

# Seattle Waterfront LID Assessment Hearing

## Seattle LID Hearing

June 19, 2020



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SEATTLE WATERFRONT LID ASSESSMENT HEARING

BEFORE

HEARING EXAMINER RYAN VANCIL

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Taken at Seattle, Washington

(ALL PARTICIPANTS APPEARING VIA VIDEOCONFERENCING)

DATE TAKEN: JUNE 19, 2020

REPORTED BY: LAURA L. OHMAN, RPR, CCR 3186

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(No new exhibits marked for identification.)	

1 SEATTLE, WASHINGTON; JUNE 19, 2020

2 9:00 A.M.

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4  
5 HEARING EXAMINER VANCIL: I'll call to order  
6 this June 19, 2020, continuance of the Seattle  
7 Waterfront LID Assessment Hearing.

8 Today's plan is a continuance to hear the  
9 presentation of the City's case.

10 Just as a reminder, only the city and objectors  
11 planning to cross-examination the City's witnesses will  
12 participate directly in the hearing.

13 As provided in several pre-hearing orders that  
14 have been issued. Other objectors and the public may  
15 listen to the hearing via listening line. Access to  
16 which is identified on the hearing examiner -- Office of  
17 Hearing Examiner website, front page, under the hearing  
18 schedule. That website is [www.Seattle.GOP/hearing](http://www.Seattle.GOP/hearing). --  
19 sorry, slash, examiner.

20 Callers should be able to listen on the hearing  
21 but not participate for any purpose.

22 In addition, the Seattle Channel will continue  
23 broadcasting today as they did yesterday.

24 Yesterday's hearing has already been posted to  
25 their website and it should be made in the -- within a

1 link to the hearing examiner's website already, as all  
2 of those were provided by the same link, so yesterday's  
3 hearing is already up.

4           Reminder to -- that the hearing is -- should be  
5 treated as an in-hearing -- in-person hearing. Although  
6 people get casual in their homes and offices, this is  
7 still a quasi-judicial forum. Please treat each other  
8 in a form with that due respect.

9           The schedule will follow as with yesterday. We  
10 will take a 15-minute break at 10 a.m. We'll take lunch  
11 at noon until 1:15 p.m. And then we'll take another  
12 15-minute break at 3 p.m.

13           We had reasonable success with the hearing  
14 progress yesterday and hopefully that will continue;  
15 however, if a determination of the hearing examiner the  
16 technology supporting the hearing is not performing  
17 adequately, the examiner will suspend or continue the  
18 hearing or a portion thereof and make arrangements for  
19 submission of materials or testimony later or make other  
20 necessary arrangements.

21           Reminder of our protocols for participating  
22 during a recording hearing: It is recorded, so make  
23 sure that there's only one individual speaking at a  
24 time. Participants not actively presenting testimony or  
25 argument should mute their microphones and shut off

1 their video feed. Every effort should be made to  
2 isolate yourself from background noises in the home or  
3 office. Please make sure your cellphones are off.

4 If you're participating directly, make sure that  
5 your eyes remain on the video screen. It helps in part  
6 to make sure it's clear that you are actually speaking  
7 to the hearing examiner and that I'm receiving your  
8 testimony. It also helps to make sure that if you are  
9 not being heard on my end or by another participant who  
10 comes in and says they can't hear, that there can be a  
11 signal raised, we raise a hand indicating there is no  
12 signal being -- the audio is not being received and stop  
13 speaking until it's re- -- reconnected. But that can  
14 only happen if you keep your eyes on the screen.

15 Anyone who is not proceeding with the protocols  
16 will be muted and/or possibly removed from the hearing.

17 If you have any technical or general procedural  
18 questions that do not require my immediate attention,  
19 please use the chat for addressing those to the legal  
20 assistant. Do not use the chat feature for any other  
21 purpose. It is not there for participants to carry on  
22 side discussions.

23 If you have questions about access to a -- an  
24 exhibit or if your connectivity is not working, alert us  
25 to that and we can try to address it if you do that via

1 chat.

2 Is there anyone -- I stated this yesterday, how  
3 we're proceeding with objections, meaning procedural  
4 objections, not your objection filed as a basis for your  
5 appeal, but a procedural objection.

6 Is there any question from any of the objectors  
7 on how we are proceeding with how to handle those?

8 I can repeat what I read yesterday or we can  
9 move on. If I don't hear anybody asking for a repeat, I  
10 will move on from the description of how we're handling  
11 objections.

12 Are there any questions about how to approach  
13 objections?

14 All right, then. The only thing remaining then  
15 that I have is a note on addressing exhibits. While the  
16 Office of Hearing Examiner does not normally handle  
17 exhibit exchange, under these circumstances, we are  
18 attempting to try to make sure that the parties have  
19 received the exhibits from the City. Is there -- and we  
20 had a list of some individuals at the end of the hearing  
21 yesterday that indicated they were not able to open or  
22 had not received some exhibits. Hopefully that was  
23 addressed at the end of the day yesterday. I know we  
24 heard from some of you.

25 Is there anyone remaining that has not been able

1 to open or access exhibits sent by the City?

2 MS. DONNELLY: This is Judy Donnelly from  
3 the Women's University Club. I am not able to open up  
4 C-13, C-18, C-19 and C-22.

