefit.
21 Q. Well, okay, and just explain to me how
22 you're doing a before and after assessment that
23 includes a general benefit.
24 A. Well, by definition, a general benefit
25 is not definable. It's not measurable. It's not a

1 monetary value that can be recognized in the
2 marketplace.
3 So the general benefit in the case of
4 the subject LID would extend from the LID out maybe
5 to North Seattle, maybe beyond, maybe to South
6 Seattle, maybe beyond, Capitol Hill, maybe beyond. I
7 doubt it goes as far as Renton, but it's just an
8 undefinable area that would be generally benefited by
9 this project.
10 Specially benefited is what's
11 measurable in the marketplace where you can discern a
12 market value difference in the before and after
13 values that the market would pay for a property.
14 Q. And when you say you're going to
15 discern a difference, how do you discern that
16 difference?
17 A. In this case, we relied on the best
18 available information we could find in the
19 marketplace to see if there were measures out there
20 in the market that we could look at that reflects
21 market value differences that we could compare to the
22 subject property, the subject project.
23 Q. So those are not Seattle?
24 A. Correct.
25 Q. So tell me about that. You're at the

1 feasibility stage. You're trying to develop a
2 methodology to identify an area that you would
3 anticipate would be -- would receive a market value
4 increase as a result of street beautification, park
5 and connectivity improvements. So can you describe
6 what you did at that point to develop that framework?
7 MR. FILIPINI: I object to form.
8 If you can answer, go ahead.
9 A. I disagree with your description of the
10 project, but we took all of the elements that are
11 discussed in the report, the overlook walk, the
12 promenade, the Waterfront Park, the Pike and Pine
13 corridor, and the Pike Place Market area, and looked
14 at that as one entity, and then looked at market
15 evidence from other cities where similar projects
16 have been -- had been done, and made comparisons.
17 If those projects wouldn't have
18 reflected any change in the market or had any
19 influence on market value, we wouldn't be here. We
20 would have indicated well, there's no special
21 benefit. Every project we looked at had some
22 elements of the subject project and all of them
23 reflected positive market values because of those
24 projects.
25 Q. And were the studies you were looking

at in those other areas based on comparable sales or were they all professional judgment analysis?

A. They were a mix of empirical data, controlled sales studies, discussions with, you know, brokers and investors in those areas, review of comparable sales, as much as possible, things of that nature.

Q. Well, I mean, I would just ask. Was it primarily professional judgment, or were there empirical data that were important to your analysis of the proposed special benefit area for this project?

A. We looked at a broad --

MR. FILIPINI: Object to form.

Go ahead.

A. We looked at a broad spectrum, as I said, of different studies that were done and ultimately made a judgment call as to where the special benefit got to a point where it just wasn't measurable in the marketplace anymore.

Q. When you say "measurable in the marketplace," it's not measurable in the Seattle marketplace, it's measurable by reference to other --

A. No, it would not be measurable in the Seattle marketplace. I'm sorry. That it would be --

1 let me rephrase that.
2 We used the studies as an outline to
3 form our opinion as to whether or not these
4 improvements that were being done that I discussed
5 would have any market influence, positive market
6 influence, and we found that they do. So they were
7 used as background influence to form an opinion as to
8 how far that measurable market value difference would
9 occur.
10 Q. Okay and --
11 A. In the Seattle market also, I'm sorry.
12 Q. In the Seattle market, via proximity to
13 the different components of the Seattle waterfront
14 project?
15 A. As was defined in the feasibility
16 study, yes.
17 Q. Right. So what was your definition of
18 too small to measure?
19 A. A lot of times when you're doing
20 boundary issues, you're looking at geographic area,
21 change in neighborhoods and things of that nature.
22 And as you got out to a point of, you know, less than
23 a quarter of a percent, 10 percent, that area, it
24 just was so small, and when you hit certain areas
25 like Denny Way you go into a different market, I-5

you go into a different market area, the International District you go into a different market area. So boundaries like that were considered as well.

Q. Is that generally what drove your analysis of the outlying extent of these potential benefits was neighborhoods or other infrastructure?

A. Our interpretation of the market and the geographic nature of how the area is defined.

Q. How was the -- well, let's see. So describe how the LID boundary changed over the course of -- your recommended LID boundary changed over the course of your work.

A. I don't recall specifically there. I think at one point during the feasibility study we may have had the International District in the area. Some of the area further north may have been in. So there were some modifications as the project continued.

Q. Can you describe the reason for those modifications?

A. There were some changes in the Bell Street area, some improvements that were going to be included in the project, in the feasibility study that were then eliminated that led to the change in

1 the area to the north.
2 And I think the International District
3 just became more of a judgment, judgment call as we
4 proceeded further on, just with the change in
5 neighborhood and the distinction of the Pioneer
6 Square area to the International District.
7 Q. Were those always your recommendations
8 or were you asked to respond to suggested changes?
9 A. They were my recommendations. The city
10 had talked about different elements of the Bell
11 Street project, and those discussions led me to the
12 property to the north to make an adjustment. But
13 other than that, I mean, any market, any changes to
14 the boundary were solely mine.
15 Q. When you're talking about changes to
16 the Bell Street project, was that just the road
17 improvements got moved out of the LID and into a
18 different city project?
19 A. I believe so, yes, something to that
20 effect. I would have to go back and research it.
21 Q. Would that information be in your file
22 that's being provided?
23 A. I do not know.
24 MR. FILIPINI: I don't think so.
25 Because your files, the analysis sheets of individual

1 properties, so --
2 THE WITNESS: Yeah, they may be back in
3 an older file.
4 MR. LUTZ: Mark, we can talk about
5 that.
6 Q. Now, I understand you have information
7 from third party sources that you're using in your
8 study, some of which is confidential?
9 A. Correct.
10 Q. So is there a list of parties from whom
11 you received confidential information?
12 A. Well, I signed a confidentiality
13 agreement with CBRE.
14 Q. Okay. So, I see. Then you basically
15 have access to CBRE's database that has information
16 on the deals they've done for clients?
17 A. They provided us with information.
18 Q. Okay. And who there is the information
19 source?
20 MR. FILIPINI: I don't know who it is.
21 A. Whitney Haucke, H-A-U-C-K-E, MAI.
22 Q. Oh, okay. So it's information that
23 you're getting from a CBRE broker -- I mean, a CBRE
24 appraiser who has access to the CBRE database?
25 A. Correct.

Q. Was that information used in all three of your studies, feasibility, formation and assessment, or --

A. I believe it was just the formation and the final.

Q. And was that for a specific -- that information from CBRE specific market data?

A. Define "specific market data."

Q. Actual transactions.

A. Yes.

Q. Lease, sale.

And where would that be in your analysis? Is it embedded in spreadsheets or what do I have to look at, either to find that or not find it, or to not find that information?

MR. FILIPINI: Object to form.

Q. I'm trying to figure out what we would need not to look at in order to not to see confidential information and what if we want to see it we have to be protective of confidentiality concerns.

A. That's a question you'd have to ask them. I think a lot of the market sales information, lease information they provided they felt was proprietary and they didn't want that information on

1 capitalization rates and things of that nature and
2 lease rates and terms, the various tenants,
3 disclosed. So a lot of the data they provided would
4 be available via public record, but they had more
5 detailed proprietary information that they didn't
6 want disclosed in the market.
7 Q. Well, I guess there's two different
8 issues there, because one is just CBRE's meta work
9 product and one is the specific terms of their
10 specific clients' deals.
11 Is there any distinction in how you
12 were treating confidentiality with respect to the
13 CBRE information and with respect to how they've
14 directed you to treat it, or is it purely anything we
15 tell you, you should not tell other people without a
16 confidentiality agreement?
17 A. Well, I think anything they publish
18 obviously isn't confidential. The information that
19 they directly provided to me, I think they would
20 consider that confidential.
21 Q. So cap rates is probably public?
22 A. No.
23 Q. Okay.
24 A. I think it would be proprietary
25 information, that they wouldn't want me to know how

they derived that cap rate.

Q. So let's look at your Exhibit-1 and we'll go to page 27.

MR. REUTER: Would you identify for me what the document is you're looking at?

MR. LUTZ: We are looking at the final special benefit study, Todd, or Gene.

Q. So we're looking at page 1 but it's several pages back, immediately after the folded sheets.

A. Okay.

Q. So this is the final. What does this depict?

A. It appears to depict the recommended boundary that we provided to the city.

Q. And this is your report so it's intended to depict the final recommended boundary?

A. The final recommended boundary.

Correct.

Q. Do you know if that is the final boundary the city is relying on?

A. I don't set the boundary. The city council sets the boundary. So that's the boundary that the city council set, so then that is the boundary that the city council set.

Q. But this is the boundary you recommended?

A. Correct. It appears to be, yes.

Q. So is there a methodology you used to define the furthest measurable benefit area from the improvements?

A. It's largely based on judgment. As we look at the market and we move further and further away from the improvements, just based on individual property analysis, we get to the point to where we feel it's just not -- that the market value difference isn't measurable anymore in the marketplace and that's where the boundary line would be drawn.

Q. So what is the furthest point from these LID improvements that you determined a measurable special benefit would exist?

A. Well, as you can see on the map, it would be up near the corner of Denny and Interstate 5.

Q. So when that point is -- maybe you can, I don't know, draw a little circle on that.

A. (Complies.)

Q. Do you know how far that is from the waterfront?

A. It's probably 12 blocks or so.
Q. How many feet are in a Seattle block?
A. Well, it varies depending on the block, so I couldn't give you an exact figure.
Q. There's a legend with distance on your spreadsheet, but I can't read the legend. Do you have any idea what it was?
A. I don't recall. I would have go back and remeasure it.
Q. So do you have a rough estimate of how far it is from the waterfront to that point?
A. Well, as I said, it would be about 12 blocks, so maybe a mile and a half from the waterfront closer to the Pike/Pine corridor improvements.
Q. Well, okay, so that's another question. So what is the furthest point from the Pike/Pine improvements?
A. That would be real similar to there or the area, the terminus of Pioneer Square.
Q. Okay, and what about to the north? I was actually looking at the area over towards -- probably over towards the Seattle Center.
A. The area to the north?
Q. Yeah.

A. From the Pike/Pine corridor?

Q. Yeah.

A. That would be down to the northeast corner by the Edgewater -- excuse me, the northwest corner of the boundary that's defined on the map that we're looking at.

Q. All right. I'm not asking that question right. So let's look at the northern boundary, the two lines there. You talked about the removal of some Bell Street improvements and you said this line is primarily a reflection of professional judgment?

A. Correct.

Q. So what factors led you to believe that this northern terminus was the limit of measurable market value increase that you would be able to attribute to the Seattle waterfront LID improvements?

A. When we got down to that area, the sculpture park is very close, Myrtle Edwards Park is very close, so they already had influence from other parks elements. And based on our market analysis and judgment, we were getting to the point where we were moving from one park element to another, and it got to the point of where we felt it was either beyond a measurable difference in the marketplace and we drew

1 the line, we drew the boundary line, yes.
2 Q. Again, when you say "a measurable
3 difference," you don't have any Seattle data to
4 establish a measurable difference?
5 A. We looked at the sculpture park. Just
6 due to the nature of the way that neighborhood was
7 and when it was completed, there was really no
8 discernible evidence to suggest that there was a lot
9 of benefit deriving from that that we could relate to
10 this project. So most of our evidence of benefit in
11 the Seattle market came from other market areas.
12 Q. I mean, to just follow up on that, did
13 you look at whether those sculpture park improvements
14 provided measurable market value increase to the
15 surrounding properties?
16 A. Based on discussions that we had, we
17 couldn't find any paired sales that really reflected
18 that. Discussions with brokers indicated that it
19 did, but as far as doing any comparable paired sales
20 analysis, we couldn't. I believe the zoning changed
21 significantly too back in -- it was a long time ago.
22 So I would have to go back and review the notes to
23 more clearly define that.
24 Q. But the bottom line was, as you recall
25 it, there was no measurable market benefit that you

1 would attribute to the sculpture park improvements?
2 A. There was measurable improvements to
3 the surrounding area, but it wasn't I guess definable
4 for us enough to rely on in comparison to what the
5 project elements in the LID were to make a comparison
6 with.
7 Q. So rather than looking at that, you
8 were continuing to look at other cities' data?
9 A. Correct.
10 Q. So we talked a little bit about the
11 Bell Street improvements. Was there any relevance in
12 your LID boundary recommendation of components
13 related to KeyArena, city improvements plan for the
14 KeyArena area?
15 A. No.
16 Q. How many individual tax parcels are in
17 your final LID?
18 A. I believe 6,236.
19 Q. Now, let me see where you first talk
20 about it. Let's see, page 28 of your report --
21 MS. TERWILLIGER: Before we move off of
22 this page, can I could a couple of questions?
23 MR. LUTZ: Yes, go ahead, if it's okay
24 with Mark.
25 MR. FILIPINI: Yes.

1 E X A M I N A T I O N
2 BY MS. TERWILLIGER:
3 Q. Hi Mr. Macaulay, I'm Molly Terwilliger.
4 I just want to ask a couple of questions about the
5 southern boundary on the map that we were just
6 looking at. Can you tell me whether the map
7 reflects, is that always where the southern-most
8 boundary of the LID was considered?
9 A. I don't recall. It could have included
10 some additional property to the west of the Safeco
11 parking area, but I don't recall.
12 Q. Do you recall considering any LID
13 boundaries that would have stopped short of the
14 stadium?
15 A. No.
16 Q. Do you have any recollection of why you
17 chose to exclude the office buildings that are
18 kitty-corner from, what's it called, Safeco Field,
19 that there's sort of a carveout for those office
20 buildings?
21 A. Yeah, again, it just got down to
22 judgment and the measurable difference in value that
23 we were seeing in the market down in that area.
24 Q. So does that mean that if we were to
25 look in your workpapers, we would actually see you

1 having tried to figure out the value associated with
2 those properties?
3 A. If you went back to the feasibility
4 study, there may be some information relative to that
5 in the feasibility study. I don't recall if we did
6 specific analysis of those individual properties, or
7 if it just got down to the point that the market
8 value difference was such that in looking at Safeco
9 as an entity, that we just felt there wasn't a
10 measurable difference.
11 MS. TERWILLIGER: Okay, thank you.
12 MR. REUTER: Jerry, this is Todd Reuter
13 speaking. Do you want -- I have questions about his
14 testimony regarding the Edgewater. So do you want me
15 to chime in and ask those now? I assumed I'd be
16 waiting till the end.
17 MR. LUTZ: Well, Todd, we had a
18 discussion, and we're going to try and get Bob done
19 today and so you can wait. If it's a question, we're
20 in this sort of the extent of the LID boundary, and I
21 guess since the Edgewater is at the edge of it, this
22 might be as good a time as any to ask those
23 questions. But we're jumping around a little just to
24 try and make sure that everyone gets to ask their
25 questions in a way that gets us through this quicker.

So go ahead.

E X A M I N A T I O N

BY MR. REUTER:

Q. Mr. Macaulay, I represent the Edgewater among others. Why is the Edgewater in the boundary but the property across Alaskan Way is not?

A. Primarily just its use as a hotel and the increase in tourism caused from is the HR&A study that indicated there would be additional demand along the waterfront for that similar type of use versus the property further to the north that abutted Myrtle Edwards Park.

Q. So you're drawing a distinction between the type of business, in other words, an office would not benefit but a hotel would?

A. Again, it got down to looking at what was measurable and what was next to existing park area, and the hotel due to its use and operation as a hotel, we reflected, we estimated had a measurable impact in the market, versus moving further north to across the waterway to another property that is office and warehouse use by the port abutting adjacent parks. So --

Q. I'm talking about across Alaskan Way.

1 Directly across the street is an office building and
2 it's not in. I'm asking you: Why was it not in, and
3 what did you do to measure potential benefits for
4 that property?
5 A. Again, it would have just been a
6 judgment call where we got down to that point and
7 felt that any use further north from there was more
8 general in nature than special benefit in nature.
9 Q. Did you try to measure any benefit for
10 the property across Alaskan Way from the Edgewater?
11 A. Again, it would go back to our
12 feasibility study where --
13 Q. I'm just asking if you tried to measure
14 it?
15 A. Yes, it would have been considered in
16 our feasibility study.
17 Q. Did you consider including Pier 70,
18 which includes a law firm and a restaurant?
19 A. That's what I was just referring to,
20 and again, due to its location, we decided to not
21 include it, based on our opinion of the market, it
22 just wasn't measurable.
23 Q. So what's the difference between
24 Pier 70 and the Edgewater, just that Edgewater's a
25 hotel?

A. Correct, it has more direct influence from the type of improvements that are being done than does the area further north that already has proximity to two other parks.

Q. I'm not sure what north is because the street doesn't run directly north.

A. Well, you're referring to the --

Q. My first questions are about the property across Alaskan Way, not -- I'm not talking about the Pier 70.

A. Well, you just asked me about Pier 70.

Q. My initial questions, did you understand me to be talking about property across Alaskan Way and not Pier 70?

A. Did you understand me answering that question? I'm happy to clarify it if you didn't understand it.

Q. Okay. Did you do anything to try and measure potential benefit for the property across Alaskan Way from the Edgewater?

A. Yes, it would have been considered in our feasibility study.

Q. And was the Edgewater included in your initial boundary or was it added later?

A. It was considered in our initial

boundary.

Q. Included in the initial boundary?

A. Correct.

Q. All right.

MR. REUTER: That's all I have.

MS. LIN: Can I ask a follow-up question?

MR. LUTZ: Megan wanted to ask a follow-up question.

E X A M I N A T I O N

BY MS. LIN:

Q. You said it was considered in the initial feasibility study, but that there was no measurable special benefit outside of the Edgewater, so that includes the office building across Alaskan Way and Pier 70 kind of further to the north?

A. (Nods head.)

Q. So would that mean that somewhere in the feasibility study there's some measurement of that, and then that measurement would have fallen let's say under .25 percent, because that's something you mentioned before was an unmeasurable special benefit?

A. Yeah, I don't recall. I would have to

go back and look at the feasibility study. I know it included some of that area initially in the feasibility study, that as elements of the project changed, we redrew the boundary line and excluded some of that area to the north, just feeling that their proximity to the sculpture park, Myrtle Edwards, it was just a judgment call of where the market value of the measurable elements stopped and more general benefit associated with those parks began.

E X A M I N A T I O N

BY MR. LUTZ:

Q. Just following up on this line of questioning, one of the comments that you made in response to Todd's question was that you did not estimate that there would be a measurable special benefit at the office building as I think was what you were specifically referring to.

And my question is, I think I'm right, that when you used the phrase "measurable benefit" in general, that is an estimate because you don't have any specific data to measure any specific benefit to any parcel from the LID improvements from the Seattle market?

1 MR. FILIPINI: Object to the form.
2 Q. You can still answer.
3 A. There were no similar park projects
4 like this in the Seattle area where we could really
5 draw before and after distinctions between them, so
6 we went outside to other cities that had similar
7 elements and primarily used those.
8 Q. Right. So when you use the words
9 "measurable benefit," it is an estimate based on the
10 data from and information from other city parks?
11 A. It's our judgment call of the
12 measurable market value difference before and after
13 the elements of the LID.
14 Q. So your judgment call in your estimate?
15 MR. FILIPINI: Object to the form.
16 A. That's what we're hired to do, is make
17 an estimate of the market value difference in the
18 property before and after the LID, correct.
19 Q. I want to shift gears for a minute. I
20 want to talk about before and after, but I want to
21 start with a discussion of hypothetical conditions.
22 So can you talk about what a
23 hypothetical condition is in an appraisal?
24 A. I would have to look up the specific
25 definition, but there's hypothetical and

extraordinary assumptions, and they're slightly different.

Q. Yeah.

MS. LIN: On page 28.

THE WITNESS: Thanks.

Q. Well, is it on page 28 definitions? Yeah, extraordinary assumption is, yeah, you're right, it's 28. It's extraordinary assumptions, first one. Hypothetical is the second one.

A. Yeah. "An extraordinary assumption is defined as that which, if find to be false, could alter the opinion of market value."

Q. Okay, and what is a hypothetical condition?

A. "A hypothetical condition is that which is contrary to what exists but is supposed for purposes of analysis."

Q. So you've got one hypothetical condition identified in your definition and it says, "For this study, market value of each parcel is estimated without the LID and again assuming that the LID project has been completed, as of the same date."

A. Correct.

Q. So can you describe what the hypothetical assumption is?

1 A. Well, we're assuming in the before
2 condition that is in the addenda of the report that's
3 outlined by the city, that those elements exist in
4 the marketplace, and then in the after condition,
5 we're assuming that all of the elements that are
6 described in the addenda of the report in the after
7 condition exist. So we're estimating the market
8 value difference of those two hypothetical
9 situations.
10 Q. So both the before and the after are
11 hypothetical?
12 A. Correct.
13 Q. And they're hypothetical as of a
14 specific date?
15 A. Correct.
16 Q. Now, what hypothetical conditions are
17 assumed in the before condition?
18 A. That the new Alaska Way road is built,
19 that the viaduct was removed, that the sea wall would
20 exist, would be completed. Those are the main ones
21 that come to mind. There's a very long description
22 of those factors that are in the addendum, but those
23 are the main ones that come to mind.
24 Q. So the hypothetical for the before is
25 both that the viaduct is down, and that the base

1 transportation improvements that WSDOT has committed
2 to install are in place?
3 A. Correct.
4 Q. Then your report goes on to identify
5 here are some of the differences. One of the points
6 you made was there's a distinction in regulatory
7 authority over the area if the park improvements
8 proceed. Can you describe that in the before
9 assumption?
10 If you don't proceed with the park,
11 it's not designated as a park, is it still under the
12 city's control or is it under WSDOT control, or was
13 that part of your analysis?
14 A. I don't know who would exactly control
15 that area. It would be considered a transportation
16 corridor, as I recall, in the documentation. As far
17 as control of that, whether it be WSDOT or the
18 city, --
19 Q. Right.
20 A. -- I don't know.
21 Q. You said it was important if it became
22 a park, the city would have more authority to provide
23 security to prohibit loitering. So can you talk
24 about that authority and how it factored into your
25 analysis?

1 A. Well, you have to talk to the city as
2 far as what actually they will be doing. It's
3 outlined in there. As far as the market is
4 concerned, we looked at Portland and at Boston and at
5 some of the other areas that had park elements,
6 maintenance, maintenance and loitering and upkeep
7 were big factors.
8 So from discussions with the city, the
9 maintenance agreement that was signed with the other
10 property owners, that was consideration in the sense
11 that it would be an enhancement to that area, versus
12 a transportation corridor and a benefit to the area
13 and the market.
14 Q. Just to ask it in a pointed way, are
15 you making the hypothetical assumption that if it
16 becomes regulated as a park, homelessness becomes no
17 longer a problem?
18 MR. FILIPINI: Objection to form.
19 A. It would allow the city more authority
20 to police the area than it would versus the
21 transportation corridor. Whether it would solve the
22 homeless problem, I can't speak to that. I don't
23 know.
24 Q. Well, again, when you're describing the
25 difference between a fair condition park and an

1 excellent park, and you've noted that the ability to
2 provide maintenance and control loitering is part of
3 that distinction, do you have any way to quantify the
4 relative improvement in sanitation, control of
5 homelessness that comes with the park improvements?
6 MR. FILIPINI: Object to the form.
7 A. Other than talking to the city and
8 getting information from them on that, no.
9 Q. So again, focusing on hypothetical, you
10 are assuming that the LID project has been completed
11 as of October 2019?
12 A. Correct.
13 Q. How does the assumption that the
14 improvements were already completed affect your
15 analysis of market value enhancement associated with
16 the improvements?
17 A. Could you rephrase that? I'm not sure
18 I'm quite understanding what you're saying.
19 Q. I'll ask it a different way.
20 If you assumed hypothetically that the
21 improvements were completed in 2024, would that
22 change your analysis of the market value assessment?
23 A. It would depend on what the market is
24 in 2024, and I couldn't speculate on that at this
25 date and time.

1 Q. Well, but could you speculate -- could
2 you not speculate? Could the market inform you
3 whether people in 2019 are paying an increase to buy
4 property along the waterfront in the anticipation of
5 waterfront improvements coming in five years?
6 A. We're assuming they're done at that
7 specific date and time, so we're assuming they're in
8 place and what the market is as of October 1, 2019,
9 not what the market is in 2024.
10 Q. Right, I'm asking a different question.
11 Hypothetically assume that instead of
12 making the hypothetical assumption that the project
13 is complete in 2019, that the project is complete in
14 2024. Does that, would that change your analysis of
15 the market benefit of those improvements?
16 MR. FILIPINI: Object to the form.
17 A. I would have to value the property in
18 2024 to know what the market would be at that point
19 in time. I couldn't hypothetically say that it's
20 going to be the same, different, less or more in 2024
21 than it is today. The scope of my assignment was to
22 value it as of October 1, 2019 and that's what I did.
23 Q. Who decided that?
24 A. Just a combination of working with the
25 city and finding a specific date where they needed

1 the report done to get the financing tools in order
2 to get the project started to get funded. It's a
3 date and time that was picked that got towards the
4 end of our analysis that was set.
5 Q. Well, backing up, though, the fact that
6 the city wants the LID to be finalized by a specific
7 date did not necessarily require you to assume the
8 improvements were done by a specific date, correct?
9 A. Rephrase that. I'm not quite
10 understanding what you're saying.
11 Q. You said that you picked the
12 hypothetical date that the LID improvements are
13 complete based on the fact that the city wanted to
14 get the financing in place to proceed with the
15 improvements. And I guess I was asking, what about
16 the need to finalize the LID drives the need to
17 finalize the LID with the assumption that the
18 improvements are in place at least five years before
19 they're actually going to be in place?
20 A. It was just a decision from the city
21 that was asked of me to provide a specific date and
22 time on a hypothetical condition as we discussed of
23 what the market would be as of October 2019 before
24 and after the improvements. So we're assuming the
25 improvements are in place as of that October 1, 2019

1 date.
2 Q. Was it explained to you why it was
3 important to assume, important to the city to assume
4 the improvements were complete as of October 2019?
5 A. It's not really relevant to me. I'm
6 just asked to do a valuation of a specific date.
7 Their internal thought process is theirs. I'm just
8 doing what they specifically asked me.
9 Q. Okay. You started to say before you
10 couldn't -- it would be difficult to estimate the
11 market value if the improvements were delivered five
12 years from now.
13 A. It's not the scope of my assignment.
14 It's not something I considered.
15 Q. So it's not that you couldn't do it,
16 it's that you were not asked to and did not do it?
17 A. I was not asked to do it. I was asked
18 to do it as of October 1, 2019.
19 Q. You said that decision came toward the
20 end of your assignment. Do you remember about when?
21 A. Probably about halfway through doing
22 the final, there were still design changes and
23 whatnot going on, and we needed to pick a specific
24 date and time. And that was discussed, and it had to
25 do with how much longer it was going to take me to

1 finish my work, and the relevancy of writing the
2 report and preparation the report. So all those were
3 elements that went into discerning what the date and
4 time of the valuation would be.
5 Q. Okay. Well, let's have another
6 question here. Your before value assumes that the
7 viaduct is gone and that improvements that have yet
8 to be built are built?
9 A. Correct.
10 Q. What market value do you have, what
11 market data did you have to talk about increased
12 market value of properties proximate to and further
13 away from the viaduct based on removal of the
14 viaduct?
15 MR. FILIPINI: Object to the form.
16 A. Could you rephrase that, please?
17 Q. Okay. Did you have information in your
18 study about the increase in market value, if any,
19 experienced by properties adjacent to the viaduct
20 attributable to removal of the viaduct?
21 A. When we did our study, we assumed the
22 viaduct was gone. So the rents and sales whatnot
23 were adjusted to reflect the fact that the viaduct
24 was removed. So obviously the viaduct was there, so
25 we didn't have any before and after sales we could

1 pertain to at the time of doing our study until after
2 the viaduct was removed.
3 Q. So did you have study -- did you have
4 sales that were after the viaduct was gone that
5 showed a market increase?
6 A. Yes, the Maritime Building was one.
7 Selig bought the Commerce Building, that was another
8 one. There were other sales. There were rent
9 increases that were, they were different than what we
10 anticipated from the formation to the actual removal
11 of the viaduct that occurred.
12 Q. And how much of that market increase
13 that you are discerning happens after physical
14 removal of the viaduct versus in anticipation of
15 physical removal of the viaduct? Do you see leases
16 go up in rent value earlier or are they worried about
17 construction, and did you see any increase in market
18 value in the anticipation of removal of the viaduct
19 as opposed to only when it actually was out of the
20 way?
21 MR. FILIPINI: Object to the form.
22 A. Both. I mean, any project when we're
23 doing the before, we try to take out any anticipation
24 of the view element because we assume that the view
25 element isn't there and that's the basis of our

1 analysis.
2 Q. Okay, so let me back up.
3 The basis of your analysis I thought
4 was to assume that the viaduct was gone and that the
5 road improvements, the basic road improvements were
6 in place?
7 A. Correct.
8 Q. And the sea wall was in place?
9 A. Correct.
10 Q. And that there was -- correct.
11 So my understanding was that there is
12 an assumption that there was a market value increase
13 associated with that work.
14 A. From the time we did our formation
15 study to the time we did our final study, the viaduct
16 was starting to be largely removed. So there was
17 greater market evidence to show what that influence
18 was in the market. So we considered that in our
19 final analysis. So our before value may have changed
20 or been affected by that because we had more market
21 evidence to show really what the influence of that
22 viaduct may be.
23 Q. When you're talking about the influence
24 of the viaduct, since the road stuff isn't done, did
25 you assume that what the market showed was only part

of what the market increase would be in the before?

A. No, the before consisted of all the elements that are described in the addenda as much as possible. The view element is something that is a pretty significant factor in the marketplace obviously.

Q. Right.

A. So all those considerations that are in the addenda described in the before condition as best as we could in the market are based on our before values.

Q. I'm trying to tease out when you're trying to assess the before value --

A. I'm not assessing the before value. I'm estimating the market value of the property in the before condition.

Q. Right, okay. So when you estimate the market value in the before condition, how much market value increase -- or how did you assess market value increase in the before associated with removal of the viaduct in anticipated completion of improvements that are not there?

A. It's based on the best market information we had available at the time of our analysis.

1 Q. And did you have a specific percentage
2 or the same kind of ranges, like it's 3 percent if
3 you're close and a half percent if you're 12 blocks
4 away?
5 A. Well, in the before condition each
6 property is looked at individually just as we did in
7 the after condition. It would just be the relative
8 location of that property in the before condition and
9 then the relative location of the property in the
10 after condition with the LID improvements in place as
11 of that same date and time.
12 Q. Right. I guess what I'm saying is,
13 you're not doing paired sales then either. Well, you
14 have a couple of examples, here's a sale, here's a
15 lease that we believe reflects removal of the viaduct
16 and improved view?
17 A. There was additional market evidence
18 from the formation to the final that changed our
19 opinion of the before condition. That didn't change
20 our opinion so much as -- our opinion of the after
21 condition was still based on the same evidence that
22 we looked at in other studies we've done and tried to
23 find other elements.
24 Q. Right, I'm not talking about the after
25 now. I'm talking purely about the before. I'm

trying to understand how you estimated hypothetically the market value of the properties within the LID in the before.

A. Based on market sales, based on lease rates, based on what we felt the market condition would be assuming these other improvements were completed, and made individual market value assessments of each property based on that information.

Q. So to your recollection, what was the highest market value increase you attributed to the before assumed improvements out of the LID percentage?

A. I don't know.

Q. What's a range?

A. I don't know. You're talking about from what to what?

Q. Yeah. You're making the hypothetical assumption that the viaduct is gone and the road is improved. You have market data leases and sales which you believe are evidence that with the viaduct going or gone, the value of the before, the value of the properties in the before condition is increasing.

I'm asking, what percentage increase you attributed in the before to the assumed

1 hypothetical condition that the viaduct is gone and
2 it's built like WSDOT had proposed?
3 A. I'm not assuming that they're
4 increasing. I'm just specifically taking market data
5 when we're doing the final and basing my opinion on
6 that. Some of it was different than the data we had
7 from the formation.
8 So if there was any change in the
9 before value from the formation to the final, that
10 would be based on additional information we had when
11 we were doing our final analysis that led us to our
12 conclusion of market value in the before condition
13 based on all of the before condition factors that are
14 in the report.
15 Q. So is your understanding of the value
16 of the properties in the before condition based on a
17 hypothetical or not?
18 A. Of course they are, yes.
19 Q. Okay. Did you have any sort of
20 quantifiable professional judgment within 500 feet of
21 the assumed before improvements being completed, of
22 market value increase for the 500 feet closest to --
23 and you can do it by property type if you wanted,
24 condominium --
25 MR. FILIPINI: Object to form.

A. Your question isn't making sense to me. Are we talking about the before condition?

Q. Yes.

A. Each property was looked at on its own merits depending on where it was located and the elements of use, office, apartment, retail, hotel, where it existed in the before condition and what its market value is based on the best available information we had.

Q. And assuming hypothetically that the improvements were in place?

A. Correct, yes. Then that set the before condition.

Q. So if we were to compare the estimated market value in the formation study versus the final assessment study on the before condition, what's the best place to look to find quantification of value you are attributing to the hypothesized condition in the before?

MR. FILIPINI: Object to the form.

A. The formation study is a different scope, a different time, different market elements than the final study. So if you want to go back and look at the property values that we estimated for the final, we could compare them to the formation, you

may see a difference in some, you may not in others. It's not something that there was any formula of changes or anything like that.

It was just simply done as per the scope of our services, just to look at each property individually based on the before condition assumption and then based on the after condition assumption.

Q. Okay. Let me ask it a different way. In the after, you're assuming that there are properties that get a 4 percent benefit, there are properties that get a 3 percent benefit, there are profits that again a .25 benefit. You're making those specific estimations.

Is there a similar formulation in your analysis of the value of the hypothesized before components?

A. The before condition again is just based specifically on the property value of where it exists under the before conditions, and the location of it throughout the boundary area to establish the before value.

The after value assumes all these park improvements, the overlook walk, the promenade and other elements are done, and then we're measuring the difference between the before and the after.

Q. So do you have a sense in the before how much the market value of the 6,000 assessed properties increased as a result of the viaduct and the standard road improvements?

A. It wasn't the scope of our assignment. The scope of our assignment was to assume the viaduct is removed, and if the road improvements are in place, the sea wall is gone, what is the market property of the value under those conditions. That defined our before condition.

(Discussion off the record.)

Q. I'm still just focusing on this issue. You would agree I assume that there is a component of value in your analysis of the base value of at least some of the assessed properties attributable to removal of the viaduct and the base improvements; is that correct?

MR. FILIPINI: Object to the form.

A. There would -- all of the before values would assume that. It would assume the viaduct is gone, it would assume the road improvements are in place.

Q. And there's some element of value attributable to that condition, you got better view?

A. Certainly, that is what the market

1 would be under that scenario, yes.
2 Q. Do you have any sense of what the
3 magnitude of that market increase is, like 4 percent,
4 3 percent?
5 A. We didn't -- that wasn't part of the
6 scope of our assignment to consider that. We assumed
7 that the viaduct was gone. So we weren't measuring,
8 you know -- it was just assuming that, and what would
9 the market changes of it be under that condition.
10 Q. Right, so how do you do that if you
11 don't have a way to make an estimate? I mean, what
12 was your estimate based on? It was based on the
13 market you got from what, CBRE?
14 MR. FILIPINI: Object to the form.
15 A. We had CBRE, we had Kidder Mathews
16 data, we had CoStar data, a number of different data.
17 So you would, like any appraisal, you would estimate
18 the value of the property assuming the viaduct is
19 gone. So they would have an enhanced view amenity
20 along the waterfront, and moving back further, there
21 would be obviously changes in the market depending on
22 where the property is located. Each property is
23 looked at individually under that assumption.
24 Q. Let me ask the question a different way
25 more specifically.

1 You've estimated the total special
2 benefit of the park improvements at 400 million?
3 I've got find the page.
4 MR. FILIPINI: Object to the form.
5 Q. Start at page 8.
6 MR. FILIPINI: Is that the page 8 --
7 Q. Page 8 in front of the folded pages at
8 the bottom.
9 A. Correct, approximately 448 million.
10 Q. Do you have any estimate of the special
11 benefit accruing to these properties as a result of
12 removal of the viaduct?
13 A. That was not the scope of our
14 assignment, so I don't have a specific number of what
15 the benefit would be associated with the viaduct.
16 Q. You indicated before that view is
17 really important. Would you expect the value
18 increase attributable to removal of the viaduct be
19 lower or higher than the estimated special benefit
20 associated with the LID?
21 A. It's an irrelevant question.
22 MR. FILIPINI: Object to form.
23 Q. It's not an irrelevant question to me.
24 A. It's an irrelevant question because it
25 wasn't part of the scope of my assignment, what I was

1 hired to do.
2 Q. I'm asking for your professional
3 opinion.
4 A. If the value would be different if the
5 viaduct existed versus if it didn't?
6 Q. How much -- would the value increase,
7 would the market value increase attributable to
8 removal of the viaduct be lower or higher than the
9 total estimated special benefit associated with the
10 park improvements?
11 MR. FILIPINI: Object to the form.
12 A. I have no idea. That's not something I
13 studied. I couldn't answer that question.
14 Q. More generally, when you have a view
15 improvement of the magnitude associated with the
16 removal of the viaduct, is there an appraiser rule of
17 thumb for valuation of that view?
18 A. Many of the projects we looked at, such
19 as Boston, had view elements and that was obviously a
20 challenge of the analysis, is to determine in the
21 after situation versus the before condition, because
22 we weren't looking, we weren't considering the
23 viaduct improvements in the before, and many of those
24 project elements had that in their market value
25 differences.

So that was a challenge to determine how much increase in value there was to the park improvements. So we made adjustments as much as we could to our comparable areas we were looking at to reflect the lack of view amenity in those, in those areas compared to the subject.

Q. So were you trying to -- did you make a conclusion of what the view value increase would be and then subtract it from your estimate?

MR. FILIPINI: Object to form.

A. We're comparing other project elements that in the before condition they had a blocked view, in the after condition they didn't have a blocked view.

Q. Right.

A. Our before condition of the subject is they don't have a blocked view.

Q. Right.

A. So in looking at those other comparable elements, they could range dramatically from 10 percent to 20 percent or higher because of their view element benefit to their market. So in comparing those projects to the subject, we recognized that the subject doesn't have a blocked view amenity in the before, so we need to adjust any benefit we make --

Q. Downward?

A. -- downward, looking at the before value to the after value.

Q. What adjustment did you use?

A. There was no specific adjustment we made. We looked at what we thought was reasonable, that we're going to be something less in benefit than 10 percent, because these other projects have view elements that significantly impacted their market areas and significantly impacted what the market would pay, because in the before, the study showed that there was no view, there was no view element, or it was similar to what the viaduct would be, versus in the after, they had view elements. And there were elements within such as Boston that we looked at and tried to discern that they didn't have this view amenity issue.

So 10 percent difference was something that we felt okay, will be something less than 10 percent impacting our market area because we're comparing properties with changes in view versus ours that does not have a change in view. The change in view is already there in the before condition.

Q. Just to follow up on that, some of the other cities were having value increases of up to 20

1 percent, but because in this case -- but those
2 included a view improvement. And in this case,
3 because the view improvement was in the before, you
4 estimated that it was going to be -- that the
5 improvement of the park LID improvements would be 10
6 percent or less?
7 A. Yes.
8 Q. And so essentially you were attributing
9 10 percent value enhancement to the view improvement;
10 is that fair assumption?
11 A. No, no. The view improvement elements
12 of the comparables ranged -- obviously any property
13 that has an enhanced view is going to sell for more
14 in the marketplace.
15 Q. Okay.
16 A. We recognize that. So when we compared
17 our subject areas to the subject, we felt that the
18 market in the before condition -- or, excuse me,
19 difference of the market value from the before
20 condition to the after condition, it would be
21 unreasonable that it would be more than 10 percent
22 based on comparison of the other studies we looked
23 at.
24 Q. It would be unreasonable to assume that
25 the improvements excluding view would be more than 10

1 percent?
2 A. It's unreasonable to assume that the
3 measurable market value difference from the before
4 and after conditions of the Seattle waterfront
5 project would be above 10 percent because we weren't
6 considering the impact of the view amenity in our LID
7 analysis.
8 Q. All right. That was an adjustment
9 from, if you had included it, you would have been
10 able to assume up to 20 percent?
11 MR. FILIPINI: Object to form.
12 A. Yeah, but I don't have a specific
13 figure, but if we would have -- if the viaduct would
14 have been included, if the viaduct element of the LID
15 would have been included in our analysis, the special
16 benefit estimates would have been at least I would
17 assume significantly higher than 10 percent or what
18 we ended up estimating during our before study.
19 THE REPORTER: "During our before
20 study," is that what you said?
21 THE WITNESS: The --
22 THE REPORTER: Just, is that what you
23 said?
24 THE WITNESS: Could you repeat what I
25 said?

(Record read as requested.)

THE WITNESS: Let me rephrase that.

That the difference in market value if the viaduct would have been included in our analysis would have been significantly higher than the benefit estimates that we found in our final special benefit study report.

THE REPORTER: Thank you.

Q. So can you explain how the before value factors into the determination of an assessment?

A. It just establishes a moment in time, as of October 1, what the market value of that property is, based on in this case specific assumptions.

Q. Right. So the hypothetical assumption that the viaduct is down and the improvements are in place has an estimatable market value contribution to each of the parcels?

A. There's an estimated --

MR. FILIPINI: Object to the form.

A. There's an estimated market value for each property based on that hypothetical condition.

Q. Is there a place in your study where we can find that estimated hypothetical market impact in the before?

A. Just look at the spreadsheet. We have a market value estimate for each property in the before condition.

Q. So we should probably pull out the spreadsheets and you can just show us how that component is addressed in there.

A. It's just a line item estimating market value in the before and then that's what our conclusions were.

Q. Right. I'm just trying to tease out the specific hypothetical component, and maybe it's not shown separately.

A. I guess I'm not following you.

Q. Well, if you're assuming, for example, that road improvements are there, if you're assuming the viaduct is gone and you're saying that is the before value, but it is hypothetical, is there any identification of the component of that valuation that is hypothetical or do you just say it's my hypothetical valuation?

A. It's just my hypothetical valuation.

Q. The value is higher because the viaduct is gone than it would be without the viaduct gone, and the value is higher with road improvements in than it would be without road improvements in?

A. Again, the market value in the before is the market value, before what we estimated based on those specific assumptions.

Q. The market value in the before is your estimate of its value under that hypothetical scenario?

A. Correct.

Q. All right. Maybe I'll let these guys ask burning questions before break for lunch. I have one last burning question.

On page 27 here before we break for lunch --

MR. FILIPINI: 27 before --

Q. No, I'm sorry, let's stay right where we were actually on that page. We were at page 8, I'm sorry.

Going on to page 7, when you report the high and low values, I understood that special purpose properties were assessed differently, but I don't understand the .10 percent as the high and 1 percent as the low.

A. Yeah, that was a typo. They should be reversed.

Q. Thank you.

A. That was just a mistake.

MR. LUTZ: Okay. Order is restored to the universe. Megan, you had another question you wanted to the ask?

E X A M I N A T I O N

BY MS. LIN:

Q. In your spreadsheets, if we could turn to any one of the spreadsheets, we'll just turn to the first page, there's a link to I think what is -- in one of the first columns, there's a link to it's a county link, it looks like it's a link to the King County assessor?

A. Correct.

Q. Why did you include that link?

A. Just so people can see what the -- more details information on their specific property.

Q. Okay.

A. Just for informational purposes.

Q. Did you use that information in your analysis?

A. We used all of the physical characteristics information, land, building condition, things of that nature.

Q. Did you use the valuation information in that?

A. No.

Q. Do you know how your valuation compared with the King County assessor valuation?

A. Some were probably fairly similar, some were probably a little lower, some were probably a lot higher. They would have varied.

Q. Would you expect that yours would be more because you've got this viaduct removal and the improvements?

A. Typically, they were higher, yes.

Q. And is it because you got -- if you're considering additional improvements?

A. Well, the assessor has a separate valuation situation from us. I don't know what all the conditions and thought process and assumptions they make going into their market value estimate. So it's not really relevant to what I'm doing in the analysis we're doing, because we are making different assumptions both in the before and after. So in most cases, typically our market value would be higher.

MS. LIN: Go ahead.

E X A M I N A T I O N

BY MR. MOSES:

Q. A specific question. I'm in 1521

1 condominium on Second Avenue. This goes back to his
2 question.
3 You don't show an existing valuation.
4 Any reason why not? I mean, you had to have an
5 existing valuation to assume your hypothetical before
6 and you had to assume the second hypothetical after.
7 Why is there no existing valuation in the study?
8 A. I guess I'm not understanding your
9 question.
10 MR. FILIPINI: Object to form.
11 Q. We have three situations: The
12 properties as they exist, right? The properties as
13 they will be in the first hypothetical, right? Which
14 assumes removal of the viaduct and a new roadway and
15 park improvements. And we have a third condition
16 which is the hypothetical after.
17 Where is your valuation of the existing
18 condition?
19 A. That's not part of the scope of our
20 assignment.
21 Q. It is part of the scope of your
22 assignment.
23 A. It is not part of the scope of our
24 assignment.
25 Q. Well, then how did you value the before

1 condition?
2 A. If you read the report, the analysis is
3 based on the assumption that the viaduct and the road
4 improvements have been removed and that would
5 establish the basis of the before value.
6 Q. So, okay, so you have no existing
7 condition, you have no basis for the before appraisal
8 and now you're kind of stacking the next piece on,
9 okay.
10 MR. FILIPINI: Object to form.
11 MR. MOSES: I'm sorry, I'm just
12 talking. I apologize.
13 Q. My property, I'm on the 20th floor on
14 the bluff. I've got an unblocked territorial view
15 before and an unblocked territorial view afterwards.
16 You've assigned a 2.7 percent increase to our
17 building. My view premium I estimate just from front
18 to back is about $500,000 for the property.
19 Why do I get a 2.7 percent increase on
20 a view that existed both in the before and in the
21 after?
22 A. We would have looked at sales in your
23 building that would have had similar amenities to
24 your unit as much as possible in establishing your
25 before value. So if you had a view in the before, we

1 would be looking at other comparable sales in your
2 property that they have --
3 Q. How do you attribute that to the view?
4 A. Well, your view existed both before and
5 after.
6 Q. Right.
7 A. Right.
8 Q. So my view didn't change.
9 A. Correct.
10 Q. So my property value shouldn't have
11 changed at all because of the view.
12 A. Correct.
13 Q. Okay. But you've included the view
14 premium and charged me 2.7 percent on that view
15 premium in your analysis.
16 A. No, no, no, no, no. If you were
17 sitting in a condo and didn't have a view, there may
18 have been some element of the viaduct being removed
19 that would maybe help your property relative to its
20 location or things of that nature that would
21 establish your before value. That was the basis of
22 our analysis. But we would have looked at sales
23 within your condo building that had similar elements
24 to you in the before. So if you weren't
25 influenced --

Q. But they all had views.

A. Yeah, then you should have had a value commensurate with what other similar properties were in your unit, but we're just assuming that the viaduct isn't there.

Q. Okay. Let's go back to your formation questions. The city asked you to set the date somewhere around November of '19 because that was convenient even though these projects weren't completed for five years. If the city had asked you to set a date ten years out for the completion and asked you to do the valuation in November of '19, could you have done it?

MR. FILIPINI: I'm going to put in an objection for all of these on the record to the extent they call for -- questions about setting a date call for a legal conclusion. The LID statute does have something to say about valuation times.

Q. Given the date is what it is, could you have provided those estimates if they had been ten years out?

A. It wasn't part of the scope of my assignment.

Q. I'm just saying could have you done it?

A. It was not part of the scope of my

assignment. I think it's just a question I just cannot answer.

Q. My question goes to when in your professional opinion you can actually make a judgment. My hypothetical was: If the project wasn't going to be completed for ten years, could you have done an effective valuation in November of '19?

A. Our valuation assumes the project is completed, so that it's just irrelevant moving -- the relevancy of time, a time past that is just irrelevant in our analysis and my thought process.

Q. So if city had said these projects were not going to be completed for 20 years and the city had asked you to do your valuation on November of '19, you would have done it?

A. Based on the assumption that the project is completed as of that date and time.

MR. MOSES: Okay, that answers that question. Thanks, I'm done for the moment.

MR. LUTZ: Anyone else?

MR. REUTER: Todd Reuter, I've got some questions.

MR. LUTZ: Go ahead.

1 E X A M I N A T I O N
2 BY MR. REUTER:
3 Q. Mr. Macaulay, I don't think you
4 answered the previous questioner's question.
5 The question I have is, I understand
6 the city didn't ask you to value as of October 2024,
7 but the question is: Had they asked you to value as
8 of October 2024, could you have done that?
9 MR. FILIPINI: Again, I object as --
10 Q. Is that too far into the future?
11 MR. FILIPINI: -- calls for a legal
12 conclusion, and asked and answered.
13 But go ahead.
14 A. Yeah, I don't know. I can't answer
15 that question. It wasn't part of the scope of my
16 assignment and it's not something I have considered.
17 Q. I'm not asking you if it was part of
18 the scope of your assignment. I'm asking you to
19 assume that it was.
20 Had they asked you that, could you
21 following USPAP and your expertise, could you have
22 done it?
23 MR. FILIPINI: Same objection.
24 Q. Or is that impossibly too far into the
25 future?

A. Well, I suppose you could make hypothetical assumptions as far as what the market might do in five years. It would be very speculative and unreliable, but you could make -- I suppose you could make an estimate of it. It would be like making an estimate of --

Q. What assumptions --

A. It would be like making an estimate of value --

Q. What assumptions would you have to make?

A. Well, obviously if the market is going to continue to increase in value, is it going to stagnate, is it going to go down? It would be like valuing a property in 2007 and trying to estimate what it's going to be in 2010. It just gets to the point where it would be so speculative that the reliance on it, you could do it, but the reliance on it would be very low.

Q. So even three years out would be too speculative?

MR. FILIPINI: Object to form.

A. It would be relying on assumptions that, you know, may or may not come true, if you look into the market in 2007 versus 2010.

Q. It would also have to assume that there were no other changes in the city or the environment, right, there would be other unrelated amenities added in the area?

A. I don't know. You'd have to draft up a scope of services for me and tell me what all you want me to consider in the 2024 or 2023 valuation. You know, it could be --

Q. Did you understand my question?

A. It could be done, but it would rely on a series of assumptions that would be part of the scope of a new assignment and I don't know what all those assumptions would consist of.

Q. Let me ask one more before lunch.

I think the previous questioner hit on this also, but as I understood your testimony, you did not look at the current value. So if we take the Hotel Monaco as an example, you've got a before value, which you've testified as to what that means. You've got an after value, but you don't have a current value, correct?

MR. FILIPINI: Object to form.

A. Correct. The current value would be based on the hypothetical assumption that the before conditions were completed.

Q. Yes, and so if we were trying to determine the current value, in other words, not assuming the DOT work and the viaduct work, but the today value, if we were trying to get that number, could we look at the county assessor and would that be a fairer number to use?

A. That would depend on your opinion of how accurate the assessor is.

Q. But you're testifying and you're the expert, so I'm asking you your opinion.

MR. FILIPINI: Object to form.

A. Yeah, typically I never rely on the assessed value to any market value estimate I make whether it be current or based on hypothetical conditions.

Q. And would you have confidence in the valuation done by somebody, say, John Gordon?

MR. FILIPINI: Object to form.

A. Would I have confidence in a valuation by John Gordon?

Q. Yes.

A. If I hired him, I would hope he would be someone I could rely on.

Q. Well, what if I hired him, would you rely on him?

MR. FILIPINI: Object to form.
MR. REUTER: What's your objection?
MR. FILIPINI: It's calling for a hypothetical. Confidence in him in what way? I mean, with respect to what particular --
Q. Mr. Macaulay, would you have confidence in the work of John Gordon?
A. Other than what I've seen --
Q. Would that be a fair place to go --
A. I guess --
Q. -- to get a value?
MR. FILIPINI: Object to form.
A. I guess all I can answer to that is I've never hired him as a consultant or to do any appraisal work, but, you know, I understand he has a good reputation and, you know, I've heard he's a good appraiser. So I don't have any issues with him, if that's what you're looking for.
MR. REUTER: Let's eat lunch.
MR. LUTZ: So we'll reconvene in 45 minutes.
(Lunch recess from 12:03 to 1:09 p.m.)
MR. LUTZ: You can designate that Mr. Burrus is not here for now, in case he joins us again.

(Discussion off the record.)

MR. LUTZ: Should we go back on the record just to get started?

MR. FILIPINI: Sure.

E X A M I N A T I O N

BY MR. LUTZ:

Q. I actually just had a couple of follow-up questions, Mr. Macaulay, from the last discussion you were having with Todd before the lunch break.

You were talking about the speculative nature of any analysis that would be three to four years out and I'm just wondering if we could start at page 100 of your report. It appears as though on pages 100 through 108, you were reporting forecasts three to four years out?

MR. FILIPINI: I'll object to form.

And Bob, take a moment if you need it and just take a look through those.

Q. So page 100, 101, 102, 103, 104, 105, 106, 107, and 108, all appear to me to provide forecasts through third quarter 2023.

A. Correct, and those are from CoStar, which is nationally recognized market research

1 company. They typically will provide estimates of
2 where they think the market is going in the future.
3 Q. Okay, and how is this information used,
4 these forecasting models used to inform a current
5 valuation?
6 A. Well, it might be relative to your
7 capitalization rate, if you're looking at the future
8 or if you're looking at the present, what your
9 capitalization rate may be in the future, what your
10 risk would be in the market.
11 Q. So, for example, if it looks like the
12 market is getting riskier, you're a willing buyer
13 now, might not pay as much as if -- as the buyer
14 would pay if the forecast was rosy going forward?
15 A. If they believed in the forecast, yes.
16 Q. Well, but these are from CoStar, so
17 these are things that normal commercial buyers and
18 sellers would rely upon in consideration --
19 A. Something an investor may consider,
20 sure.
21 Q. I had one other question about the
22 October 201 date. So if we look at your, maybe we
23 can start on page 102. There's a dashed line which
24 looks to be about April, May of 2019?
25 A. Yeah, it's hard to tell looking at the

1 line, but somewhere in the mid point 2019 or a little
2 less.
3 Q. Mid second quarter 2019?
4 A. Or a little less, yeah.
5 Q. So what is the significance of mid
6 second quarter 2019?
7 A. What is the significance relative to
8 what?
9 Q. To this report. You've got a dashed
10 line showing --
11 A. That's just the dashed line that I
12 think was the date that the report was published. So
13 they -- that line is not something we input.
14 Q. Okay. So you're saying this is CoStar
15 saying here's where we are?
16 A. Yeah, that would have been when we
17 looked up the report and it's showing roughly when
18 that -- what time frame you're asking for that
19 information.
20 Q. If you were to look again at the report
21 on page 102, their forecast of market rent growth
22 year over year appears to peak at approximately
23 October 1, 2019. Do you have any understanding
24 whether that played into the city's direction to you
25 to value the improvements as of --

A. No.

MR. FILIPINI: Object to form.

Q. -- 2019?

A. No, I wouldn't think it would have any relevance. I don't think they -- well, I can't speak for them, but I wouldn't believe so.

Q. All right. I was looking again, if we go page 105, you can look at the vacancy rate chart. Would you agree that the lowest anticipated vacancy anticipated correlates with about October 1, 2019?

A. It would depend on which market element you're looking at, but, you know, roughly speaking, yes.

Q. Okay. This is market rent growth. Did I already do that one?

Page 107. Oh, you see, rent per square foot, the market rent growth, again, would you agree that the market rent growth depicted on page 107 appears to peak in Seattle, four to five star --

A. Again, it depends on what, you know, market element you're looking at.

Q. Using the Seattle four to five star property chart, the market rent growth year over year is expected to peak in the third quarter, end of third quarter, third quarter of 2019?

1 A. Yeah, or a little past that, yeah.
2 Q. Or a last past that. Okay.
3 I thought there was a cap rate forecast
4 in here. Sorry, I missed it.
5 So I'd like to go back to the
6 discussion we were having about hypothetical
7 assumptions and extraordinary -- or hypothetical
8 conditions and extraordinary assumptions.
9 A. Okay.
10 Q. So you have indicated I think that your
11 special benefit analysis is based on the entire
12 package of Seattle waterfront improvements being
13 completed by October '19 as a hypothetical
14 assumption?
15 A. Correct.
16 Q. Did you do any analysis of benefit
17 allocated as to any particular component of the
18 Seattle waterfront improvements?
19 A. Rephrase that, please.
20 Q. Did you analyze the value contribution
21 of particular components of the Seattle waterfront
22 project?
23 A. Each property was valued before based
24 on the specific assumptions that are in the report,
25 and it was valued again after based on the assumption

that the entire project was completed as of that date and time.

Q. So do you have any way based on the work you've done to recalculate the special benefit if Pier 58 can't be built?

A. No. It's not part of the scope of my assignment, so I don't have any way to value that other than revaluing the project.

Q. So you would revalue the project assuming the improvements without Pier 58 if Pier 58 could not be built?

A. Correct.

Q. Have you ever valued property analyzing highest and best use that is not currently legal?

A. Yes, we've been asked to do that before.

Q. And how do you go about doing that?

A. You make an assumption based on the client's request and make it very clear in the report that this is a hypothetical condition based on an extraordinary assumption of the legality of the assignment you're asked to perform, and you just make that very clear, it's based on a hypothetical condition and if that condition turns out to be false, then your conclusions may not be true.

1 Q. Okay. Have you ever done it with a
2 different approach that the current zoning of the
3 property is one thing, it is anticipated that within
4 a defined period here, say five years the property
5 will be upzoned, valuing the current, valuing the
6 property in its current condition with that
7 possibility of rezone?
8 A. We've done it in the context of an LID
9 where it's reasonably probable that the rezone will
10 occur and had it on that -- the market value based on
11 that basis.
12 Q. So if it's reasonably probable the
13 rezone would occur and you're doing it in the context
14 of an LID, would you assume that it had occurred, or
15 would you assign a percentage probability that it
16 would occur in determining the assessment?
17 A. It would just be based on the market's
18 perception of how they would perceive any inherent
19 risk that it wouldn't, but it would be the basis of
20 valuation.
21 Q. So you'd have some kind of a discount
22 to the value, the current valuation based on market
23 assessment of risk that the rezone would not occur?
24 A. If there was any. You know, a lot of
25 times the market is so certain there is going to be a

1 rezone, there's little, if any -- or no risk.
2 Q. So it really is a question of market
3 assessment of the risk of rezone happening or not
4 happening?
5 A. Correct.
6 Q. Okay. Now, you've been provided
7 documents describing each of the LID components and
8 it's fair to say that some are fairly well -- is it
9 fair to say that some are fairly well developed
10 designs and some are conceptual?
11 MR. FILIPINI: Object to form.
12 A. As it states in the report, some are at
13 90 percent, some are 30 percent. So there are
14 different levels of design that are currently in
15 place as of the time of our analysis.
16 Q. Let's figure out where that is in your
17 report.
18 A. It should be right in the transmittal
19 page there.
20 Q. Yeah, I thought it was right up front.
21 A. Yeah.
22 MS. TERWILLIGER: It's on page 2.
23 MR. LUTZ: Thank you, Molly.
24 Q. So we're at page 2 and where are we
25 looking? Okay, very first paragraph on page 2.

1 So your report is that currently the
2 design process for the promenade portion of the
3 improvements is 100 percent complete?
4 A. That's what this information is
5 directly from the city, so that's what the city is
6 telling me.
7 Q. So what independent diligence have you
8 done to assess that information?
9 A. I purely relied on the city's
10 information relative to the completion and the design
11 elements of the project.
12 Q. And what does 100 percent complete mean
13 in your understanding?
14 A. That they are fully vested and they
15 could be ready to build that element.
16 Q. So vested meaning their permits are
17 issued?
18 A. They may or may not. I don't know for
19 a fact if the permits are issued, but they would be
20 ready to at least apply for permits or to move
21 forward with the project.
22 Q. And when you say "vested," so they're
23 applying for something they're legally entitled to
24 pursue and they have -- I mean, I was going to say
25 full, did 100 percent mean a bid set of construction

1 drawings?
2 A. I don't know. That's really beyond my
3 expertise --
4 MR. FILIPINI: Object to form.
5 A. -- to make determinations of where they
6 are, and I just purely don't know where they're at in
7 the permitting or moving forward project. I just
8 know that in these different design elements, that
9 they're -- what is stated here is where they're at in
10 the design process.
11 Q. Okay. So going on, so you have been
12 informed by the city and have not done any
13 independent diligence to assess that the design
14 process for the promenade portion of the improvements
15 is 100 percent complete; is that a fair summary?
16 A. It's not part of the scope of my
17 assignment to review or ascertain what the city is
18 telling me. I'm making assumptions based on what
19 information the city is providing me and then making
20 my value opinions based on that. So these are a
21 basis of assumptions that we're asked to look at
22 based on certain design elements that are in place as
23 of the valuation date.
24 Q. Reading again, next paragraph or next
25 sentence, "Design for the Pier 58 (formerly

1 Waterfront Park) improvements is 30 percent
2 complete," comma.
3 So again, you have been told that the
4 design for Pier 58 improvements is 30 percent
5 complete. That's your understanding of the status of
6 the design?
7 A. As of the date of my value, yes.
8 Q. Is it different now?
9 A. I don't know.
10 Q. Do you have an understanding of what 30
11 percent complete means, is there a relevance to 30
12 percent completion?
13 A. Again, this is an assumption of the
14 report and it was an instruction by the city to value
15 the property based on 30 percent design. And after
16 sitting down and looking at the level of detail that
17 went into the design and I felt comfortable that at a
18 bare minimum, this is what the city would have to
19 build based on what they told me now. So the 30
20 percent design, they would at a bare minimum have to
21 complete those elements that are described in the
22 addenda at a bare minimum.
23 Q. Okay. So for the relevance of your
24 report, the 30 percent complete design is reflecting
25 the fact that when you analyze this, your analysis

assumes that Pier 58 as reflected in the 30 percent design is complete as of October 1, 2019?

A. Correct, and it's going to be done based on the information that's in the report at a minimum.

Q. So that would be that or better?

A. If it's better, that would be better for the property owners, but at a bare minimum, it'll be as it's designed and stated in the report.

Q. Then you have the lower Union improvements design is 90 percent complete. The design is 30 percent complete for the overlook walk portion of the project. So that's the same for all of those, is you've got an idea based on those 30 percent drawings of what is going to be built.

Then it says, "The Pike/Pine corridor and Pioneer Square elements of the project have not yet reached the 30 percent design milestone. However, based on design and engineering work completed to date and a number of discussions with the city's utility department and others, the design teams believe that the renderings provided" to you "reflect a level of confidence commensurate with a 30 percent design milestone and will not change substantively once that official milestone has been

reached."

So can you describe why that was important to your analysis?

A. What you just reported was provided to us by the city. So the relevance of it is, for me is just that, again, it's just an assumption that at a bare minimum, what they're providing me will be built at a bare minimum.

Q. Even though it's not 30 percent design, they've assured you and you have relied upon that assurance to analyze the anticipated improvements increase the market value of the LID area?

A. I'm assuming that what they're being built -- excuse me, what they've designed and what they show in the after value is going to be built, and then looking at the project as an entity, that my market value would be based on that, my market value changes would be based on that.

Q. It talks about the 30 percent design milestone. Is that something in your mind that is a milestone, or is that information you received from somebody else?

A. It was a discussion between the city, legal, the design people and where we felt it was at a sufficient level to be reasonably probable and for

me to make an informed valuation decision on and have enough level of detail to where they provided information to me, that I could look at that and say okay, at a bare minimum, this is what will be built.

Q. So these plans, can you show me where these are in your addenda, the plans that you're referring to in that paragraph?

A. I don't know where you get the word "plans." They have renderings and whatnot in the addenda and a visual description.

Q. Okay, design process. So show me what it is that you're relying on in your report.

A. Well, you need the addenda portion of the report.

Q. That we don't have here?

MS. LIN: I can pull it up if you want to go through it. It's huge.

(Discussion off the record.)

MR. LUTZ: I'd like to mark Exhibit-2.

(Exhibit-2 marked.)

Q. Have you seen this before?

A. Not that I recall, no.

Q. If you look through this list, it's called Bob's list of mitigation ideas, so I'm wondering if any of these are your ideas or if it's

1 another Bob?
2 A. I think it's another Bob. This has no
3 relevance -- I've never seen this before. I don't
4 think it pertains to me. It's nothing I would have
5 ever even thought of. I don't know where it came
6 from.
7 MR. LUTZ: Let me mark another exhibit.
8 (Exhibit-3 marked.)
9 Q. Now, have you seen -- do you recall
10 this email?
11 A. Not yet, but I'm still reading it.
12 Q. Okay.
13 MR. FILIPINI: I'll just make an
14 objection to the exhibit. Given it's dated
15 August 22, 2018, it predates both formation and Bob's
16 final benefit study.
17 You can answer the question.
18 A. Obviously I would have read this,
19 but --
20 Q. First of all, can you tell me who
21 Joshua Curtis is?
22 A. Joshua worked for the waterfront
23 Seattle in the -- I forget his exact title, but
24 relations with the stakeholders and the city and the
25 design team and many facets of the project.

Q. What was his role in your work?
A. Mainly in the formation phase, originally with setting up meetings with stakeholders. This would have been prior, maybe even prior to me starting the formation study or it could even have been during the feasibility phase, I can't remember. But setting up if, they wanted me to meet with a number of the stakeholders, the Downtown Seattle Association, explaining what the appraisal special benefit process consists of, what I'd be doing. And then he helped as a conduit with the Office of the Waterfront and myself on design elements just working on different aspects of the project.
Q. Was he the person you would direct questions to try and get them answered, or was there someone else you dealt with more frequently?
A. I would -- typically during the formation phase, I would have dealt mostly with Joshua, yes.
Q. Then for the -- that implies there was somebody else you dealt with more frequently in the final benefit study.
A. Correct.
Q. And who was that?

A. That was Alena Johnson with finance.
Q. And she's on here, Alena Johnson.
So there's a couple of other people, if you can tell me if you know what their roles are.
Steve Pearce?
A. Yes, Steve is a -- I believe he's a design engineer on the project.
Q. Okay. Sarah Butler?
A. I don't know that I ever met Sarah, but I think she was managing the project for the city.
Q. Was, is or --
A. I don't know.
Q. Jessica Murphy?
A. I don't recall her. She may have been in a meeting, but the name doesn't ring a bell.
Q. Then you've got Marshall Foster. What's his role?
A. Marshall is the director of the Office of Waterfront.
Q. You said Alena Johnson is in the Department of Finance?
A. Correct.
Q. But she's your primary liaison with the city on the final benefit study?
A. Correct.

1 Q. And what does her work entail in that
2 context supporting you?
3 A. Yeah, she's -- our contract is through
4 the Office of Finance. So I was asked to direct any
5 questions I have through her because the contract's
6 to her, and then she would disseminate to whoever
7 could answer them and get back to me.
8 Q. It says here, as Mark Filipini pointed
9 out, the date of this is August 22, 2018. The second
10 -- the first sentence says, "heads-up for tomorrow's
11 meeting with the LID appraiser Bob Macaulay."
12 Do you remember that meeting?
13 A. There were many, many meetings, so I
14 don't remember that particular meeting but I'm
15 sure --
16 Q. When you say "many," was that on a
17 weekly basis, monthly basis?
18 A. When we first were getting going on the
19 project during the feasibility and formation phase,
20 it was weekly, and then toward -- during the final,
21 there were really -- I don't think I attended any
22 meetings probably -- I don't know the exact dates,
23 but it's been a long time since I sat in on any of
24 the meetings. Once we got to a certain level I just
25 did my work and didn't attend the meetings.

1 Q. Okay. Then it says, "We're in the
2 process of developing his scope for the final special
3 benefit analysis." So you don't have it ready yet.
4 Can you talk about what was involved in
5 trying to go, move to the final benefit, special
6 benefit analysis, what did you need from the city?
7 A. Well, a concern I had was that I wanted
8 sufficient information to make reliable conclusions
9 based on what was going to be built so I could have a
10 reasonable probability and a bare minimum of what I
11 was going to be valuing in the after situation. So I
12 think that's basically what is expressed in this
13 email, is to, you know, tell them that I wanted more
14 detailed information on the project.
15 Q. Right, and so this second paragraph
16 talks about, "will want to have as much updated
17 design and budget numbers as possible for his final
18 analysis. Mainly, Bob will want to understand where
19 various LID-funded elements will be in terms of
20 design and images, both for his analysis (earlier the
21 better) and exhibits (could be towards the end as
22 long as they represent a significant change in the
23 design/program he based his analysis on)."
24 There's quite a bit in that. You want
25 both design and budget numbers. Why was that

1 relevant?
2 A. I don't know that I want budget
3 numbers. I think that might have been something
4 internal the city wanted. That really wouldn't be
5 relevant to me. What I was mainly concerned about
6 would be just getting more detailed design elements
7 that I had for the formation.
8 Q. Okay. What were you told, if you
9 recall, in August of 2018 about the status of design
10 of the six current components?
11 A. I can't recall at that point in time.
12 Q. It's an interesting sentence. I almost
13 wonder if it's a typo, but maybe not.
14 She says, "Bob will want to have" and
15 then I'm going to jump down to where it says
16 "both, "both for his analysis (earlier the better)
17 and exhibits (could be towards the end as long as
18 they represent a significant change in the
19 design/program he based his analysis on)."
20 Do you know what --
21 A. I think that's a typo. I think as long
22 as they -- I think what she's saying is that as long
23 as there weren't significant changes, because that
24 had some design elements, if they were going to make
25 some big change, then I sure wanted to know about it

so I could analyze it.

Q. Did you get any information about changes to waterfront LID improvements toward the end of your analysis that made you change your analysis?

MR. FILIPINI: Object to form.

A. No. I mean, everything I have that I base my analysis on is in the report. So by the time I received everything, I felt I had sufficient information to complete the report based on a reasonable certainty that that at a bare minimum is what was going to be built.

Q. Were there any surprises towards the end in changes to it, or was it all pretty much what you've come to understand all the way through?

A. Not that I recall, no.

Q. The last piece of that, back up to the first paragraph and I want to just start in the third line down, "if all goes to plan, he," and I think that means LID assessment, "would take place between January and April 2019 (Jessica and Sarah, I had said mid November on Monday, forgetting that we pushed that forward to allow for some extra time on our end)."

So if I'm -- was your original schedule to complete the final benefit assessment in the

1 January to April 2019 time frame?
2 A. Yeah, it may have been. I mean, the
3 whole process has been ongoing and changes were made.
4 And so just like any project, sometimes things get
5 pushed back.
6 Q. Okay.
7 MR. LUTZ: Can I get this marked.
8 (Exhibit-4 marked.)
9 Q. Are you familiar with this chart?
10 A. No.
11 Q. So did you have any discussions with
12 the city staff as to permitting work and
13 environmental review work that must precede
14 construction of the Seattle waterfront project
15 improvements you have assumed were built as of
16 October 1, 2019?
17 A. It wasn't relevant to me. My analysis
18 date was October '19. I just would assume that the
19 project was completed as of that time, so any SEPA
20 issues or other issues like that, they weren't of
21 concern to me.
22 Q. Well, you wanted to be assured that it
23 was reasonably probable that the components were
24 going to be constructed, correct?
25 A. That's an assumption that I made. It

1 was just purely an assumption that they would be made
2 at a bare minimum to those standards, period. I'm
3 not an engineer, I'm not a design person, I don't
4 control those elements. It's strictly an appraisal
5 assumption that I made that the projects would be
6 completed.
7 Q. All right. So if you are acting as an
8 appraiser and asked to value a project that requires
9 discretionary permits to be issued before it can be
10 pursued, how would you go about doing that?
11 A. The scope of my assignment was to
12 assume all of these elements have been completed. So
13 based on the 30 percent design, that's what I based
14 my analysis on. The scope of my assignment didn't go
15 beyond that. It didn't get into these other
16 hypothetical situations of how I would look at other
17 SEPA elements or anything like that. It was just
18 purely to base my analysis on the fact that these
19 elements were completed as of that date and time.
20 Q. Okay. Well, so let's ask the question
21 a different way.
22 If you were going to assume that a
23 buyer is interested in a property for redevelopment,
24 do you take into account in valuing the property for
25 a lender, for example, the type of permit required

and the duration of process required to secure an approval?

MR. FILIPINI: Object to form.

A. Yeah, it would depend on obviously the scope of service and who my client was. For instance, if I was doing a subdivision analysis, I would look at where they're at, when it's going to come to market, what the absorption period would be and those types of elements, because that would be the scope and the basis of me valuing property for a bank so they can loan money on it.

This analysis is totally different than that. It's based on specific assumptions. They're not relative to SEPA or the design process or anything like that. They're just strictly based on assuming the project is completed as of that date and time.

Q. Okay, and going back to your subdivision example, when you are valuing, how do you account for project risk, what are the components of project risk you would look at in valuing a potential subdivision?

MR. FILIPINI: Object to the form.

A. The big risk obviously with residential property is how long it's going to take to absorb the

1 lots. So yes, that's really the valuation, is the
2 developer taking down all the lots at once or is he
3 buying them in 30-unit lots or how many lots is the
4 subdivision going to consist of? So that would be
5 the main risk in a subdivision analysis.
6 Q. What is that the main risk?
7 A. Because it affects the bottom line of
8 what the market value of the property is going to be.
9 Q. And the reason it affects the bottom
10 line is because the market may shift and lots may
11 become worth less if you don't get in the market
12 quick enough, or is there something else that's
13 relevant to the --
14 A. Well, it would be just based on date of
15 value, it would be, you know, what you're looking at
16 as of that date of value.
17 Q. So if you're valuing it as a
18 prospective subdivision on a specific date, the risks
19 you are looking at are, you said it's how quickly you
20 can take down -- the biggest risk is how quickly the
21 project comes to market and whether it comes to
22 market in phases?
23 A. Yeah, I mean, all this is very
24 hypothetical, but let's say you're looking at a
25 hundred lot subdivision and if the market is going

1 for buy all hundred lots at once, you'll have one
2 market value. If the market is going to buy them in
3 25-lot increments or five-lot increments, you'll have
4 a different value.
5 Q. What do you think about, for example,
6 the risk that you get fewer lots at the end of the
7 process than you're anticipating at the start, how do
8 you account for that?
9 A. Again, it would depend on the scope of
10 services and the information you had at the time
11 you're doing the appraisal. So it may be relevant,
12 it may not be relevant. Typically when you're doing
13 work for a bank, it's not relevant that the property
14 owner has preliminary plat approval and you know
15 exactly how lots you're going to build.
16 Q. So on the assumption we're talking
17 about, it's you're at the preliminary plat approval
18 and now you're valuing it for a construction loan?
19 A. Correct.
20 Q. And when you're at preliminary plat
21 approval, another contingency in your -- or a risk
22 would be that the engineering costs after preliminary
23 plat approval to get to final plat approval are
24 different than assumed at the time of preliminary
25 plat approval; is that fair?

A. Probably as of the date of value, you're basing it on the best information you have, so you're assuming engineering costs is what was provided to you.

Q. Have you done analysis of property -- in your appraisal work, are you familiar with the environmental review process?

A. To some degree. It's not something I get involved a lot with.

Q. Are you familiar with appraisal of property that has wetlands?

A. Sure, yes.

Q. How do you account in an analysis of market value of a property that has undefined wetlands to make a valuation?

A. Again, it goes back to the scope of service what the client is asking of you. If there's no delineated wetland area, you will ask for a delineated wetland area. If they don't have one, you would ask for the best available estimate they may have as to how much wetland is there.

You'd make specific assumptions in the report to identify that and how it may affect your value. If it's -- if those numbers change, if the wetland affects the lot density to some degree or

1 other than you estimated, you would make that real
2 clear in the report, that it would affect your value.
3 Q. The less information you'd have, the
4 more conservative you would be, or would it just
5 depend on client instruction?
6 A. It would just depend on the market.
7 Q. Okay. Well, it would depend on the
8 market. If people really want the property, they're
9 going to buy it regardless of the price. That's
10 certainly one factor, and the amount of information
11 you have is another factor, correct?
12 A. (Nods head.)
13 Q. Correct? You're nodding and I forgot
14 ask her to say he nodded up and down.
15 A. Yes.
16 Q. If there's uncertainty as to the
17 ability to secure permits for the work, how do you
18 account for that in your analysis?
19 A. Again, it goes back to what the scope
20 of your assignment is, who the client is, what they
21 ask of you, so it's a real difficult question to ask
22 -- to answer.
23 Q. Probably difficult to ask too. In this
24 case, you were asked to assume that everything is
25 permitted and built --

A. Correct.
Q. -- as of October 1, 2019?
A. Correct.
Q. This may be a really simple question, but if you could flip to page 2 of Exhibit-4, and look at the Pier 58 chart. Did you do -- did you have any information as to the status of the environmental review and permitting for the Pier 58 project?
A. Again, it was irrelevant to me. I'm just assuming that it's done as part of the project on my date of value, looking at the project as an entire entity.
Q. And then you have at least a small statement in here and now I'm going to screw around looking for it. Could we go off the record for a second.
(Discussion off the record.)
Q. Back on the record.
Let's start with page 91 and your limiting condition number 27. So is this relevant to this discussion we're having about you've assumed everything gets built to at least the standard of the plans you've provided?
A. Yeah, that wouldn't be relevant to this

analysis based on the assumptions that I was provided.

Q. So this would not be relevant? Would be relevant or would not be relevant? I'm sorry, I misunderstood you.

A. Yeah, this would not be relevant. You know, this is more of the generic assumptions that are in our report, so it isn't -- this isn't real specific to the project.

Q. So then we go back to that page 79. I'd like to go under the heading Valuation Summary---without LID, page 79 of Exhibit-1. So first of all, we had a discussion before. The second sentence here says, "Project enhancement factors (i.e., anticipation of the project) are considered and appropriate adjustments are made."

What did you mean by that?

A. Where are you referring to?

Q. Under the heading Valuation Summary---without LID, "Project enhancement factors (i.e., anticipation of the project) are considered and appropriate adjustments are made."

Can you just describe what that's about?

A. Yeah, if we were confirming a sale and

1 someone said they paid X more for the project because
2 they knew the LID was coming, then if we're valuing
3 the property into the before condition, we would
4 adjust for that factor.
5 Q. Did you have anybody tell you they were
6 going to pay more because the LID was coming?
7 A. Well, there were -- I would have to go
8 back and talk to Mary Hamel, who did a considerable
9 amount of research on this, but a number -- and this
10 project has gone on, our analysis has gone on from
11 the formation to the final over a number-of-year
12 period. So obviously the market participants knew
13 about the project. After it was formed, they knew
14 that there was a higher probability of the project
15 happening. So in some of the sales, there may have
16 been some influence or a thought process.
17 Certainly some of the sales assumed the
18 preliminary assessment when they sold which would
19 tell you that they knew the project was coming, they
20 accepted the project, it was built into their sale
21 price, things of that nature. So if there were
22 elements like that in our before value, then we would
23 -- I have to adjust for them as much as possible.
24 Q. Let me ask you a very specific
25 question.

1 Did you find anybody who bought when
2 the preliminary assessment was out and paid 61
3 percent of an anticipated improvement value because
4 39 percent was going to be assessed?
5 A. Well, that question doesn't make any
6 sense.
7 Q. Okay. You've said that you're
8 collecting 39 percent of the special benefit, so each
9 property is benefitting --
10 A. Well, all I'm referring to is that
11 there were a number of sales that occurred after the
12 formation, so they had -- a preliminary assessment
13 would have been attached to their title. So that
14 assessment amount, which I think was higher for the
15 formation, would have been included in their purchase
16 price. I mean, they would have recognized that
17 additional cost in their purchase price, is what I'm
18 getting at.
19 Q. So in some measure, it would have
20 decreased the purchase price because you increased
21 the assessment?
22 A. We would have adjusted the sale price
23 downward in the without situation because that would
24 have been some consideration of anticipating of the
25 project.

Q. Oh, okay. So how you used it --
A. Right.
Q. -- was to analyze the sale as though the assessment didn't exist?
A. We're trying -- under the valuation, similar to emanant domain, you're trying to take out any anticipation so that in the before, we can look at it, that is the viaduct is down as we described. And so if there was elements of anticipation that were in sales that we thought influenced the value and we're trying to get at the before value, we would have made some adjustments if it was reasonable and applicable in the market.
Q. I was looking at this paragraph, "This LID is relatively unique in that it is being closed out (and assessments finalized) before the actual improvement are constructed"?
A. Right.
Q. And you go on to say, "Therefore, many of the recent sale transactions considered may contain elements of project influence resulting in anticipatory value increments to the purchase price."
A. Right.
Q. That's what you're talking about?
A. Correct.

Q. That's actually what I was asking too about anticipatory analysis with respect to removal of the viaduct, for example, or completion of the LID improvements. Actually, let's go back to the first sentence.

"This LID is relatively unique in that this it is being closed out (and assessments finalized) before the actual improvements are constructed."

How many of those types of assessments have you worked on?

A. They're rarer. The South Lake street car was done. That was done that way. We didn't do that benefit analysis on that project.

I just did one over in Pasco, we closed out last year. That was a Chapel Hill Boulevard road improvement project that was closed out the prior two constructings. So the city, similar to this, set a limit to the property owners as far as what they were going to charge them for the improvements and they were going to take -- the city was going to take the risk for any cost overrun, and that final assessment hearing was last March I believe. So that has been closed out. It was done prior to constructing the improvement.

Q. Is the road done now?

A. I don't know. I've got to be back over there in a couple of weeks. I'll check it out and see. Probably not. I don't think they'd get it built that quickly.

Q. Just made an interesting point. So they used the same technique that Seattle has used here, which is to cap. So the purpose of the cap is to protect the landowners from future assessments if the costs of the project goes up dramatically?

A. Yes.

Q. What happens if the cost goes down dramatically?

A. I don't know. I don't know, I've never encountered that. I don't know if the city or if they could lower their amount and charge less to the property owners. I think they can. That's a legal question.

MR. FILIPINI: I was going to say, I'll object, it calls for a legal conclusion.

Q. But you've never had experience with that?

A. I've never had an LID go down, no.

Q. Have you ever had an LID where the project got cancelled after it got funded?

A. Well, Northeast 4th might be an example. I don't know. I know they changed their method of -- I think they ended up doing mitigation cost instead of an LID cost. I just don't know. That would be the only one that comes to mind. I can't think of any other one that has been cancelled once it was funded.

Q. Well, and I probably didn't ask because Northeast 4th got built.

Have you ever had experience where you worked on an LID, the assessment was finalized, but the improvement was not constructed?

A. Not that I recall.

MR. LUTZ: Can we take a break for a second.

(Brief recess.)

MR. REUTER: Mr. Filipini, do you intend to introduce spreadsheets relating to clients represented by me?

MR. FILIPINI: Todd, there are six spreadsheets that Mr. Macaulay brought with him today that are Foster -- oh, no, I'm sorry, there's it looks like 13 spreadsheets that we brought with us today that are Foster Garvey. We could just set those aside and, you know, I don't know -- you guys

1 will have to decide I suppose if you want Molly or
2 Megan or Jerry to ask questions on your behalf with
3 respect to those, and of course you don't have them
4 in front of you or we could just set them aside.
5 MR. REUTER: Did you say you had 13
6 that are my clients?
7 MR. FILIPINI: 12. I can tell, Todd,
8 by looking at this cheat sheet chart that Bob created
9 for me that, for instance, three of the sheets look
10 like they're concerning one property. So that
11 probably accounts for why there's more sheets than
12 clients.
13 MR. REUTER: Yeah, set those aside and
14 I will talk to Jerry at a break as to whether he
15 intends to ask questions about those spreadsheets.
16 MR. FILIPINI: Okay. Then I guess if
17 we could go off the record for a minute, I'll just
18 take a moment and spread these out. Molly, I will
19 give you Yarmuth's, and Megan and Jerry, I'll give
20 you Perkins', and I'll set Todd's aside.
21 (Discussion off the record.)
22 MS. LIN: So I'll just start off by
23 saying we just got these very complicated printouts
24 of spreadsheets from the city and we're going to
25 probably want to hold the record open to the extent

possible pending production of the actual Excel spreadsheets and to allow for further review. So far I've only been able to look at one of them, but I'll go ahead and ask some questions.

MR. FILIPINI: I guess if I could just say in response, we're supposed to hold the record open since there will be an opportunity for cross-examination at the hearing, but I understand your position.

E X A M I N A T I O N

BY MS. LIN:

Q. Can you first describe generally the process of analyzing the special benefit for hotels?

A. Sure.

MR. FILIPINI: I apologize, if I could start before you answer the question, I would designate this portion of the deposition as confidential pursuant to the parties' agreement.

(Following testimony designated CONFIDENTIAL.)

THE WITNESS: I'm going to talk, Mark, is that okay?

MR. FILIPINI: Yes, if you remember the question.

A. Can you --

BY MS. LIN:

Q. Sure.

Can you please generally describe your process for analyzing the special benefits for hotels?

A. Sure. So throughout the process of looking at different market areas and through our valuation process, there was several key factors that we saw that were relevant in all these markets. One, open space projects like this typically influence rent and vacancy rates of not only hotels but office, apartments. That was one cost element.

Through looking at their sales info, they increased the approved sales when you look at them as independent entities. They also impacted the capitalization rate. So as property values go up, the capitalization rate would lower.

So we arrived at a before value and then looked at two different scenarios. One would be a vacancy change and a rent change, and what that

1 would show as a range in benefit.
2 So depending on where the property was
3 located at, there may not be an occupancy change, but
4 there may be a rent change, or if it's a project
5 closer to the waterfront, it could be more influenced
6 by the project, there may be some occupancy change as
7 well as a rent change. So that would be one
8 reflection of the after value.
9 The second reflection would be looking
10 at the capitalization rate. So looking from an
11 investor's perspective, the probability that they
12 would consider all of the elements of the LID and pay
13 a slightly higher price for the property and
14 therefore a slightly lower capitalization rate due to
15 enhanced location, reduced risk, higher projected
16 value in the future.
17 So we ended up with kind of four
18 different scenarios that we looked at within a range
19 of benefits and then within that range of benefit,
20 then we just made judgment calls as to what we
21 thought the market value would be in the after that
22 that would be roughly proportionate to similarly
23 situated hotels or similarly situated properties with
24 similar highest and best uses.
25 Q. Okay, and so with regard to rent, so

there are two, there's the rent occupancy rate and then there's capitalization rate, and those are separate?

A. Correct.

Q. The occupancy and rent rates, you said that that depends on kind of the location of the property. So is that dependent on proximity to the LID improvements?

A. The average daily rate, is that what you're referring to, what the hotel is getting revenue-wise?

Q. Sure.

A. Obviously that would in the before, that would have some -- in the before value, that would have relevancy to the assumptions we talked about in the before condition. And then the two scenarios reflect the after condition to where you may see a similar occupancy rate or a slightly higher average daily rate and then the change in the capitalization rate.

Q. So where did you get the average daily rates from for the before condition?

A. Yeah, we hired Mark Lukens, who I mentioned before, with LW Hospitality Advisors. He helped us with looking at daily rates, looking at

1 expenses, looking at capitalization rates.
2 We also looked just on the hotels
3 website, Expedia, those types of things. We didn't
4 obviously have, we weren't privy to the historic
5 data, the financial spreadsheets of the hotels. So
6 we based it on the best information we had. We
7 didn't pull up any additional reports or anything of
8 that nature.
9 So we tried to take the lowest rate
10 from the online rates and we, you know, we did
11 recognize also that, you know, oftentimes hotels have
12 special clients, they have bulk rates. We understand
13 the complexity of hotels, you know, very much and did
14 our best to recognize that.
15 So the average daily rate was based on
16 online information, on consultation with our advisor
17 and his review of what we did, and that's where we
18 ended up with our average daily rate, and expense
19 information was much the same as well.
20 Q. So this expense information you're
21 talking about, well, let's go back, not just the
22 expense information, but so food and beverage
23 revenue, that also is coming from kind of online
24 sources?
25 A. No, no, that would be coming from

1 LW Hospitality Advisors. And I think Paul Bird in
2 our office did a lot of the hotel analysis, and I
3 would need to go back and talk with him more
4 specifically, but I know Mark provided a lot of
5 information relative to those additional revenue
6 sources.
7 Q. Okay, and then for expense information,
8 you were saying that generally that came from online
9 sources as well?
10 A. No. Well, I believe there's some
11 published sources that we looked at. I would need to
12 clarify that with Paul, but LW Hospitality Advisors
13 had expense information they had. They're a large
14 hotel firm that specializes in hotel valuation. So
15 it would have been I think a hybrid of both of those.
16 Q. Okay. Did you seek out information
17 directly from any of the hotel properties?
18 A. No, we did not call the hotel manager
19 and ask them what their average daily rates were and
20 what their expense ratios were or anything like that.
21 We didn't think it would be a productive source of
22 our time. That information is so proprietary, we
23 didn't think it would be a good source of time to try
24 to obtain that.
25 Q. You mentioned that for some hotels,

that you found occupancy might change but rates might not, and for other hotel, rates might change but occupancy might not. Can you explain those differences and kind of where in the LID, where within the LID one might change and where one might not change? Maybe giving a few examples would be helpful.

MR. FILIPINI: Object to form.

Go ahead.

A. Generally, without going back through and reviewing them again, but typically when you got further back like by, you know, the Hyatt Regency or the Grand Hyatt, you know, the hotels further back from the waterfront, versus the Marriott waterfront or hotels like Four Seasons, those would probably see more of an occupancy change as well as a rate change, whereas the Hyatt Regency would see just more of a modest rate change and a very slight change in cap rate or something like that, but it would not see an occupancy rate as a result of that. It may see a slight uptick in the average daily rate.

Q. Again, what is the reason for that?

A. Just proximity to the waterfront, proximity to the Pike/Pine corridor, the distance from the improvements being constructed by the LID.

Q. Do you know generally what the ranges were, like how much would occupancy change, how much would rates change?

A. It was pretty modest, and again, I would have to go back through and look at those, maybe occupancy 1 or 2 percent, as I recall, and again, I would need to go back through and review those, but yeah.

Q. So for any particular one hotel, occupancy might change let's say 2 percent, but the rate might change 1 percent, the numbers don't necessarily have to be the same?

A. Yeah, it would just depend on the hotel, the location, the proximity to the improvements, that type of thing. It would be -- they would drive our decision as to the relevancy of it in the after condition relative to the -- in the LID improvements.

Q. In the before scenario, how were you able to come up with occupancy and rate information assuming the viaduct removal and the baseline improvements?

A. Yeah, again, just making a judgment call as to how it would affect the daily rates, how it would affect the expenses were probably fairly --

1 some expenses were adjusted by that, but, you know,
2 the same type of basis that we did with the after, on
3 the best information we could find.
4 Q. And were those adjustments generally
5 upward from -- I assume that if you were taking let's
6 say an Expedia rate, that adjustment might go upward
7 for removal of the viaduct and those baseline
8 improvements?
9 A. Correct, depending on the location of
10 the hotel in relation to the waterfront and where
11 it's located at.
12 Q. Okay. Your report basically has found
13 that hotel properties would experience a slightly
14 larger increase in value due primarily to increase in
15 tourism; is that right?
16 A. Correct.
17 Q. Can you just walk me through that, kind
18 of how a hotel might get either increased revenue or
19 like a higher cap rate due to increased tourism?
20 MR. LUTZ: Lower capital rate.
21 Q. Sorry, lower cap rate.
22 A. A what?
23 The before value we looked at, you
24 know, the Kidder Mathews supply and demand factor and
25 CBRE and other published sources on supply and demand

1 factors. And then the after situation, we relied on
2 the HRA study, which indicates that there would be a
3 fairly significant increase in supply of hotel rooms
4 needed and felt there was additional supply in the
5 market that would justify, you know, increase from
6 the million and a half tourists they project, you
7 know, to provide some upward adjustment potential for
8 the hotels, again depending on where they were
9 located at.
10 Q. Okay. And did you consider when the
11 tourists would start visiting? Would they start
12 visiting kind of during construction, after the
13 improvements already completed? When would the
14 uptick occur?
15 A. Again, it goes back to the basic
16 valuation assumptions that we talked about, is that
17 we would assume the project would be completed as of
18 October 1, 2019, so that would be the market at that
19 time that would reflect the increase in tourism.
20 Q. And so was it your assumption that the
21 hotels would immediately start realizing benefits in
22 the form of increased revenue at the moment that
23 these improvements were complete?
24 A. What we're trying to show is what a --
25 looking at the definition of market value, what a

well informed buyer and seller, you know, would consider in the marketplace. And you know, they're obviously going to be looking five, ten, 15 years down the road and pay something as of October 1 for the property recognizing that in comparison with all of the other cities we looked at, that there will be an upside in their investment due to the proximity to these improvements and they'll -- in the form of a cap rate, they'll pay a slightly lower cap rate and therefore a slightly higher rate of the property to reflect the probable increase in value that they'll see by those improvements being in place.

Q. And besides tourism, was there any other driver of this increase in I guess either revenue or --

A. Well, the enhanced desirability of the location of the property, the proximity to open space, location, things of that nature that the market looks at and enjoys, that the hotel guests would see as an amenity due to the location of the hotel relative to the project improvements.

Q. So you mentioned the HR&A study. Why don't we actually just so we have it --

MR. LUTZ: Might as well.

(Exhibit-5 marked.)

Q. So if I can ask you to look at the first slide, which is I guess page 83.

A. Uh-huh.

Q. Can you explain to me what capture rate is? And capture rate also comes up in your final benefit study in discussing this particular study.

MR. FILIPINI: I apologize, Megan, you may have already said this. Exhibit-5, it's an excerpt of the larger study?

MS. LIN: Correct.

MR. FILIPINI: Thank you.

A. As I indicated, Paul Bird in the office did most of the analysis on the hotels, and I would need to refer to him to clarify anything that I say.

But it would be the capture rate from the amenities of the improvements that would be projected in the market. So I think in this chart, it may be the total annual visitors. I would have to review this more carefully and talk to Paul to really fully answer that question.

Q. It looks like it might be --

A. I don't know if they're specifically in this chart talking about just the waterfront as a whole in the marketplace, or if they're just referring to the capture rate due to improvements to

these different elements. I don't have a whole report in front of me and I haven't looked at it in quite a while, so I don't want to answer that question incorrectly.

Q. So it looks like this is based on seven parks and the capture rate from those seven parks ranges from 5 percent to 44 percent; is that right?

A. Correct.

Q. This 20 percent is the average capture rate of all of those seven parks? That's just a strict average it looks like, right?

A. Correct.

Q. And then what this chart looks like, it takes 40 million, which is the total market for Seattle, which includes I believe the metropolitan population, the population and the tourists, and it multiplies it by 20 percent capture rate to project 8 million annual visitors; is that right?

A. Correct, but I don't -- yeah, I don't think that is -- I would need to look at this more closely to discern exactly what they're referring to relative to the project itself.

Q. What do you mean by that? What are you kind of confused about?

A. Well, I haven't seen this for a long

1 time. I mean, I haven't looked at it for quite a
2 while, and so I would need go back through and talk
3 to my hotel analysis person and to more clearly
4 understand what this 8 million visitors is referring
5 to. Is it referring just specifically -- my
6 understanding was that the net average of what the
7 project would bring on its own would be a million and
8 a half visitors, not 8 million visitors.
9 Q. So, sure, this could be just total?
10 A. Yeah.
11 Q. That's what this looks like it, a total
12 annual visitor number?
13 A. Yeah, so that's more what I'm referring
14 to. I would have to get clarification in my mind
15 exactly what that's dealing with.
16 Q. The final special benefit study does
17 rely on this idea that the waterfront LID
18 improvements is going to increase tourism?
19 A. Correct.
20 Q. By about 1.5 million visitors a year?
21 A. Yes.
22 Q. That 1.5 million number, do you just
23 generally remember how you came to that number?
24 A. It would have been based on this study.
25 Q. It would have been based on parks

1 drawing visitors in from other cities?
2 MR. FILIPINI: Object to the form.
3 A. Correct, and it could also be relative
4 to local populations using the area more as well. I
5 would have to go back and look at that.
6 Q. Okay. Do you know whether or not you
7 all looked at -- whether you all considered these
8 particular parks and their ability to draw visitors
9 in?
10 A. Well, we certainly would have looked at
11 this report and the relevance of it in relation to
12 the other cities, sure, yes.
13 Q. Then if you look at the next slide,
14 this ways, "HR&A then estimated the share of regional
15 versus out-of-town visitors, and how much time these
16 visitors might spend in the park."
17 So it looks like what happened is HR&A
18 is looking at how many visitors to the waterfront are
19 coming from within Seattle or regionally versus from
20 out of town; is that right?
21 A. It appears to be that, yes.
22 Q. Okay. Then if you look at the note on
23 the bottom it says that the distribution of visitors,
24 meaning the percent regional versus tourist, is based
25 on comps from High Line and Hudson River Park. Do

1 you know where those parks are?
2 A. Sure, High Line and Hudson are in New
3 York.
4 Q. Basically what this is saying, this
5 distribution of, you know, local versus tourists is
6 based on percentages from New York?
7 MR. FILIPINI: Object to form.
8 A. Well, it goes on to say, "Distribution
9 of day versus overnight tourists is based on 2016
10 Longwood Tourism Study for Seattle," which again I
11 would need to familiarize myself with to better
12 understand this spreadsheet.
13 Q. Do you have any reason to doubt the
14 accuracy of this note?
15 A. No, it's there. I don't doubt it, no.
16 Q. As you pointed out, basically the first
17 number that they came up with was a difference
18 between local tourists and tourists coming in out of
19 town, and when they looked at just the tourists
20 coming from out of town -- sorry, they based that
21 number on New York numbers, and when they were
22 looking at just the tourists coming from out of town,
23 they based their distribution of day versus overnight
24 tourists on a local study; is that right?
25 A. Again, I would have to go back through

and review this to more accurately answer this.

Q. In your professional opinion, based on what you're reading right here, does that seem pretty accurate?

A. It seems reasonable, but again, I would need to go back through and review that more carefully.

Q. If that were the case, does that seem like a reasonable way to estimate the number of visitors coming to the Seattle waterfront?

MR. FILIPINI: Object to the form.

A. I can't answer that. I'm not an expert in this field or what HDR did all in their study so I can't answer that.

Q. Would you have been aware of HR&A's methodology when you were preparing the final special benefit study?

A. Mr. Bird would have been much more familiar with that and used it in his analyzation of his hotels than I was.

Q. Mr. Bird works for you?

A. Correct.

Q. So ABS Valuation would have been aware of the methodology?

A. Yes.

1 Q. If this note is correct, if
2 ABS Valuation had looked at something like this, and
3 you have no reason to doubt that that is inaccurate,
4 what would ABS Valuation have done with this
5 information, what kind of adjustment would they have
6 made?
7 A. Well, again, I would need to refer to
8 Mr. Bird as far as how he determined the supply and
9 demand factors and how many units were coming on
10 board to answer that.
11 Q. I understand that you yourself might
12 not have been doing this work and it sounds like
13 Mr. Bird would be the right person to talk to about
14 this, but I'm just asking you, now that you've seen
15 this note what do you think, would you have just
16 relied on this methodology or would there have been
17 adjustments?
18 A. At this point without talking to
19 Mr. Bird, I couldn't answer that.
20 Q. Do you know whether your conclusion was
21 based on a -- sorry.
22 Do you know whether your special
23 benefit analysis was based on a conclusion that more
24 tourists would come to Seattle or that more tourists
25 would come to the Seattle waterfront?

A. Well, I think it would be the CBD area that would benefit from the tourism and they would utilize the waterfront amenity as a reason for coming to Seattle or an enhanced reason for coming to Seattle.

Q. Within that, did you consider whether or not visitors were coming for business reasons as opposed to vacation reasons, family reasons, was there any analysis of that?

A. Again, I would have to talk to Mr. Bird about that.

Q. Do you think that analysis would have been appropriate?

MR. FILIPINI: Object to the form.

A. Yeah, again, I would have to talk to Mr. Bird about that.

Q. Do you think that analysis would affect property values?

A. Again, I would have to go back through with him and all of the assumptions that he made in going through this.

Q. So, for example, if everybody, if 100 percent of the people visiting Seattle were coming to visit family, how would that affect the revenue of a hotel?

1 MR. FILIPINI: Object to the form.
2 Q. Let's say they're all staying at family
3 homes.
4 A. That's hypothetical, I can't answer
5 that.
6 Q. Would that affect the revenue of a
7 hotel?
8 MR. FILIPINI: Object to the form.
9 A. I can't answer that. It's subjective.
10 Q. I'm asking you as a professional
11 because you're a professional appraiser who knows
12 this much better than I do, even someone who doesn't
13 know anything, I would assume that that would be, but
14 that's fine.
15 MR. LUTZ: Well, I mean --
16 A. Rephrase the question, please. I mean
17 you're saying if a hundred percent --
18 Q. Yeah, so if 100 percent of people -- I
19 just want to know if that analysis is relevant.
20 So my hypothetical is trying to get at
21 relevance, and my hypothetical was: If all of the
22 new visitors in Seattle are coming to visit family
23 and staying with family, would that affect hotel
24 revenue?
25 A. If they weren't staying in hotels and

were staying with family? Yes, I would think that would affect hotel revenue, yes.

Q. Meaning nothing would happen to hotel revenue?

A. If they stayed with family and not at hotels?

Q. Yes.

A. Yes.

MR. MOSES: I have one quick question.

E X A M I N A T I O N

BY MR. MOSES:

Q. All of your comparables with the exception of Stanley Park project which hasn't been built yet are on this list except the Embarcadero. Is there a reason why the Embarcadero wasn't included?

A. I don't know. This is something that was done by another firm, not us.

MR. MOSES: Okay.

E X A M I N A T I O N

BY MS. LIN:

Q. I'm going to turn to one of these spreadsheets. I'm going to look at this Marriott

1 waterfront spreadsheet. You don't have a copy of it,
2 I assume?
3 A. I don't, no.
4 Q. Can I just walk over there and talk to
5 you about it?
6 A. Sure, sure.
7 Q. So the numbers are kind of small.
8 A. Yeah, I know.
9 Q. So you kind of walked me through this a
10 little bit. It looks like this section is income
11 analysis before?
12 A. Correct.
13 Q. This middle section is income analysis
14 after?
15 A. Correct.
16 Q. Based on rate and vacancy, right, and
17 vacancy changes?
18 A. Right.
19 Q. Scenario B is income analysis based on
20 OAR change?
21 A. Which is the capitalization rate,
22 overall rate, which is a capitalization rate.
23 Q. Okay. So you had explained earlier in
24 room rate information right here, in kind of the
25 revenue, you got that from third party sources and

online?

A. Correct.

Q. Then it looks like here, the room rate --

MR. LUTZ: Is "here" going to help us? We're not introducing it? Anyway, but it would help.

THE WITNESS: I can clearly see what she's referring to.

Q. This room rate from 315 looks like it goes from 315 to either 320 or 321. Can you tell me why there's this increase and what these numbers are?

A. Yeah, correct, they would be based on increased overnight stays due to the project, enhancement of the location of the project relative to the esthetics, amenities the market may like, things of that nature, where the hotel would be in a better position to charge a little bit more per room due to the location from before condition to the after condition.

Q. Okay, and this number, is this number multiplied by 1.75?

A. Correct.

Q. And then for his food and beverage revenue, it's about $35 per room and here it's 35.70. Is that number also just multiplied by 1.75?

A. That, I don't recall. I think that's just the room rate. That looks like it would be a lower number. I don't think it's part of the 1.75.

Q. I'm sorry, 35.60.

A. Yeah.

Q. This goes from $35 to $35.61?

A. Correct.

Q. How does it go to $35.61?

A. I think the logic is just with more people staying at the hotel, you'll have more people needing food and beverage.

Q. Okay, and this is per room, right?

A. Correct.

Q. Okay, and so this isn't necessarily each person eating more.

Sorry, this is each person eating more?

A. If you have a slightly higher occupancy rate, it's logical you'll have more people eating and drinking, so I think it's just reflecting that amenity.

Q. And this number actually does look like it's 35 times 1.75 -- times 101.75; is that right?

A. I would have to do the math on that, I don't know.

MS. LIN: Jerry, can you please?

MR. LUTZ: What's the math?
MS. LIN: Can you do $35 times 101.75?
MR. LUTZ: 35 times 101.75 is -- oh, sorry, got to redo that just because I came up with 33,500. I got to put a dot in there.
35 times 1.0175?
MS. LIN: We want increase of 1.75, so 101.75.
MR. LUTZ: 1.075 --
MS. LIN: No, 101.75.
MR. MOSES: It's 1.0175.
Q. 1.0175, all right.
A. It would be 35.61.
Q. You guys are right, sorry. Okay. And then so it looks like you multiplied the average room rate by 1.75 to get the new one?
A. Right.
Q. Then you multiplied your average food and beverage revenue per room by 1.75 to get the new number.
A. Right.
Q. And then it looks like for parking, you multiplied the average parking expense or rate per occupied room, I think this is also by 1.75, to come up with a new number, right?

A. Correct.
Q. Okay, and then the occupancy here states, what is this number?
A. That's an expense.
Q. Oh.
A. It's a room expense.
Q. Okay.
A. Then food and beverage expense and parking and other expenses.
Q. Okay. So all of those stay the same?
A. Those are deductions from above.
Q. Then what is the rationale for the parking and other -- what does other income refer to?
A. Yeah, I would have to talk to Mr. Bird about that, what he's referring to by other income.
Q. Could it be like conference rooms?
A. I don't know if we break that out separately or not. Do we have banquet space?
Q. I don't think there is any of that.
A. That could be what he's referring to. I'd have to double-check with him.
Q. So what is the rationale for the parking and other income going up by 1.75 percent?
A. Again, just more visitors, more people coming to stay and park, additional revenue that the

1 hotel would receive.
2 Q. Then it looks like -- can you explain
3 this part to me? None of this is --
4 A. Yeah, we have -- because we're doing so
5 many properties, we have different -- we try to keep
6 different sets that we can use in a multitude of
7 ways. So these are all just zero docs because
8 they're not relevant to this property.
9 Q. Understood. Basically you add up all
10 of your revenue, you subtract all of your expenses
11 and you come up with an income, a net income?
12 A. A net income, right.
13 Q. The net income for the before is
14 basically all of these things added and subtracted,
15 and the one for after is each of these things
16 multiplied by 1.75 percent, and then you added and
17 subtracted them? I mean, you added all the revenue
18 and you subtracted all the expenses?
19 A. Correct.
20 Q. Okay. Can you explain to me why you
21 have a 1.75 and a 2 percent?
22 A. Just based on the market and what we
23 felt the increase, reasonable increase in rate would
24 be.
25 Q. And how did this number, how did you

1 use this number (indicating) in your special benefit
2 analysis and how did you use this number (indicating)
3 in your special benefit analysis?
4 A. As you can see down below, we end up
5 with the four scenario range looking at these two
6 scenarios and it looks like one of these pages didn't
7 get -- didn't print out -- I'm sorry, these two
8 ranges with the capitalization rate.
9 So we end up with four probable
10 scenarios ranging from about 2.97 increase in value
11 to 4.4, to 2.8, to 3.57. So within that range, then
12 we make an estimate of what the after market value
13 would be.
14 Q. Would the estimate just be the average
15 of those four?
16 A. No. It would depend on the location of
17 the hotel and the proximity to other similarly
18 situated properties to maintain the proportionality
19 in our study.
20 Q. Do you know if you more commonly used
21 the income analysis or the overall cap rate analysis
22 for hotels in determining the special benefit which
23 was weighted heavier?
24 A. It was both, and it depended on the
25 location of the property as to the relevance of which

one would have been weighted more.

Q. So in your preliminary spreadsheet, that looks like you did not have this range right here and you also did not have a cap rate analysis. What made you include a range and cap rate analysis for hotels in the these final spreadsheets?

A. Are you referring to our formation study spreadsheet?

Q. Yes.

A. Just to provide a better visual look at the market and to provide a better analysis base for us in doing our analysis so that we were hopefully a little more accurate based on, we had additional information relative to having a hotel consultant on board and trying to bracket our benefit better than we did in the formation study.

Q. Okay, and for the third, for scenario B, OAR changes, how did you come up with these cap rates?

A. Through comparable sales, through looking at published reports on cap rates, investor surveys that are out there, things of that nature. So then judgment as far as how we felt the market would reflect the change in location, the proximity to the improvement, the enhanced amenity of the

1 waterfront amenity and things of that nature, how an
2 investor would, a reasonable range a investor would
3 consider and a cap rate change based on those
4 factors.
5 Q. Okay. Did you at all -- because
6 parking is an issue for downtown and for hotels and
7 all commercial properties, did you take into
8 consideration any impact from parking?
9 A. In what regard?
10 Q. Well, I see parking income here. I
11 don't see any analysis of whether or not a special
12 benefit might decrease due to like let's say loss of
13 parking or impact of parking.
14 A. Well, for the property on the
15 waterfront, I think they had about 128 lost stalls
16 along the waterfront. That would have been
17 considered in our analysis where it was relevant. We
18 didn't do a separate parking analysis study that came
19 up with a number and was deducted from something.
20 It was just something we would have
21 looked at relative to each individual property as we
22 were appraising them. Such as, you know, the pier,
23 Ivars, 54, 55, that's where the parking was right in
24 front of. So we just looked at it on a per-parcel
25 basis, and if there was a parking impact, we would

have reflected it in our analysis and made an adjustment in our after value to reflect that difference.

Q. But that wouldn't be in the spreadsheet?

A. We did not do a separate parking analysis, no.

Q. What about traffic analysis, for example, increased traffic due to narrower lanes or --

A. Well, the LID is not about traffic. It's about esthetic amenities and park amenities, and the street design and flow would be the same both in the before and after. So what the city is doing in the Pike/Pine corridor and other areas, they would have done regardless of the LID.

So when you get down to 1st, regardless of the -- if the LID wasn't through or not, I mean, those streetscape amenities would be the same as far as traffic is concerned.

Q. Did you do a similar like scenario-based analysis for every hotel?

A. Yes.

Q. Okay, and would that be a rate and vacancy change analysis with the high/low rate?

A. Uh-huh.

Q. And then OAR change analysis with a high/low cap rate?

A. Correct.

Q. Okay and every hotel got this exact same thing?

A. Similar format, yeah. Some were broken out. Under state statute, each individual tax parcel needs to have a benefit and assessment amount. So some properties get really complex in the sense that they had multiple tax parcels or they were one tax parcel and part of the project was an apartment and part of it was a hotel.

Q. Okay. So like, yeah --

A. Yeah.

Q. Okay.

A. So yeah, but in general, this would be an example of a typical hotel analysis.

Q. Okay.

MS. LIN: Any other questions about this hotel spreadsheet?

E X A M I N A T I O N

BY MR. LUTZ:

Q. Yeah. Back to the Friend visitors

1 study, Friends of Waterfront Seattle, HR&A study,
2 Exhibit-5; is that right?
3 A. Correct.
4 Q. Do you know how you used this
5 information to calculate the before market increase
6 for the hotels?
7 A. No, I don't know that, how we used this
8 in the before analysis. The before analysis, again,
9 would have been based on what the market was at that
10 time, based on the certain assumptions, and this
11 study is more relative to the after situation.
12 Q. But when you're looking at the
13 hypothesized before situation, there will be more
14 visitors, did you assume more visitors to the
15 waterfront because the viaduct is gone and there's a
16 promenade, or did you make some assessment of that
17 change in connection with your before determination?
18 A. It would have been just looking at what
19 the current rates were, making adjustment, you know,
20 adjustment for whatever we felt the market would
21 reflect for the project in the before condition, and
22 then similarly this was one aid we looked at in
23 estimating our after valuation as there will be some
24 more visitors coming to Seattle in all probability.
25 So this study was used more in an after value context

1 and not used in a before context.
2 Q. Then you had talked about, you've done
3 a different analysis for each of the hotels in terms
4 of looking at the hotel individually, making a
5 judgment about what increase in occupancy rate it
6 might be, what increase in average annual -- or
7 average room rate might be, what reduction in cap
8 rate might be. It's my understanding, just confirm,
9 whether those are, all of those are still
10 professional judgment determinations?
11 A. Everything we do is a professional
12 judgment. You know, I'm an appraiser. I estimate
13 things. That's what I'm hired to do.
14 Q. Okay. But so, for example, you're
15 making fairly modest cap rate adjustments like, yeah,
16 here you go, I'm going from a -- what hotel is this?
17 MS. LIN: This is actually the Martin
18 Apartments.
19 Q. The Martin Apartments. So in the
20 before you've got a cap rate of 4.25?
21 A. Uh-huh.
22 Q. And in after, you are looking at a cap
23 rate reduction of between 3/100ths and 1/100th?
24 A. Yeah, we're basically saying any
25 investor would be looking at that as an investment

with the park in place as slightly marginal from the before. There wouldn't be a big change in value. That's probably reflected in the benefit I would imagine.

Q. So you're shaving somewhere between 1/100th and 3/100ths of a percent off the cap rate?

A. Yes.

Q. And in your mind, that reflects, I think there's something there, but it's little?

A. In a prospective buyer/seller's mind looking at market value, two well informed people in the market, they would pay a slightly lower cap rate with the LID in place than they would with it not in place in a before situation.

Q. This isn't driven by any particular academic study or --

A. No.

MR. LUTZ: Okay. I have one last -- well, do you want to go.

MS. LIN: I do want to ask a few questions about this one.

MR. LUTZ: I'm sorry, I just jumped in.

MS. LIN: I wanted to know if you had any -- go ahead.

BY MR. LUTZ:

Q. I have one more generic question for you.

You've said you didn't have information from any of the hotel people about their actual average room rates or occupancy rates. If you got that information on a confidential basis, would you revise your report?

MR. FILIPINI: Object to the form.

A. If I was asked for review the information, if the city asked me to review the information, and if it was factual and valid, yes.

Q. And have you been asked to do any additional work after the examiner rendered findings and recommendations to advise the counsel on adjustment to your proposed LID assessment?

MR. FILIPINI: Object to form.

A. Not yet, no.

Q. Okay.

MR. LUTZ: Go ahead.

E X A M I N A T I O N

BY MS. LIN:

Q. I'm going to walk through a couple of more of these, if that's all right with you.

A. Sure.

Q. I think this will go pretty quickly. We have a couple of different types of properties and kind of discussed hotels. This is going to be about apartments.

A. Sure.

Q. I sort of just pulled them out of the pile. I'm using the Martin Apartments as just an example.

A. Uh-huh.

Q. It looks like for apartments, you did something kind of similar with the hotels --

A. Uh-huh.

Q. -- where you have these scenarios. So scenario A is based on the rental and vacancy rate changes.

A. Uh-huh.

(Discussion off the record.)

Q. And then there's a scenario B that is the overall capitalization rate?

A. That is correct.

Q. And it looks like for scenario A, just like the hotel, you've got a low and a high percent then; is that correct?

A. That's correct.

Q. And then scenario B, you've got a low

1 and a high cap rate change?
2 A. That is correct.
3 Q. Okay. And then in your before
4 analysis, you start with rental rates for things like
5 studios, one bedrooms, two, three bedrooms, and then
6 you've also got square footage rates for retail?
7 A. Correct.
8 Q. Okay, and then it looks like what you
9 did in the rental and vacancy rate changes was you
10 multiplied by -- you multiplied the rental rates by
11 .2 percent for the low and .6 percent for the high;
12 is that correct?
13 A. That's correct.
14 Q. Okay, and by doing this, you get a new
15 higher net income?
16 A. Correct.
17 Q. Okay. Did you do this sort of similar
18 thing for each of the apartments?
19 A. Correct.
20 Q. And then for the -- this is an example
21 of an office building. It looks like you did
22 something very similar for office buildings; is that
23 correct?
24 A. That's correct. For all of the
25 properties that we looked at, a similar vacancy and

1 rent analysis was done, and a separate capitalization
2 analysis was done, and that was our reflection of
3 what we saw in the market as being the driving forces
4 of the changes in value.
5 Q. Does this comprise your entire analysis
6 for a particular commercial property underlying your
7 special benefit amount?
8 A. There is a lot of additional
9 information that's in the files that we would have
10 considered. We did this analysis sheet. Some LIDs
11 you won't even do an analysis sheet, such as the
12 condominiums because of the vast amount of them, and
13 because of the complexity of these properties, we
14 felt it reasonable to do an analysis sheet just to
15 show our thought process and to summarize our
16 conclusions.
17 Due to the scope of the services of our
18 job, we don't prepare individual reports, and so this
19 is just a summation of our valuations. And if we had
20 to write a report, we have enough information in all
21 of our data to do USPAP-compliant report, but
22 obviously to write a thousand different reports on
23 commercial property would be very, very
24 time-consuming and expensive.
25 Q. So is it accurate to say that there are

other materials out there regarding each of these properties, but these sheets synthesize most of that information?

A. They summarize, yes.

Q. Summarize, okay.

Could I ask you a question about the LID boundary one more time? Sorry to jump back.

A. Uh-huh.

Q. So Jerry wouldn't let me ask it earlier.

So when we were talking about the boundary, you said that at some point there's no more measurable impact, right, and that's kind of where you draw the boundary?

A. Correct.

Q. And you had kind of said there was like neighborhood factors, but there was also like quantitative factors. Like I think you said something like .75 percent probably would be too small of something to measure past. So if you've got those small numbers, it's immeasurable?

MR. FILIPINI: I'll object to form.

A. When you look, if you look up in the Denny triangle area, some of those benefits are very, very low, and they just get to the point to where we

pass that point and when you get to Denny Way, it's a geographical boundary and changing neighborhoods, it just ends up not a measurable niche in the marketplace. The location doesn't lend itself to the utilization of the park and it becomes more of a general benefit rather than a special benefit.

Q. It's so low, it's less than 1 percent, it's almost immeasurable at that point?

A. Correct.

Q. Okay.

A. Well, way less than 1 percent.

Q. Okay. Less than --

A. Less than .25 percent.

Q. Okay. What about less than half a percent, if something was less than half a percent, would that still be --

A. Beyond that, you're more of a general benefit.

Q. Okay. Could I ask a question back to Martin Apartments, then. How is this, this one says .2 percent is the amount that it would have increased. How is that measurable?

A. Well, we were just looking at it, and in relative terms, are you the same with the LID project in place or are you slightly better or are

you worse?

So given this location, that you're going to be slightly better with the LID in place and there would be some modest increase in rent that would be applicable in the market and could be reflected in the market. And although it's small, as is the capitalization rate change, you know, we felt there would be some benefit to some of these properties that are further away, and so smaller adjustments were made for properties in the outlying areas as they were for properties closer to the main waterfront amenities.

MS. LIN: Okay. Do you have any questions with regard to these spreadsheets?

MR. LUTZ: No. I want to ask my two questions at some point, but I'll leave it to you for now.

MS. LIN: Okay. Actually, can we stop just -- why don't you ask your couple questions and then can we take a quick break?

MR. LUTZ: Sure. Is that okay with you guys?

MS. TERWILLIGER: Yeah.

MR. MOSES: Sure.

1 E X A M I N A T I O N
2 BY MR. LUTZ:
3 Q. I have two client-specific questions.
4 And so the first is page -- the fourth
5 page of these spreadsheets.
6 MR. FILIPINI: Is that Exhibit-1?
7 Q. Exhibit-1, and it is the sixth property
8 down.
9 MR. FILIPINI: I just need a minute to
10 get there.
11 Q. Okay.
12 A. Page?
13 Q. Page 4 of the foldout pages, page 4 of
14 13.
15 A. Okay.
16 Q. The sixth property down, B287.
17 A. The Foster Marshall Building?
18 Q. Yes, United Way.
19 So in general, you treated special
20 purpose properties like charities as getting a lower
21 assessment; is that correct?
22 A. Say it again, please.
23 Q. It was my understanding that you
24 treated in general special purpose properties such as
25 charitable institutions properties as getting zero --

a lower or zero assessment.

A. Well, if there was a deed restriction, which there were on 20, 30-some properties, they couldn't change the use, there was no relative income change they could make. They just simply didn't benefit from the property because they couldn't change or get greater rent or anything. So there was a number of properties simply had a zero benefit, yes.

Q. So United Way has an assessment of $139,097. Did you work on that project at all?

A. Yes, and I understand now there's a TDR, and I wasn't aware of it but I am now, that they didn't sell their TDR rights. I thought we had all the TDR right information, but we didn't on this one.

I would say this property would need adjustment to reflect the fact it doesn't have those air rights anymore. This benefit on this particular property would be high relative to factual information.

Q. Okay. So the second one I wanted to go to was page 12 of 13. It's property E061, Fourth Avenue Associates. The property name is Century Square Retail.

A. What page again?

Q. 12 of 13.
A. Okay, got it.
Q. Found it?
A. Yeah.
Q. Do you have familiarity with this property?
A. Generally, yes. I mean, I would have gone by and looked at it.
Q. Okay. Are you aware, and I can also ask you a hypothetical about this, but are you aware of a height limit on that property?
A. I would have to go back and check our records. As I sit here, I am not.
Q. So we can -- this will be coming up in the hearing. So hypothetically, if you did not consider that this building has a two-story height limit in your valuation assessment, that would be an indication that the assessment might need to be revised?
MR. FILIPINI: Object to form.
Go ahead.
A. Correct.
Q. Is there a way from this chart to determine improvement value versus land value?
A. No.

Q. Okay.
A. There is on the analysis chart that we gave you.
Q. (Indicating).
A. Yeah.
Q. Okay. I'm going to hand you this for a minute, Fourth Avenue.
A. Sure.
Q. So as I'm reading that, it has a -- it's mostly land value with a small residual improvement value.
A. Correct.
Q. And the land value is 32 million?
A. Correct.
Q. On the site of that size, does a $32 million land valuation line up with a property that's got a two-story height limit?
A. Yeah, if there is a height restriction on this, then that is a high land value. You would need to adjust it.
Q. Okay. Thank you.
A. You bet.
MR. LUTZ: That's all I got.
MS. TERWILLIGER: Should we break?
MR. REUTER: I have questions when it's

appropriate. Do we want to break?

MR. LUTZ: Yeah, Todd, should we take a quick break so Molly and you can compose yourself or are you ready to roll?

(Brief recess.)

MR. FILIPINI: Based on our understanding that questions concerning the documents containing confidential material are done, we can proceed in the deposition not on a confidential basis.

(End of CONFIDENTIAL testimony.)

1 E X A M I N A T I O N
2 BY MS. LIN:
3 Q. Can you actually turn to page 83 of the
4 final special benefit study. And that is in the
5 after, yeah, after the folded pages.
6 A. Okay.
7 Q. So in the second paragraph down, it
8 says, "In terms of direct residential impact, John
9 Crompton's ongoing studies into the impact of parks
10 on property values have been used by municipalities
11 across the country," and then it goes on to explain
12 Crompton's proximate principle which capitalizes park
13 land and increased property values and a widening of
14 the tax base.
15 A. Okay.
16 Q. So did you rely on John Crompton's
17 studies to prepare the final special benefit study?
18 A. They were used as background
19 information.
20 Q. And how so?
21 A. Just relative information as far as the
22 parks do show -- the studies do show that parks and
23 properties, especially in close proximity, do have
24 market value increase that's been shown in the
25 marketplace as a positive impact on the property

1 value.
2 Q. So the basis of your understanding that
3 a park will translate to increased property values
4 comes in part from John Crompton's studies?
5 A. In part, yes.
6 Q. Okay. What else?
7 A. As far as residential properties
8 specifically?
9 Q. Why don't we talk about -- why don't we
10 actually talk about commercial properties. What
11 forms the basis of your understanding that proximity
12 to a park will increase property values for
13 commercial properties?
14 A. Well, again, in all the studies we
15 looked at, that we addressed in the report, they
16 show -- as we show in our spreadsheets, they show
17 typically properties having proximity to the parks
18 have, typically have lower vacancy rates, higher
19 rentability, lower capitalization rates, improved
20 sales, show increased trends, looking at controlled
21 studies from before and after the park amenities are
22 in place. So those were additional basis that we
23 used to form the range in values that we show in our
24 study.
25 Q. And these are studies based on parks in

other cities?

A. Correct.

Q. Okay. These were sort of -- okay. It says, it does say in the third paragraph down, it says, "In summary, the studies discussed in this report are used as a basis of valuation, given the unique assumptions of the subject LID project. Properties closest to the park areas/enhanced streetscapes experience the most special benefits."

A. Correct.

Q. So what is your understanding of the proximate principle?

A. Of the --

Q. Proximate principle, the proximate principle is listed in quotations in the second paragraph, third line down.

A. I think we're just referring to proximity to the park amenities.

Q. So did you apply the proximate principle in your final special benefit study?

A. Again, we used it as a background tool, as we used other studies we looked at, to develop a range of what would be reasonable in the marketplace.

Q. How is the proximate principle reflected in the actual assessments in this LID?

A. Again, it's used as a background to develop a range. So we didn't specifically use -- use it solely. We looked at a large segment of other studies to draw our conclusions from.

Q. So when you say you used it to establish a range, what does that mean?

A. Well, anytime an appraiser does an appraisal, you try to develop as you see on the spreadsheets, develop a range of what is probable in the marketplace. And within that range, based on the relative locational differences and whatnot of the property, make a market value estimate based on that.

Q. So for here, would it be like in general, if you're within, you know, one to two blocks, this is the range, if you're in three to fewer blocks, this is the range, is that how that would translate here?

MR. FILIPINI: Object to form.

A. Well, generally we found that properties closer to the waterfront obviously benefited more due to the proximity to the waterfront. So they had a higher benefit, depending on the property type, their location, things of that nature.

Then as you moved further back from the

1 waterfront, the amenities that -- the amenity of the
2 waterfront became less and less, and that depended on
3 where you were within the CBD area within the
4 boundary of the LID.
5 Q. Okay, and so on these two bullet
6 points, it says that, "75 percent of the benefit from
7 a park is captured within 500 feet, or three city
8 blocks."
9 Is that three Seattle city blocks?
10 A. I think they're fairly close. Mary
11 Hamel worked a lot on this research and I remember
12 talking to her about that, and obviously city blocks
13 vary dramatically. If you go to Boston, they're very
14 long blocks. So she felt it was relatively
15 reasonable going, you know, back I think a block or
16 two from the waterfront is what she was referring to
17 when I spoke with her about it.
18 Q. So because this final special benefit
19 relates to Seattle, this is referring to 30 Seattle
20 city blocks?
21 A. That's my understanding. I would need
22 to clarify that with Mary, but that's my
23 understanding.
24 Q. Then it says, "The remaining 25 percent
25 of the benefit is likely dissipated over a 500 to

2,000-foot range, or four to 12 city blocks."

A. Correct.

Q. Is that also talking about Seattle city blocks?

A. Correct.

Q. How did you use this information?

A. Again, as I said, it was used as background information. Obviously it's been published several times. It's relied on by a lot of people. It shows a lot of strong market evidence that different property types benefit from proximity to park elements in the marketplace.

Q. Did you use this information to assist you in drawing the LID boundary?

A. To some degree, yes.

Q. Did you use this information to assist you in assigning certain percentages to particular types of properties based on their location?

A. Well, we valued each property individually based on its own merits and looked at a value range, as you can see on the spreadsheets, and then made a market value estimate based on that. So we didn't assign a benefit to any property. It was based on the market value difference of each property relative to its location in the marketplace. It

1 wasn't an assigned value.
2 Q. I see. Did you end up finding that
3 about 75 percent of the benefit that you calculated
4 was actually captured within 500 feet?
5 A. I don't know that for a fact.
6 Q. Do you know if you extended past 12
7 city blocks?
8 A. I don't know that for a fact.
9 Q. Did you talk to Professor Crompton
10 about his study?
11 A. Mary might have. Mary Hamel, who is an
12 associate that did a significant amount of this
13 research, may have. I would have to ask her.
14 Q. In general, did you all reach out to
15 authors of literature or studies that you relied on
16 to interview them or ask them questions about the
17 studies that you relied on?
18 A. I would have to ask Mary that.
19 Q. Would that have been typical?
20 MR. FILIPINI: Object to form.
21 A. For her, yes. I know she talked to a
22 number of different people. I don't know sitting
23 here specifically who, but I know she did specific
24 research over and above this in talking to people.
25 Q. I believe John Crompton also has these

1 criteria for assigning -- for determining whether a
2 park is excellent, average, above average. Are you
3 familiar with that?
4 A. Yes.
5 Q. And what did you conclude the before
6 waterfront to be?
7 A. I think we looked at it as average to
8 above average.
9 Q. Okay. I think it was average.
10 A. I think in another place in the report
11 we say average to above average. I think some of the
12 verbiage got (indicating).
13 MR. MOSES: It's on page 47, I think.
14 A. I think we used some ambiguous terms
15 there, but I think for the most part, we consider it
16 average to above average in the before.
17 MR. LUTZ: Right.
18 Q. And what was the basis for that
19 conclusion?
20 A. Just judgment looking at the facts as
21 we discussed, you know, the before amenities, you
22 know, provide some change from what it was if the
23 viaduct would not have been there. With the viaduct
24 removed would be a better phrase.
25 Q. For purposes of that conclusion, the

1 average/above average conclusion, how did you define
2 the park? Because the criteria is asking you to
3 assign one of these qualities to a park. So what was
4 the park?
5 A. Well, again, this is used as background
6 information. So we took, probably the promenade
7 area, overlook walk area were park-like. They would
8 be maintained by the park department. So again, this
9 is used as background information to make, you know,
10 relative observations in the market as to the change
11 in how the market would perceive the properties in
12 the before versus the after situation.
13 Q. Can you give an example of another type
14 of average to above average park that you think might
15 be comparable?
16 A. Not as I sit here right now.
17 Q. You conclude that after the waterfront
18 LID improvement, the park will go from average to
19 excellent; is that right?
20 A. Average to above average to excellent,
21 yes.
22 Q. What is the basis for that conclusion?
23 A. Just it's appeal in the market, the
24 amenities it provides. It's just a judgment looking
25 at it, looking at the studies. It's, again, it's

1 background information that is using terminology from
2 a report, that we're just recognizing that the market
3 is going to react differently to waterfront amenities
4 because they're much more desirable than they were in
5 the before situation, having the overlook walk,
6 having the promenade and the other streetscape
7 improvements.
8 Q. When you say that is background
9 information, how did this background information
10 inform your special benefit analysis?
11 A. Well, it informed us that the market,
12 positive market forces that create higher values
13 associated with park amenities, like the subject
14 project.
15 Q. And for purposes of concluding the park
16 would be excellent after the waterfront LID
17 improvement, what area were you considering as part
18 of that park?
19 A. Well, we're looking at the project as
20 an entity, so the more park-like amenities are the
21 promenade and the overlook walk area. So we're just
22 looking at it more in general terms, that we're
23 saying hey, it's going from something that's average
24 to above average, to excellent. We recognize a
25 change in the market and these are words that were

used to associate that difference, just to reflect that the market would look at it more favorably.

Q. You're not really thinking about Pike/Pine, or you are?

A. Not so much as far as park-like amenities. They're more streetscape amenities. The number of those New York studies showed positive reactions to more streetscape amenities, but obviously as you move further away from the waterfront, you're more streetscape type amenities than you are park type amenities.

Q. Okay. Without Pier 58, are the waterfront LID improvements more accurately characterized as street beautification?

A. Well, without Pier 58?

Q. Yeah.

A. Well, I think Pier 58, the promenade, the overlook walk, would combine into more park-like amenities than would the Pioneer Square and Pike/Pine corridors.

Q. It's those three together?

A. They would be the main park-like components that we considered.

Q. So when we're drawing boundaries around a park, those are the core park elements that you're

thinking of?

A. Correct.

MS. LIN: I don't have any other questions.

MR. MOSES: I have a few more questions. Maybe it makes sense to ask them now.

MS. LIN: Go ahead.

E X A M I N A T I O N

BY MR. MOSES:

Q. Maybe you've addressed some of these, I'm going to skip through theme real quick.

Do you have any precedents where the Crompton paper was used as evidence in any kind of an assessment district?

A. No, I don't.

Q. On page 19 and 20 of the Crompton paper, it provides a methodology for assessing the quality of a park. It says, "Create each park in the system on a five point scale from blighted to excellent. The grading can be done either by park staff or by a panel of residents familiar with each of the sites. The scales is defined primarily by the emotional response of people in the park's area of influence."

Did you perform either of those surveys?

MR. FILIPINI: I'll object just as to form just to the extent that -- well, including that the Crompton study is not in front of Bob.

Go ahead.

A. We did not perform the study. It was just based on our judgment.

Q. Okay, thanks.

So then in your judgment, you had assessments of average before, I think if I read this correctly, judging from percentages you applied, it had to have been above average -- excuse me, average existing, above average before, and excellent after?

A. We looked in the before condition as average to above average, and then in the after as excellent, just as a phrase to measure that there's a change in the market.

Q. Okay. I realize you don't have the Crompton paper in front of you, but I'm going to refer to page 34 of the Crompton paper. It says, this is the section, chapter 1, context of the issue, section entitled Factors Influencing Capitalization.

It states, "It may take 30 to 40 years for new parks to mature. In the beginning, the trees

are small and spindly. Plantings are scattered and immature. Shade is scarce and the landscaping is not esthetically pleasing. Hence, the capitalized premium initially may be very small" -- excuse me, "relatively small."

Did you make any adjustment for maturity of the park?

A. When you look at the size of the trees, and the city, if you look in our addendum, one of the elements that the city does is put in more mature trees than we would have in a before situation or they would have been in the existing before situation, so it's something that was considered that it would add some enhancement to the park element.

Q. So it's more mature. How mature is a four-inch tree?

A. Well, I don't know. They're planting larger than four-inch trees. Again, you'd have to refer to the addenda. They go into specifics on the trees and the plantings and the number of trees.

Q. Okay. Just for the record, I'm not aware of anything in the study that says it's planting anything bigger than a four-inch tree.

A. There's an addenda to the report. It goes into detail of the African --

Q. That's what I'm looking at. I'm sorry.
A. Okay.
Q. You don't have any estimate then of how many years from maturity the LID improvements are in terms of development of the trees and development of the landscape. Do you have any estimate?
A. Do I? No, I don't.
Q. Okay.
MR. MOSES: That's all my questions.

E X A M I N A T I O N

BY MS. TERWILLIGER:
Q. I have just a couple of questions for you.
A. Sure.
Q. Is it okay if I sit down there, can you guys hear okay?
A. Yes.
Q. I want to start off by talking a little bit about general benefits versus specific benefits or special benefits. Would you agree that public improvements can confer both general benefits and special benefits?
A. They do.
Q. They do, okay. So all public

1 improvements have both general benefits and special
2 benefits?
3 A. Well, it would depend on what the
4 public improvement is.
5 Q. Okay.
6 A. So not all of them would have special
7 benefits, no.
8 Q. Okay, and is your position that the LID
9 has conferred both general benefits and special
10 benefits?
11 A. They do. General benefits just aren't
12 measurable in the marketplace. By definition,
13 they're general and they reach out from the LID area
14 out, as I mentioned before, I'm sure to the north,
15 beyond Capitol Hill, to the south.
16 There's no definable way to say where
17 they end or how to measure them. There's no monetary
18 way to assess that amount. That's why they call it a
19 special benefit, not a general benefit analysis.
20 I've never seen or been asked to do a general benefit
21 analysis. It would be impossible to do. It would be
22 impossible to try to measure this general benefit to
23 the public at large by this project.
24 Q. By this project in particular or by any
25 project?

A. It would just depend on the project.

Q. Okay. Does that mean that your special benefit assessment or your special benefit calculations necessarily includes as part of it the general benefits that are created from the LID?

A. Within the specially benefited area, there would be some general benefit that just isn't measurable. When you get outside the boundary of the property, that's where the special benefit ends and that's where you have general benefit beyond that.

Q. But you don't think there's any way to measure general benefits and to thereby take that away from your calculation of the special benefits?

A. I have never seen it done. I don't know how it would be calculated. I don't know by definition how it could possibly be monetarily measured.

Q. Okay. Can you remind me what the estimated time frame is for the LID improvements?

A. Well, my valuation date looks at it completed as of October 1, 2019, so I've heard 2024 as a completion time frame.

Q. Has your work on other special benefit analyses involved projects that are this many years long or this large in scope?

1 A. Yes.
2 Q. Okay. Does your special benefit
3 analysis or does your calculation account for any
4 decrease in value that the properties might encounter
5 as a result of the construction and the disruption?
6 A. No, that's not something that's
7 considered in our analysis.
8 Q. Okay. Have you ever considered that in
9 one of your special benefit analyses?
10 A. No. It gets more back to eminent
11 domain. It's not compensable, so it's not something
12 we consider.
13 Q. Okay.
14 A. It's a fact, it's a fact that it
15 happens, but from an appraisal standpoint, it's not
16 something you consider.
17 Q. Okay. Have you ever had occasion to in
18 the course of your work come across an improvement
19 district that created special benefits for some
20 property owners and damages or negative benefits for
21 other property owners?
22 A. When we do a special benefit study, we
23 assume that all of the right-of-way area or any area
24 that the public or the city or the county or the
25 state took, that the property owner has been fairly

compensated and so it's a different issue.

So there can be instances where in the benefit study and in this study, where in the Waterfront Landing where they've got an elevated area that is abutting their condominium. So we recognize that is a before condition and it's also an after condition. So there is some view blockage due to that factor, so we did consider that as much as we can in the marketplace through looking at sales in that condominium project.

Q. So. You recommended that -- or did you conclude that that would impact the question of whether Waterfront Landing enjoyed any special benefits from these improvements?

A. It would decrease the value of those condos that were looking that way.

Q. Okay, and what about the trees that are going to be planted and potentially obstruct the views at Waterfront Landing, was that taken into account?

A. As much as possible, yes.

Q. Okay. Now, am I right that your analysis talks about the project as a whole and all six elements combined?

A. Correct.

Q. And you can't tell me what percentage of the benefits are attributable to which element of the project?

A. Correct. That was not part of the scope of our assignment.

Q. And you concluded that it was reasonably probable that all elements of the project would be constructed?

A. That was a specific assumption that we made based on instructions from the city.

Q. Okay, and if one weren't constructed, you wouldn't be able to determine how that would impact the special benefit analysis, right?

A. We'd have go back through and revalue everything to see what impact that had if we were still instructed to look at the property as an entity less the waterfront portion or the promenade portion or something of that effect, yeah.

Q. If you were to learn that the design status on one of the elements was not at the 30 percent rate or was not at a state where you could reasonably conclude that that was the minimum that it could be built, what would you do, how would that impact your analysis?

A. Well, it won't because we just assumed

1 that it was going to be that way and we didn't
2 consider otherwise.
3 Q. Okay. You couldn't make an adjustment
4 without starting over again, right?
5 A. Regarding what?
6 Q. I mean, if you're concluding that all
7 these elements are going to be reasonably probably
8 built, if something were to happen that would cause
9 you to change that analysis, you can't go back and
10 adjust the role, adjust your calculations without
11 starting over from the beginning, right?
12 MR. FILIPINI: I'll object to form.
13 Go ahead.
14 A. Again, it would get back to a scope of
15 services for us to look at and other assumptions that
16 we -- the client might want us to make. It would
17 just depend on a variable of things.
18 Q. Okay. Can you remind me, did you look
19 at actual designs and drawing specifications for this
20 project?
21 A. Yes, yes. We had, you know, schematic
22 designs for the Pike/Pine corridor, for Pioneer
23 Square, and they all should be in the record.
24 Q. And the City of Seattle made
25 representations to you about the status of the design

in terms of completion, yes?

A. Correct.

Q. Are you working with the city right now? I know you talked to Mr. Lutz about a potential error relating to the United Way assessment. Are you currently doing any work to adjust errors that have been pointed out in your analysis, like the fact there isn't a trolley anymore, is that something that you're working on right now?

A. We knew that the trolley was just a typing error that got in the report, but I appreciate you bringing it up.

Q. It was a point of levity on the floor.

MR. FILIPINI: It was.

A. We haven't been asked to readjust anything at this point.

Q. Do you typically do that?

A. Depending on the city and the client, it's been done many, many times when we find out that there's factual information, but my job is to be as fair as possible, and that's what I'm hired for. So I would recommend it, but it would be up to the city whether they want me to make changes or not.

Q. And am I right that that would just result in the assessment getting shifted to the other

1 properties?
2 A. No, the city would have to undertake
3 that. It wouldn't affect anyone else's assessment.
4 That's my understanding. That would be more of a
5 legal question. That's my understanding.
6 Q. Okay. I know you talked about changes
7 to the -- I think it was changes to the Belltown
8 area. Were you aware of changes made to the design
9 of the overlook walk?
10 A. Yes. I mean, I know it's morphed into
11 different design elements over time, so the latest
12 design is what I based my analysis on.
13 Q. So did you do a preliminary analysis
14 based on a different design?
15 A. I believe the feasibility study
16 entailed a much more prominent overlook walk. I
17 don't recall. That's my recollection. I think when
18 we got to the formation stage, I think there were
19 significant changes made just due to the cost of it
20 that reduced the elements of the overlook walk.
21 Q. Okay. I wanted to ask just a little
22 bit about the other projects that you talked about
23 from other cities. This starts on page 48 of your
24 report in case you need to refer to it.
25 Can you tell me whether any of these

specific improvement projects, were they funded by LIDs or do we know anything about how they were funded?

A. Some of them refer to private, public funding, but I don't know. Each state has different laws and ways they mitigate and fund things through private, public. Washington state laws obviously are specific to our state.

Q. Were there other improvement projects that you or your team looked at and decided not to include?

A. Yeah, there were other ones we looked for background information on that we didn't put in the report, and I know there's Toronto, I think Tucson. And there were some other cities that had similar projects that -- or projects that we just felt were different enough that we didn't include them, but we may have considered them as background information, but we didn't include them in the report.

Q. And that was because of the differences between the projects themselves?

A. The differences between the projects and the Seattle project, the comparability of them.

Q. So you can't tell me about the size of

the LID boundaries on any of these because we don't know if it was an LID that funded this, right?

A. Correct.

Q. Do you have a sense of -- so you're aware that a number of the projects cited in here talk about benefits being within one to two blocks or, you know, three blocks or six blocks of the actual improvement, right?

MR. FILIPINI: Object to form.

A. Correct.

Q. Did you encounter any projects where there was found to be improvements from areas that are not proximate or not appurtenant to the improvements?

MR. FILIPINI: Object to form.

A. Boston has, you know, very long blocks. So I think the proximity of benefit in Boston went for a mile and a half out or so, quite a ways out from the park improvements and landscapes they did. That was quite a large area.

Q. Do you ever remember a time in your work in your analysis where the LID boundary extended east of I-5 --

A. No.

Q. -- or the proposed LID boundary?

A. No, I don't believe so.

Q. What about south of where it is currently?

A. The McKee study that I looked at back in 2012 may have gone further south.

Q. Okay. So we got your analysis for the individual hotels just today so I'm not going to ask you any questions about that, but I did hear your analysis or discussion with Megan about them.

Did you do any consideration when considering hotels about the clientele of the hotels that might be tied to things other than proximity to the waterfront? Let me give you an example.

So the Embassy Suites is located right next to CenturyLink Field and only a block away from Safeco Field, and we had testimony entered into the record at the hearing that the majority of people who come and stay at that hotel either stay there for business purposes or they stay there for the purposes of attending an event at the one of the stadiums.

Would that sort of fact have entered at all into your analysis of what the property assessment would be for that hotel?

MR. FILIPINI: Object to the form.

A. I would need to discuss that with

1 Mr. Bird and get his response. I know that the
2 relative benefit of that hotel was fairly low just
3 due to its location. Whether we considered that the
4 mix of people there, obviously with -- you know, in
5 the summer months when the high tourist months are,
6 there are a lot of people going to Safeco. When
7 Toronto comes into town, many, many fans come in.
8 With a park amenity like this in an
9 actual situation, it's I think reasonable you could
10 find greater attractions. Parks like this create a
11 synergy and a name for themselves, like the Boston
12 Commons has and other cities. That type of amenity
13 is considered when valuing that Embassy Suites.
14 Q. Can you talk to me a little bit about
15 how the study talks about or assesses vacant land or
16 land that's going to be developed as compared to land
17 that is already developed?
18 A. Yes. When we look at land that's
19 vacant and going to be developed compared to an
20 existing building, we are valuing it as of a specific
21 date and time, and we're recognizing it's going to
22 take four or five years for the building to be built.
23 We have to value what's there. We can't speculate
24 what the value is.
25 But the benefit in the land was done

1 under a separate analysis basis and they haven't put
2 the labor and capital into building that building to
3 create benefit from that building yet as of the
4 valuation date, so it's just what it is as of the
5 date of the value. So if a building is vacant, it
6 would have maybe the same percentage of land increase
7 as its adjacent improved property, but on an overall
8 benefit basis, it would be less because they haven't
9 put the labor and capital into building the building
10 yet as of our valuation date.
11 Q. But you would agree that that fact
12 could potentially result in inequitable assessments
13 between properties that, by the time the LID is done,
14 are very, very similar?
15 A. Well, not as of the date of our
16 valuation.
17 Q. Right, but as of the date, I mean, the
18 assessment, they both enjoy the LID improvements at
19 the same time, but they would have very different
20 assessments, right?
21 A. That's not part of our assignment or
22 what we looked at.
23 Q. Okay. You contribute to the LID
24 manual, right?
25 A. Correct.

Q. Is that the kind of thing where you write specific chapters or sections or --

A. I wrote the chapter on special benefit assessments methodology back in 2009 and it is in need of updating.

Q. Do you have any thought about what you would update in particular?

A. Oh, there's been a lot of new case law and changes in the market that would be good to refresh and expand on and things of that nature.

MS. TERWILLIGER: That's all of my questions. I'm turning it over to Todd, unless you guys have something to follow up.

E X A M I N A T I O N

BY MR. REUTER:

Q. Mr. Macaulay, I'm Todd Reuter. We spoke earlier. Can you tell me what you did to prepare yourself for this deposition?

A. Yeah, I read through the report again, met with --

Q. Your report, you mean?

A. My report, correct, and read through the addenda again, met with K&L Gates to review probable questions that may be asked.

Q. Anything else?
A. Oh, reviewed the analysis sheets as much as possible, and some of the appraisal testimony and reports have been reviewed to some extent.
Q. What do you mean by appraisal testimony? You mean at the hearings that happened, you mean Shorett and Gordon's testimony?
A. Correct.
Q. So you watched those hearings?
A. I have briefly seen portions of them.
Q. Which portions?
A. I think the 18th and 19th, I briefly watched or listened to some, I guess it was on YouTube, watched and listened to some of the testimony.
Q. Did you watch the entirety of the testimony of Peter Shorett?
A. No.
Q. Did you watch the entirety of the testimony of John Gordon?
A. No, not yet anyway.
Q. And can you tell me how much of Shorett and Gordon you watched?
A. Very little. My timing was such that I haven't had a lot of time to go back and review the

1 entirety of the testimony.
2 Q. Is there anything you heard from
3 Shorett with which you disagree?
4 A. I can't think of anything off the top
5 of my head as far as his specific testimony. I have
6 skimmed through his appraisal reviews and reports,
7 but I haven't had time to really go through and
8 listen to all of his testimony and review all of his
9 reports to really make a defined comment about what I
10 disagree with or agree with or anything of that
11 nature.
12 Q. Same question for John Gordon, did you
13 hear any testimony from him at the hearing with which
14 you disagreed?
15 A. Again, it would be the same answer. I
16 didn't listen to that much and I haven't had enough
17 time to review the reports and go over things to
18 comment specifically on that.
19 Q. Have you read anything in the written
20 materials meaning the appraisal review done by Kidder
21 Mathews with which you disagree?
22 MR. FILIPINI: Object, asked and
23 answered.
24 Go ahead.
25 A. Again, I would need to go back through

1 it in more detail and do a real thorough review
2 before commenting on that.
3 Q. No, my first questions were about the
4 testimony and the hearing. I'm now asking you about
5 the appraisal review.
6 A. Yeah, I understand what you're --
7 Q. You said that you didn't read it all
8 and so I'm just asking you, have you read anything
9 with which you disagree?
10 A. Off the top my head, there are items
11 regarding general versus special benefit and some
12 other comments that I don't think the appraiser has a
13 good grasp of understanding on, but again, I need go
14 through it in more detail to really comment on that
15 to any defined nature.
16 Q. Well, you've said that there was
17 something about the general versus special benefit in
18 the appraisal review. What is it that you're
19 recalling that caused you to say that?
20 A. Well, they're saying that I should have
21 calculated the general benefit and then subtracted
22 the special benefit or something to that nature,
23 which is just not something that's relevant or
24 applicable in doing special benefit studies.
25 Q. Are you saying that it's impossible --

1 or you said not relevant. Do you mean impossible?
2 A. I've never seen a general benefit done.
3 I've never seen general benefit measured in the
4 marketplace. It's something by -- as I mentioned
5 many times, by its definition, it's general, general
6 benefits the public at large.
7 So I've never seen a general benefits
8 study done, and then a special benefit study done and
9 then have them subtracted, or anything of that
10 nature. So I wasn't really sure of the appraiser's
11 understanding of what they were talking about or if
12 they really understood what they were talking about.
13 Q. And is there anything else you remember
14 from the appraisal review with which you disagree?
15 A. Not at this point in time.
16 Q. Is there anything that you read there
17 that you agree with?
18 A. Not at this point in time.
19 Q. Did you read the appraisals done by
20 John Gordon?
21 A. I've skimmed through a couple of them.
22 I haven't reviewed them in detail.
23 Q. Is there anything you read in there
24 with which you disagree?
25 A. Well, they don't do an after value.

They don't recognize the after condition, so they don't really do a true before and after value. So I think that that is done on a fundamentally flawed basis and I disagree with that.

Q. You're talking about the restricted appraisal that Mr. Gordon did?

A. Yes.

Q. You're expecting him to have done a before and after what?

A. Well, if he's doing an appraisal for a benefit study, he should value the property in the before condition and then value it again in the after condition, or at least if he derives there's no benefit from it, explain thoroughly the after condition and how it doesn't benefit the particular properties that he's appraising.

I didn't see any after valuation in a couple reports that I skimmed through. And maybe he's done it. Maybe he's done that for other reports, I don't know.

Q. You're assuming that his objective was to appraise the benefits as opposed to just appraising the value of the hotel?

A. I don't know what his objective was. I assume it was to value the market value of the

1 property. I just didn't see any after value or any
2 consideration of the market or the condition of the
3 market in the after condition valued or explained at
4 all.
5 Q. And do you consider yourself to be a
6 hotel valuation expert?
7 A. I'm an expert in all types of
8 properties. I've valued many hotels. I don't
9 specialize in hotels, so I'm not a hotel specialist.
10 That's why I hired a hotel consultant that is a
11 specialist in hotels.
12 Q. That's LW Hospitality?
13 A. Correct.
14 Q. And what did you get from them?
15 A. Mainly their scope of services was to
16 review our analysis for reasonableness, for average
17 daily rates, expenses, review the benefit amounts,
18 the values per room for reasonableness, just to
19 provide consulting help in regard to valuing hotels.
20 Q. So they didn't provide you with any
21 data, they just double checked your work?
22 A. They provided us with some data of
23 hotel sales, I think some market study information
24 that they had, and then it was primarily consulting
25 services.

1 Q. And was any of the data they provided
2 you relating to a specific hotel?
3 A. I don't recall. It was more in
4 general. There were some that the Hyatt Regency, for
5 example, I think there was some specific changes that
6 they felt on the average daily rate from a prior
7 analysis that we'd sent them, they felt we were high
8 on the average daily rate. I think things of that
9 nature were specific to certain hotels, but I don't
10 recall specifically which ones.
11 Q. Did you interact with LW or did someone
12 else on your team?
13 A. Paul Bird and I both did.
14 Q. And so did LW prompt you to change room
15 rates for any of the following hotels, the Monaco,
16 the Vintage, the Thompson, the Edgewater?
17 A. Is that it?
18 Q. Hilton?
19 A. Are there any more?
20 Q. Not in this part of my question.
21 A. Okay. I don't recall --
22 Q. It's a six-part compound question.
23 A. I don't recall if he specifically did
24 on those hotels you mentioned.
25 Q. Okay. So how do I find that out?

A. How do you find what out?
Q. Talk to Bird?
A. How do you find out what?
Q. Let me ask you another question.
(Following testimony designated CONFIDENTIAL.)

BY MR. REUTER:

Q. I've seen these 2018 spreadsheets that have this similar data on them, and for my clients, there are room rates on the 2018 spreadsheets where I don't have them all but I have some of them. The ones that I've seen today are different. Why is that?

A. We used a different format for the formation than we did -- or for the final than we did for the formation.

Q. Explain what you mean by format.

MR. FILIPINI: If I could, I would designate this portion as confidential because it sounds like we're getting into the analysis sheets provided today.

MR. REUTER: I'm not asking him about specific ones. I'm asking him about why generally there were changes in the data.

MR. FILIPINI: Understood, but part of our confidentiality concern is the methodology applied.

MR. REUTER: That's fine, Mark.

A. Go ahead.

Q. Answer my question.

A. Can you repeat it, please?

1 Q. These spreadsheets from 2018, you call
2 that formation spreadsheets?
3 A. Correct. Well, I don't have them in
4 front of me, but I know what you're referring to.
5 Q. There's room rates in there. The
6 spreadsheets I got today have different room rates.
7 Why are they different?
8 A. Because the valuation dates are a year
9 apart or more.
10 Q. Okay. What is the source of the -- any
11 other reason?
12 A. Well, obviously we're looking at
13 different market conditions. So we're valuing the
14 market as of a different date and time, and if there
15 are changes that occurred in the market that affect
16 the room rates, then they would have been reflected
17 in our final study and they may have differed from
18 our formation study.
19 Q. And is that -- are those changes things
20 you learned from LW Hospitality?
21 A. To some degree. Again, they were hired
22 in a review and consultation fashion, so they
23 consulted on the reasonableness of the room rates.
24 Q. So did they tell you to reduce some of
25 them?

1 A. As I mentioned, the Hyatt Regency is
2 one that comes to mind. There may have been other
3 ones. I just don't recall at this point.
4 Q. And Bird may know that?
5 A. Yes, I would consult with him on that
6 question.
7 Q. Did the source of the data used to
8 determine the room rates change from the 2018
9 spreadsheet to the current spreadsheets?
10 A. Other than the advent of
11 LW Hospitality, the sources would have been the same.
12 Q. And what are those sources?
13 A. Well, again, I would defer to Mr. Bird
14 on this, but the hotel websites, Expedia, book.com,
15 more public-based sources.
16 Q. Anything else?
17 A. No.
18 Q. Any other source?
19 A. Not that I can think of at this point.
20 Q. Have you or anyone on your team
21 reviewed STAR Reports --
22 A. I have not.
23 Q. -- for the hotels?
24 A. I have not, no.
25 Q. Have you or anyone on your team to your

1 knowledge reviewed any STAR Reports about specific
2 hotels?
3 A. Not to my knowledge, no.
4 Q. Have you or anyone on your team to your
5 knowledge reviewed a STAR trend report about any
6 holes?
7 A. Not to my knowledge, no.
8 Q. If you had unlimited access to data and
9 unlimited time and money, what information would you
10 consult to get an accurate valuation on a hotel?
11 MR. FILIPINI: I would just object to
12 form.
13 Go ahead.
14 A. As I discussed in discussions with our
15 consultant with LW Hospitality, most of the time he
16 does any hotel valuation, he has the hotel
17 financials. So obviously that would be the best
18 information available to value the hotel. We
19 obviously didn't have that information. It's highly
20 privileged, so we based it off the best information
21 that was available.
22 Q. What else?
23 A. What else?
24 Q. What else would you do or look at if
25 you had unlimited resources?

A. I'm not following your question. If I had unlimited resources, I would be hired to estimate the market value of the property, correct?

Q. To do the job you did, I'm asking you about valuation of hotels and the benefit analysis.

A. You're asking me if I had unlimited resources to value hotels, what more would I do, I think was your question.

Q. Do what you were hired to do -- let me start over.

A. Okay.

Q. If you had unlimited resources to do the job the city hired you to do, what would you look at, what would you do?

MR. FILIPINI: Object to form.

A. If I had unlimited resources, I would have hired a consultant that specializes in hotel valuations and I would have had that person value all of the hotels. They would have had access to the hotels' financial information and would have had more factual information or the most factual information that would be available to them in the marketplace.

Q. And that would include the actual STAR Reports, wouldn't it?

A. I don't know.

Q. Why don't you know that?
A. I don't know that because I don't know that. I don't know if that's something --
Q. Do you know what the STAR Report is?
A. Yes, I've talked to the hotel consultant about that and they don't -- he said they don't use them on every report he does. So if he's got the hotel financials, he very seldom uses the STAR Report. He said they're subject, like any report, to interpretation and making judgments off of the information you get.
So the hotel consultant said that obviously the best information available would be the financial statements from the hotels themselves so you could really discern the revenue and operating expenses and things of that nature.
Q. Okay. I'd like to ask you about this testimony regarding the change in the neighborhood. I understood you to be saying, Mr. Macaulay, that at some point you have to make a judgment on when to stop the boundary of the assessment area, correct?
A. I recommend boundaries. I don't set boundaries. The city council sets the boundary.
Q. Fair enough, and you recommended that you stop before the International District?

A. The recommended boundary does not include the International District.

Q. That was on your recommendation, wasn't it?

A. That is the recommended boundary that we provided, yes.

Q. Who made the recommendation?

A. I did.

Q. Who all is on your team?

A. Paul --

Q. I'm trying to get a handle on what you do.

A. Sure. Myself, Paul Bird, Mary Hamel, Colleen Fewell. Holly Warren is our office manager, she does a lot of the administrative work. Ashley Zachria worked extensively on the formation, a little bit on the final and she subsequently left to go work for Snohomish County. So she's no longer with us.

Q. Okay. I'd like you to -- I didn't catch all these names, but I'd like you to give me a little, how about a statement on like what area these people participated in, okay?

So Bird, what was his area on your team?

A. Paul mainly worked on the hotel and

1 apartment valuations and some of the special purpose
2 properties that were deed-restricted, the low income
3 housing properties.
4 Mary primarily worked on market
5 research. She did a significant amount of the
6 condominium analysis.
7 And Ashley with her time with us worked
8 in that same capacity.
9 Q. Market research?
10 A. Yes.
11 And Colleen Fewell assisted primarily
12 in market research, assisting Mary and Ashley and
13 Paul and me.
14 Q. Who else was on the team?
15 A. Colleen Fewell, F-E-W-E-L-L.
16 Q. Yeah, I've got you, Bird, Hamel,
17 Fewell, Ashley.
18 Who else?
19 A. Holly Warren, more in administrative
20 capacity. She's not an appraiser, she's our office
21 manager. She helped with spreadsheet compilation,
22 things like that.
23 Q. Are these market research people,
24 meaning Hamel, Fewell and Ashley, did one of them or
25 all of them find these room rates, the room rate data

that you were talking about?

A. Mr. Bird would have been involved in that along with LW Hospitality.

Q. So what market data were Hamel, Fewell and Ashley gathering for you?

A. Ashley and Mary Hamel were primarily dealing with and Colleen to some extent helping out dealing with the condominium aspect of the project, and market research into various different cities and doing research within those cities that was their main --

Q. You mean --

A. -- focus.

Q. You mean like these studies and like what happened at Tom McCall Park and that kind of thing?

A. Correct.

Q. So what did you do?

A. Well, I oversaw the whole project. I valued all of the office buildings, the sports, everything else other than most all of Belltown. Given the magnitude of the project, it was split up into, you know, different appraisers doing different work in different areas, and I was responsible and am responsible for reviewing and making sure that the

1 analysis was done as appropriate as possible.
2 Q. And is Bird your hotel expert in your
3 company --
4 A. Yes.
5 Q. -- or on your team?
6 A. Yes.
7 Q. He's the hotel guy?
8 A. Yes.
9 Q. Okay. And so have you spoken to Bird
10 about this notion of special benefits assessment
11 having a margin of error?
12 A. Yes.
13 Q. And what was that discussion?
14 A. What we thought the comment on it was
15 irrelevant.
16 Q. The comment meaning that the margin of
17 error is 4 percent?
18 A. Whatever they had. We've done over a
19 hundred benefit studies throughout 30 years and the
20 ranges of percentage differences that we've shown in
21 this study are very common in mass appraisal special
22 benefit studies.
23 So there's no published thing I've ever
24 read on a margin of error. It would just be an
25 appraiser's opinion and from what I can discern, that

1 somebody is saying that that's within this margin of
2 error and I just totally disagree with that.
3 Obviously Mr. Bird disagreed with it too. We thought
4 it was an irrelevant comment.
5 Q. Well, what do you mean by irrelevant?
6 Are you saying you disagree and therefore it's
7 irrelevant?
8 A. Just disagree with their report.
9 Q. Do you disagree -- would you say that
10 there is simply no such thing as a margin of error?
11 A. What do you -- define what you mean
12 when you say a "margin of error." A margin of error
13 for what, compared to what, from one appraiser to
14 another? Or define what you're saying.
15 Q. Well, I'd like you to assume that that
16 term means when you say a benefit is .92 percent and
17 I say it's 1.2 percent, how do you say who is right
18 on something like that? And isn't there some room
19 for difference of opinion and a margin of error?
20 A. Well, I wouldn't --
21 MR. FILIPINI: Object to form.
22 A. I wouldn't call it a margin of error.
23 I would just call it a difference of opinion. We're
24 hired to make estimates and we make estimates, and
25 another appraiser may be hired to make an estimate

and have a different estimate. It doesn't mean there's a margin of error. It just means we have a difference of opinion.

Q. Okay, and you have already testified that at some point the benefit number gets so low that you can't -- you have to call it general, right?

A. Correct.

Q. And that number you said was .5 percent. Below that, you can't call it a special benefit, correct?

A. Something like that. It would be a very small number. As you move out from the main elements of the project and get out into the distance, the measurable distance in value is going to diminish to the point you'll hit like Denny Way and I-5 and beyond that, it's just not measurable anymore.

Q. And that number is something smaller than .5 percent, right?

A. I don't know. I don't think it was smaller than that. But it was very low, .1 or it was a very low number.

Q. Well, what is the number? You're the expert.

MR. FILIPINI: Object to form.

A. I'm referring to the specific analysis that we did, and the number that we got out I think was, .1 was probably the lowest number we had out in the far reaches, or maybe .08 or something to that effect in the far reaches of the analysis where we hit Denny Way, we got into a different neighborhood and just felt that that's where we could really from a geographic, from a market perspective, from a measurable difference in value perspective, draw any market benefit from the project, and so that's where the boundary line was drawn.

Q. Was there some discussion you had at a break that caused you to change your testimony in this regard, Mr. Macaulay?

MR. FILIPINI: Object to form.

A. No. I don't know what you're referring to. How am I changing my testimony?

Q. Why did you stop the benefit area at I-5?

A. Well, the improvements along the Pike/Pine corridor largely stopped there. It's a different market sector moving up into Capitol Hill. We just didn't feel that they would be a measurable benefit from the improvements, from the LID improvements. It would be more of a general benefit

1 and not a special benefit.
2 Q. It's something about, is it a freeway
3 that caused the change or is there a different
4 character of the neighborhood or more residential?
5 A. It's a judgment call, and oftentimes
6 when you run into a geographical error -- figure like
7 a freeway, it changes market elements, it changes
8 distance, it brings you into a different
9 neighborhood, it takes you out of the CBD, things of
10 that nature that we consider as well, and it just
11 gets to the point to where it's a logical and
12 reasonable point to draw the line that -- where we
13 can reasonably measure any benefit to the project
14 versus not measuring and having it more general.
15 Q. Have you done special benefit studies
16 on the value of bike lanes before?
17 A. Not specifically on bike lanes.
18 They've been involved in many of the projects we've
19 done associated with street improvement, but not
20 specifically just bike lanes.
21 Q. But like this project, the proposed
22 improvements include bike lanes, correct?
23 A. Correct.
24 Q. And so that's part of this benefit
25 you're claiming that the property owners will

1 realize?
2 A. It's part of the entity that comprises
3 the project elements that we're looking at in the
4 after consideration.
5 Q. And is there any thought in your
6 process, is there any thought given specifically to
7 bike lanes or is it all just sort of jumbled
8 together?
9 A. We looked at each property individually
10 before and after the LID improvements. We looked at
11 the LID improvements as one entire entity. We didn't
12 pull pieces of the entity apart and try to measure
13 them independently. There wasn't part of the scope
14 of our assignment and what we were asked to do.
15 Q. That's not what I'm asking.
16 A. Yes, you are. That's how I am
17 reflecting what I feel you're asking me. But ask me
18 what you're asking me, then.
19 Q. Did you or somebody on your team sit
20 down and say, not the amount of the benefit, but just
21 whether there is a benefit, did somebody consider the
22 bike lanes specifically in determining your
23 conclusions?
24 A. We considered it as part of the
25 project, as an element of the project. We didn't

1 specifically look at it and try to value it
2 independently, but it was an amenity that was part of
3 the project that was considered.
4 Q. Okay. So in your consideration of a
5 bike lane, did you consider who uses the bike lane?
6 A. The bike lane is something that was
7 included as an element in the project, and typically
8 bike lanes are used by people that are commuting or
9 using a bike to travel through the city. So in that
10 realm, yes, I guess we considered who would use the
11 bike lanes.
12 Q. Those people are commuters, right?
13 A. Commuters, tourists, people that live
14 downtown, sure.
15 Q. People that check into hotels, do you
16 see a lot of them arriving on bicycle?
17 A. It's possible. I don't know of any
18 percentage studies that have been done.
19 Q. Okay. I had asked you about what data
20 you got from LW Hospitality. I believe you told me
21 everything, correct?
22 A. Correct.
23 Q. And you've told me that you didn't see
24 any STAR trend reports, correct?
25 A. LW Hospitality did not provide us any

1 STAR Reports, nor did we order any, no.
2 Q. And I'm specifically referring to trend
3 reports. Do you know what those are?
4 A. We did not order any trend reports or
5 were we provided any trend reports from STAR.
6 Q. I believe you testified -- what was
7 that last part?
8 A. Oh, I said you're referring to STAR,
9 STAR Report, correct, STAR trend reports?
10 Q. Yes.
11 A. We were not provided any of those.
12 Q. I believe you testified earlier that
13 CBRE provided you with information?
14 A. Correct.
15 Q. What did they provide you?
16 A. Market sale information, market lease
17 information, general market studies such as hotel
18 studies, office studies, multi-family studies, those
19 are the main things that come to mind.
20 Q. Do you have a discrete folder or way
21 that you could retrieve the information provided to
22 you by CBRE?
23 A. Yes, we have a specific file of their
24 information and I think it's broken out into what is
25 published information versus what is confidential

1 information.
2 Q. And -- oh, so is any of it
3 property-specific?
4 A. Yes.
5 Q. Is any of it financial information --
6 A. There's --
7 Q. -- of owners of property?
8 A. Yes, there's capitalization rate
9 information, lease rate information that they felt
10 was proprietary and didn't want us to disclose it.
11 Q. Did they represent to you that the
12 owners of the properties for whom CBRE released their
13 financial information consented to that?
14 A. They asked us to sign a confidentiality
15 agreement. Their reasons for doing that were their
16 own. You would have to ask them that question.
17 Q. No, no, no. I'm asking you. Did they
18 tell you they had authority to release the
19 information they gave you?
20 A. I don't know.
21 Q. Who would know that, Bird?
22 A. You would have to ask CBRE that.
23 Q. No.
24 Do you understand, I'm asking them --
25 I'm asking what someone told you, you would have

heard or read what someone told you so you could testify about it.

A. No, we signed a confidentiality agreement with them that covered specific information relative to market sales, lease rate information that they did not want disclosed.

Q. Did they tell you they had the right to give you that information?

A. They didn't tell me they had the right, they didn't tell me they didn't have the right, but they provided me the information.

Q. Okay. You testified about this idea of these so-called proximity principles. Is that a term of art in appraisal?

A. I think it's one specific to the Crompton report. I normally refer to it just as a general proximity or the locational difference or something like that.

Q. So the closer you are, the more value, that's the general idea?

A. The closer you are to the parks-related element associated with the LID, we found higher benefit than properties further away from it, yes.

Q. So if one property was on Fifth and Spring and another one was Fourth and Spring, would

that explain why the one on Fifth got a .99 and the one on Fourth got a 1.0 percent?

A. It would depend.

Q. On the proximity principle?

A. It would depend on the type of property, the location.

Q. Both hotels?

A. Both hotels? Well, they're obviously fairly close in overall benefit and relative location, so --

Q. So why would one of them get 1 percent yet the other get away with merely .99 percent?

MR. FILIPINI: Object to form.

A. .99 was probably just a rounding issue relative to the Excel spreadsheet.

Q. But are you saying that the proximity principle is what explains that?

A. Well, it just becomes a judgment of when we're looking at the relative location of properties depending on their use. If they're both apartments and if they're roughly similar in location and use, they may have a roughly similar increase in value.

Q. Okay. Let me ask you about leased property. So take a property like the Thompson Hotel

1 and Sequel Apartments, and I'd like you to assume
2 that the owner has a ground lease. They don't own
3 the land. How did you value that property, how did
4 you account for the lease?
5 A. Under the state statutes, we value the
6 property based on the fee simple interest. So we
7 valued the whole bundle of rights. It's up to the
8 lessee and the lessor to determine, if there's an
9 assessment on the property, who pays what percentage.
10 That's not part of the scope of our services or how
11 the statutes are applied. So we don't and didn't
12 break out the ground lease versus the leasehold
13 interest.
14 MR. MOSES: I need to step in here
15 because we're running way over.
16 Q. Wouldn't it actually be worth less if
17 they don't own the land?
18 A. Do you understand the concept of the
19 fee simple interest?
20 Q. Explain it to me.
21 A. The fee simple interest is the
22 unencumbered market value of the property, you know,
23 free of any encumbrances like a ground lease. So
24 we're valuing the full bundle of right on the
25 property assuming it's free of those encumbrances and

1 we do that in the before and in the after situation.
2 So if there is a ground lease situation
3 like the Thompson, which we are aware of, we
4 recognize it exists, we just don't separate those
5 interests in our valuation. That's not part of the
6 scope of our services to do that. That would be up
7 to the tenant and landlord or the lessee or the
8 lessor to determine what percentage of that
9 assessment, if there is one on the property, they
10 have to pay.
11 Q. Okay, but doesn't that mean that you're
12 overvaluing if you're assuming that Thompson owns the
13 land as the fee simple owning the land and the
14 improvements?
15 A. We're simply following the state
16 statutes, so we're not overvaluing anything. We're
17 just simply following the state statutes which
18 indicates the value of the fee simple interest of the
19 property. So then it's up to them to break out the
20 interests.
21 Q. I'll take your word for it that the
22 statute requires that, and I don't want to attack you
23 with the word overvalue.
24 I'm just saying, isn't the value -- if
25 you say I'm going to assess you based on the sum of

the value of the land plus the improvement and reach a value and use the assessment based on that when in fact the owner didn't own the land, isn't the owner paying more than they really should because they don't own the land, the assessment is too high?

A. Getting back to the fee simple interest concept, the fee simple interest includes both the leased fee and the leasehold interest, okay? So we don't break out those segments in our valuation.

To answer your question, if we were to break out those segments in our equation, yes, the hotel or apartment component that is subject to a ground lease would have a lower value because it is subject and encumbered by the ground lease, and it would most likely be worth less in the market under those assumptions, but that determination is something that the lessee and the lessor in an LID need to determine. It's not part of the scope of our services.

Q. What if the lessor is the State of Washington?

A. Same thing applies.

Q. So you're saying in that case, the owner of a hotel on state property would just have to deal with the state as far as the fact they're being

1 assessed on land that they don't own?
2 A. Correct.
3 Q. The owner, the hotelier has to work it
4 out with the state. That's what you're saying?
5 A. We're valuing the whole bundle of
6 rights, the fee simple interest, and they're on
7 leased land and that would be up to the tenant, who
8 is the DNR, and the hotel, the leasehold.
9 Q. It sounds like close comfort, Mr.
10 Macaulay.
11 A. It sounds like what?
12 MR. FILIPINI: Close comfort.
13 MR. MOSES: I need to step in here,
14 Rudy. We're running short on time. I guesstimated
15 like 30 minutes. And you have to leave at 6:00, so
16 if you wouldn't mind, I'd like to ask my questions,
17 see if I can get through them, and then come back to
18 you.
19 MR. REUTER: Oh, yeah, I thought I was
20 -- I'm sorry.
21 MR. MOSES: It didn't work out that
22 way.
23 MR. REUTER: I'm done, great, go ahead.
24 (End of CONFIDENTIAL testimony.)
25

1 E X A M I N A T I O N
2 BY MR. MOSES:
3 Q. Thank you.
4 Mr. Macaulay, between the preliminary
5 and the final study, did you make any adjustments to
6 any properties for demolition, construction progress,
7 completion?
8 A. Yes.
9 Q. In those adjustments, did you make --
10 or in those changes, did you make any adjustments to
11 surrounding properties?
12 A. Well, we valued each property under
13 each scenario, the preliminary and the formation,
14 again, based on their location relative to the LID
15 project, not relative to new construction.
16 Q. So if a building went up that blocked
17 the view --
18 A. Yeah, we did the best we could based on
19 looking at assessor information to find, before we
20 finalized a report, if there were units that had some
21 view blockage or going to have some view blockage, to
22 find sales within those areas, because the market
23 would have been aware of that and to reflect that in
24 our study.
25 Q. So for example, when the Rainier Tower

1 went up, it blocked the views from Union Square so
2 you adjusted Union Square downward?
3 A. The rents in Union Square would be
4 reflective of the fact that --
5 Q. They don't have any --
6 A. View blockage.
7 Q. The view kind of moved depending on
8 which property you used?
9 A. Yeah, particularly in condos, we were
10 aware there were a number of projects going up in
11 front of condo units. The same will be when the new
12 apartment complex down on the waterfront goes up,
13 it'll be blocking some condominium views.
14 Q. You took that into account?
15 A. As much as the market does. The market
16 sales, they're going to have view blocks. If we have
17 sales of those, they'd obviously be aware of those
18 projects and they would be reflected in the market.
19 Q. I want to go back to kind of
20 comparables again for a second. You mentioned
21 several projects. I'm going to focus on Millennium
22 Park in Chicago, McCall Park in Portland, the
23 Embarcadero in San Francisco, and Rose Kennedy
24 Greenway in Boston. All those are like paired sales
25 analysis done before and after?

A. We attempted to where we could in any of those elements to try to find comparables. It's very difficult to find really true paired sales in any study. But that's why you use studies where they've gone through and shown ranges and shown relative market trends and whatnot, because it is very difficult oftentimes to find really, really true identical properties that have sold before and after a certain element.

Q. Did any of those studies try to identify the change in property on the completion date at a specific valuation date?

A. I would need to consult with Mary Hamel on that. She was more dialed into and responsible for that. So off the top of my head, I can't answer that question as far as specific valuation dates.

Q. Are those specific studies that you're using here, are those going to be available to us?

A. They are, yes. They've been provided as part of the --

MR. FILIPINI: I think they've been uploaded to the city clerk's file.

Q. Did you classify any of the LID improvements as access as opposed to an amenity? How did you deal with that? You discuss it in your

1 report several places.
2 A. Well, it provides greater connectivity
3 from the downtown area to the waterfront. There will
4 be much better connectivity through the CBD to the
5 waterfront with the LID in place than there is
6 currently.
7 Q. Okay. Do you make any distinctions
8 between where access ends and an amenity begins or is
9 that --
10 A. It's just part of the -- again, we're
11 looking at the project as an entire entity and the
12 connectivity, the enhanced location as a result of
13 that the appeal in the marketplace are all things we
14 consider.
15 Q. With respect to the overlook walk, did
16 you consider it an amenity or access?
17 A. Well, both. I mean, it provides better
18 access and it's a very, very nice amenity. It's
19 going to be an excellent amenity to the waterfront
20 area and then the city CBD area that's benefited by
21 the project.
22 Q. What features of the walk make it an
23 amenity?
24 A. There'll be a really nice gathering
25 open space, beautiful, almost an acre of view area,

1 good access down to the new park amenities, down to
2 the Pier 58 waterfront park amenities, to the
3 promenade. That will be a real asset. It's an
4 esthetically pleasing looking market amenity that
5 will provide appeal in the marketplace.
6 Q. Okay. In doing your condominium
7 valuations, then, and you consider a condo's
8 position, its access to the waterfront, did you use
9 the overlook walk as an access point for any of your
10 residential valuations?
11 A. Again, we looked at the LID as an
12 entity and depending on where the property is located
13 with respect to the LID boundary area, it was valued
14 accordingly. So properties that were located closer
15 to the overlook walk, we had a higher benefit amount
16 for those, depending on the type of property they
17 were, than ones located further back and away from it
18 that wouldn't have that amenity.
19 Q. Even if that other residence had better
20 access to the waterfront another route?
21 A. The LID provided improved access
22 routes. I guess if there was -- if you have a
23 specific property you're referring to.
24 Q. 1521 is the property I live in. We go
25 out to Pike Street. From where we are, we walk

1 straight down Pike Street down the hill climb. With
2 the waterfront, it's about 1200 feet walking
3 distance.
4 If I walk the overlook route walk,
5 depending on whether the market is open or not, it's
6 1600 to 2,000 feet. I would never use that. To me,
7 it's redundant access as opposed to an amenity and
8 I'm just asking if that was factored into your
9 valuations?
10 A. We looked at it more as that the market
11 would look at it from the other studies we've looked
12 at, they would look at it as an amenity that would
13 increase the value of your property.
14 Q. Even if it didn't?
15 A. That would be your opinion.
16 Q. Yeah, okay. I'm going to move on to
17 Pike/Pine then. On the Pike/Pine Street, I've got a
18 map here if you want it, but are there any elements
19 of the Pike/Pine projects that are other than street
20 beautification?
21 A. No, that's the whole general idea of
22 the Pike/Pine corridor, is street landscape
23 enhancement.
24 Q. So in the original LID boundaries, they
25 kind of ran around six blocks straight along with the

1 waterfront. With the addition of Pike/Pine, you
2 expanded the higher zones for those boundaries as a
3 result. Did you use the Crompton analysis as a basis
4 for that expansion?
5 A. I don't recall what you're referring
6 to.
7 Q. Okay. When you look at the zones that
8 you used for valuing properties, in the original
9 valuations that were done way back in 2012, the
10 higher zones went straight along the waterfront.
11 There was no ball, if you will, of the Pike/Pine?
12 A. We didn't do an analysis back in 2012.
13 We did a feasibility study that I think was around
14 2015.
15 Q. The only sheet I have is the 2012 Allen
16 Brackett Shedd. Maybe it wasn't a feasibility study.
17 A. That wasn't anything I was involved in.
18 Q. We'll skip that then.
19 Let me show you a copy of RCW
20 35.43.050. It's in my pile of stuff here.
21 (Exhibit-6 marked.)
22 Q. I'll give you a minute to read this.
23 You see the requirement for a finding
24 there. Did you ask for or were you presented with a
25 finding in this regard?

A. This would relate back to a legal opinion as best I can tell looking at it.

Q. I'm not asking you for an opinion if this applies. I'm just asking, were you given a finding or did you ask for a finding?

A. Regarding what?

Q. Regarding the discontinuous segments in the LID. That's what it applies to.

A. Again, I mean, the legal counsel has looked over the boundary and found it to be legally defensible. So in that context, they would have considered anything relative to that.

Q. I'm putting aside the legal point. I'm just asking you, did you ask for or were you presented with a finding by the city council?

MR. FILIPINI: Object to form.

A. I have never talked to the city council.

Q. I'm not asking if you talked to the city council. I'm asking if you were presented with a finding by the city council?

A. The city council formed, voted to form the LID, so that's the only finding that I found from the city council.

Q. Perfect, that's great. Thank you.

1 In your final study, are there any
2 citations that relate the street beautification
3 projects to residential home prices, increases in
4 residential home prices?
5 A. "Any citations," what are you referring
6 to when you say "citations"?
7 Q. I mean, I've looked through the final
8 report. I see a lot of -- I see three basic reports
9 you've cited, some other anecdotal evidence. I'm
10 looking for anything that relates the street
11 beautification projects to an increase in residential
12 home prices.
13 A. Again, we're looking at the project as
14 one entity, and the street improvements are part of
15 that entity. So we're looking at the project as a
16 whole, not pulling apart the street beautification
17 portion of it and trying to relate that to a specific
18 property.
19 Q. Okay. In your testimony for the city,
20 are there any other reports that you may rely on in
21 the support of your valuation of residential
22 properties?
23 A. Say that again, please.
24 Q. In your testimony for the city, are
25 there any other reports that you may rely on for

1 residential properties that have not been posted to
2 the website?
3 MR. FILIPINI: Object to form.
4 A. No, I don't believe so.
5 Q. Okay.
6 A. I don't know if we can even enter them.
7 Q. You may not want -- I wouldn't enter
8 this yet. I was going to ask you just to lay out
9 your 3 percent to .5 percent, kind of adjustment
10 based on distance. Is that something you can do?
11 A. Again, we look at each property
12 individually based upon where it's at in the
13 marketplace. If it's close to the waterfront, it may
14 be closer to 3 percent. If it's further away, it may
15 be closer to something less than that. It just
16 depends on relatively where the property is in
17 relation to the LID improvements as an entity.
18 Q. So there's no specific, there's no
19 formula here that gives you a starting point?
20 A. In a special benefit study, you look at
21 each property individually and estimate a benefit for
22 it based on its own merits. You're not applying a
23 formula to it --
24 Q. Well --
25 A. -- or assigning a formula to it.

Q. Okay. So in mass appraisal techniques, you look at each property individually?

A. Correct.

Q. Okay.

A. Condominiums obviously are difficult. We can't go in and inspect 6,000 condominium units. We have to rely heavily on the assessor information as far as their characterization of size and view amenities and things of that nature.

Q. Can you give me a brief list of factors you used in determining condo valuation?

A. Again, if you go into the information on the clerk's office, there's a letter that Mary Hamel wrote that goes into some additional elaboration on what we considered and whatnot in the valuation, kind of elaborates on the condominium valuation portion of it. I think that that would answer your question.

MR. MOSES: Okay. I think I'm done.

MR. LUTZ: Todd, you're up.

MR. REUTER: I'm done.

E X A M I N A T I O N

BY MR. LUTZ:

Q. You know, I had one last question.

A. Sure.

Q. Actually, maybe two.

You've talked about your mass appraisal is still an individual appraisal of each property in the before and after that's assessed. So on average, how much time did you spend appraising each of the 6,000 parcels?

A. Just varied dramatically depending upon the type of property. Some properties were hours or days. Some like the condominiums were much less time-impactful because of the more consistent nature of the valuation.

Q. And so back to Todd and Vic's questions, I guess, I may be wrong thinking about this as a 30,000-foot appraisal because you're doing such a large area, but is there any accepted expectation that a mass appraisal is going to be less accurate than a parcel-by-parcel series of appraisal?

MR. FILIPINI: Object to form.

Go ahead.

A. Not that I know of. It gets down, when you're doing an individual appraisal, oftentimes you're supplied with information that you may not be supplied with doing a mass appraisal. So, you know, all through this process, the city has asked property

1 owners and has allowed property owners to provide any
2 relevant information that they feel would impact
3 their benefit or their value. So we've been
4 acceptive of that, any information like that that
5 that would come in.
6 So the difference I could see in a mass
7 appraisal versus that would be more availability to
8 parcel-specific information than you might have doing
9 a mass appraisal.
10 Q. Yeah, and I guess, you know, regardless
11 of whether a 3 percent assessment is in the margin of
12 error, is there some greater margin of error that you
13 would anticipate in the individual assessments
14 calculated in a mass appraisal than in 6,000
15 individual appraisals?
16 A. Now, when you say "margin of error,"
17 define what you mean by margin of error. How are you
18 coming up with a margin of error, based on what?
19 Q. So a margin of error, as I understand
20 the term is I make an estimation and depending on how
21 good my information is, it is viewed as having a
22 larger or smaller margin of error, which means I
23 could be off by 5 percent or 2 percent or .1 percent.
24 And I'm just asking you if you have any
25 expectation that the assessment determinations you've

1 made in this single report with 6,000 conclusions is
2 any less reliable than 6,000 individual appraisals?
3 MR. FILIPINI: Object to form.
4 Go ahead.
5 A. We did our mass appraisal based on the
6 best information we have available in the
7 marketplace.
8 Q. Understood.
9 A. If we did an individual appraisal, we
10 may have more defined information that could or could
11 not alter our opinion. So I can't really answer that
12 unless I knew what that specific information is that
13 would alter my opinion.
14 Q. I mean, we had two examples. We had
15 United Way and Fourth Avenue Associates.
16 A. Sure.
17 Q. There was information in the mass
18 appraisal process you didn't identify that likely
19 would have come to light during an individual
20 appraisal of either of those properties.
21 A. Again, all through, the property owners
22 have several years to review their preliminary
23 assessment amounts.
24 Q. Let's not blame the victim here.
25 A. I'm just saying, that's been out there

in the marketplace for some time.

Q. I guess my point is, my assumption, and I think it is not an unreasonable assumption, is that there's more room for error in your analysis in one report of 6,000, the value of 6,000 different properties in a hypothetical before and in a hypothetical after than in 6,000 individual appraisals.

Do you have any sense of a quantification of the magnitude of deviation from standard that you would expect in this work?

A. No.

MR. FILIPINI: Object to form.

Q. So you don't have any information.

Is there any accepted standard in mass appraisals -- is there any standard in mass appraisals that is accepted as a reasonable variability in accuracy?

A. The analysis we've done here has been accepted by the courts. We've done typical types of ranges of value that have, you know, gone to court and the courts have approved of it.

Q. So that's a legal answer.

So the standard is that your special assessment cannot materially exceed the special

1 benefit. How do you quantify materially?
2 A. That's a measurable difference in
3 market value before and a market value after, is your
4 benefit.
5 Q. And what would be a material
6 exceedance?
7 A. Well, I guess that somebody would prove
8 that there isn't the benefit that we say there is.
9 Q. Right, but if you were 1 percent off
10 the statute says we're stuck.
11 MR. FILIPINI: I'll object, it calls
12 for a legal conclusion.
13 Go ahead.
14 Q. Yeah, I mean, so it says if the city
15 assesses in the LID an amount materially more than
16 the special benefit, that is not allowed. So there's
17 a materiality question.
18 A. The materiality would be that the city
19 could assess you, you know, 400 -- or assess the LID
20 boundary 420 million and they're assessing it at 177
21 million. So --
22 MS. LIN: Todd would like me to dial
23 him back in.
24 MR. LUTZ: Okay.
25 (Brief recess.)

MR. LUTZ: Todd, sorry about that, we hung up on you because it told us there was nobody on the line.

MR. REUTER: I'm here.

Q. We're almost done. I was trying to wade into this question of materiality.

So do you have an opinion about what would be a material deviation in a special benefit by dollar amount, by percentage or any other way?

A. No.

MR. FILIPINI: Object, calls for a legal conclusion.

A. No.

MR. LUTZ: Okay. Do you have another question?

(Discussion off the record.)

MS. LIN: I don't have any other questions. Todd?

MR. REUTER: No.

MR. MOSES: I'm done.

THE REPORTER: How about signature?

MR. FILIPINI: Yes, please.

(Deposition concluded at 5:50 p.m.)

(Signature reserved.)

S I G N A T U R E

I declare under penalty of perjury under the laws of the State of Washington that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the CHANGE SHEET flyleaf page hereof. Signed in.....WA on the.....day of....., 2020.

.....

ROBERT J. MACAULAY, MAI

Taken: February 27, 2020

1 C E R T I F I C A T E

2

3 STATE OF WASHINGTON)ss.

4 COUNTY OF KING)

5

6

7 I, Margaret Walkky, the undersigned Registered Merit Reporter and an officer of the Court for the State of
8 Washington, hereby certify that the foregoing deposition upon oral examination of ROBERT J.
9 MACAULAY, MAI was taken before me on February 27, 2020 and transcribed under my direction;

10

That the witness was duly sworn by me pursuant to RCW
11 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct
12 transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of,
13 any of the parties to the action or any attorney or counsel employed by the parties hereto, nor
14 financially interested in its outcome;

15 I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine,
16 read, and sign the deposition, within 30 days, upon its completion and submission, unless waiver of
17 signature was indicated in the record.

18 IN WITNESS WHEREOF, I have hereunto set my hand and seal this date: March 2, 2020.

19

20

21

22 .....
Margaret Walkky, Registered Merit Reporter
23 Certified Court Reporter No. 2540 License expires July 18, 2020

24

25

1 C H A N G E S H E E T

2 PLEASE MAKE ALL CHANGES OR CORRECTIONS ON THIS SHEET, SHOWING PAGE, LINE AND CORRECTION/REASON.

3 ---

PAGE/LINE CORRECTION/REASON

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22 ---

ROBERT J. MACAULAY, MAI

23 TAKEN: February 27, 2020

24 Re: In re Proposed Assessment Roll for LID 6751, Case Nos. CWF-0318, et al

25

1 C H A N G E S H E E T

2 PLEASE MAKE ALL CHANGES OR CORRECTIONS ON THIS SHEET, SHOWING PAGE, LINE AND CORRECTION/REASON.

3 ---

PAGE/LINE	CORRECTION/REASON
Pg 72- Line 22 Change	The chart on page 7 of the final special benefit study report for special purpose properties was reversed. It should have stated a high of 1.00% and low of less than 0.10%. The reason it is now less than 0.10% is because upon further review of the study, one of the special benefit estimates for the special properties was below 0.10%.
Pg 162 Line 17 Change	I meant to say 0.05% up near Denny Way was the lowest special benefit amount. Any change beyond that, such as properties on the other side of Denny Way, was general benefit not special benefit.
Pg 217 Line 20 Change	I meant to say I think it was smaller than 0.10% or below. It was a very low percentage amount.
Pg 218 Line 4 Change	I said 0.08% but I meant to say 0.05%, which was the lowest percentage change number in the study.

4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21

22 ---

ROBERT J. MACAULAY, MAI
23 TAKEN: February 27, 2020

24 Re: In re Proposed Assessment Roll for LID 6751, Case Nos. CWF-0318, et al

25

1
2
3 S I G N A T U R E
4
5 I declare under penalty of perjury under the
6 laws of the State of Washington that I have read my
7 within deposition, and the same is true and accurate,
8 save and except for changes and/or corrections, if
9 any, as indicated by me on the CHANGE SHEET flyleaf
10 page hereof. Signed in Everett, Snohomish Co. WA on
11 the 25th day of March, 2020.
12
13
14
15 .....
16 ROBERT J. MACAULAY, MAI
17 Taken: February 27, 2020
18
19
20
21
22
23
24
25

1 Date filed: 3/31/2020

2

3 GERARD LUTZ
Perkins Coie
4 10885 NE 4th, Ste 700
Bellevue, Washington 98004

5

6

7 NOTICE RE CHANGES TO ORIGINAL DEPOSITION

8 Case Name: In re Proposed Assessment Roll
For LID 6751
9 Venue: Hearing Examiner, City of Seattle
Cause: Case Nos. CWF-0318, et al
10 Witness: ROBERT J. MACAULAY, MAI
Taken: February 27, 2020

11

Pursuant to CR 30(e), the deposition transcript was
12 made available with Signature Page and Change Sheet
to the above-referenced witness for examination,
13 reading, and signing.

14 [X] Enclosed is a copy of the Signature Page and
change Sheet, if any, to the above-referenced
15 original deposition transcript.

16 [ ] No signature page, corrections, or changes
were received by this office within the
17 30-day signature period.

18

19

20 Margaret Walkky, CCR No. 2540

21

22

23

24 cc: File
MARK FILIPINI
25 MOLLY TERWILLIGER