5 HEARING EXAMINER VANCIL: Okay. Thank you.

6 What we'll do is if any of those are being  
7 referenced, I'll ask that Mr. Filipini for Exhibits 13,  
8 18, and 19 -- 18, 19, and 22, if you reference those in  
9 upcoming examination of your witness, please share  
10 screen for 13, 18, 19, and 22 so all participants can  
11 see them as part of the hearing, although I think we've  
12 been through several of those. Some of them are larger  
13 documents, I think, that that may be why connectivity is  
14 difficult for some participants.

15 Is there anyone else that has any difficulty in  
16 accessing, opening or having received exhibits?

17 MR. REUTER: It's Todd Reuter, Your Honor.  
18 I have received the exhibits, but I have a question  
19 about how we should be numbering our own exhibits when  
20 we begin our cross-examination. Should I raise that  
21 now?

22 HEARING EXAMINER VANCIL: Well, what I --  
23 I'll tell you what I said yesterday, and that may not  
24 have addressed all your questions, but I'll -- I'll just  
25 tell you what we've got so far, is the intent is that



1 this is the City's portion of the case, and so when we  
2 get to cross-examination, there's two ways that I've  
3 identified for how you should handle exhibits: One, if  
4 possible, if you're using an exhibit that's already in  
5 the record either from your own case or another, you  
6 should be referencing it by case number and exhibit  
7 number.

8           So, for example, if you have -- under your  
9 cases, they should have been all consolidated for yours.  
10 I don't think we had separate exhibit numbers assigned  
11 for each of the case numbers that you're representing,  
12 but regardless, under each case number, there is a list  
13 of -- of exhibits that were submitted for those, and so  
14 those are -- those are static exhibit numbers, that if  
15 it's possible to reference back to those, it's  
16 appreciated, because -- so we don't get redundancy in  
17 the record.

18           Recognizing it's not possible for everyone to go  
19 back and reference everybody else's case numbers and  
20 exhibit numbers, there's going to be some redundancy.  
21 For new exhibits coming in that you're not able to  
22 cross-reference back to existing numbers, I've asked  
23 that we continue with the City numbering system. So we  
24 will be leaving off with however far the City gets us  
25 today. Let's say they get us up to Exhibit 28, we'll

1 pick up with Exhibit 29 starting on Tuesday, and we'll  
2 be proceeding in that matter.

3 MR. REUTER: Okay. And -- and so the -- the  
4 City is using a prefix that begins with the letter "C."

5 Should -- should our next exhibit then be C-29?

6 HEARING EXAMINER VANCIL: I -- I think  
7 that'll -- you can. I guess, let's -- let's -- I've  
8 given you some guidance on it, but I'm -- I -- I think  
9 that there's probably going to be some challenge in you  
10 all coordinating what -- your exhibits that you're  
11 submitting and how you're planning to do that for next  
12 week, and I do plan on at the end of today having a  
13 discussion about next week, and so what I'd like to do  
14 is instead of just trying to address this with you, I'll  
15 let -- other objectors may also have questions about  
16 this, and I'd like to hear from objectors how you plan  
17 to submit exhibits.

18 So, for example, if you head in the direction of  
19 doing Exhibit C-29 and five other people do the same  
20 thing, we're not going to -- that's not going to help  
21 anybody. So rather than trying to address that now,  
22 let's try to do that at the end of the day.

23 MR. REUTER: Thank you.

24 HEARING EXAMINER VANCIL: Yes.

25 Any other questions about access to City

1 exhibits for the hearing today?

2 All right. Any other procedural issues or  
3 questions before we get -- continue with the City's  
4 presentation?

5 All right. Then we turn back to the City.

6 Mr. Macaulay, you remain under oath or  
7 affirmation from yesterday.

8 Mr. Filipini, it's your witness.

9 MR. FILIPINI: Thank you.

10 DIRECT EXAMINATION (CONTINUED)

11 BY MR. FILIPINI:

12 Q. Mr. Macaulay, we left off yesterday at the  
13 bottom of page 3 of Exhibit C-21, if you could get back  
14 to page 3 of C-21, please.

15 A. Yes. I'm there.

16 Q. Okay. And I've got -- I believe we were talking  
17 about paragraph 3(a), and I -- I have a question for  
18 you. I'll read to you -- there's a -- following the  
19 bullet points, there's a standalone paragraph that  
20 starts with the word "beyond." And in that sentence,  
21 notes that, quote, The very nature of the public  
22 improvement, a regional park, and the wide LID  
23 boundaries described in the report suggests that the  
24 entire project could be described as offering almost  
25 entirely general benefit, end quote.

1           What is your response to this observation?

2           A.    Well, I -- I just don't agree with that comment.  
3    All of the other similar project -- projects, the  
4    comparable projects that we analyzed as part of our work  
5    clearly showed that there was special benefit, increase  
6    to market value that were occurring as a result of  
7    projects that had similar elements as what the Seattle  
8    Waterfront project consisted of, so I disagree with that  
9    comment.

10          Q.    And what's the connection, if any, between the  
11    size of the LID boundary and whether or not it -- it  
12    generates special or general benefits?

13          A.    There is -- there is none.

14          Q.    And then that paragraph, same paragraph, Bob,  
15    on -- on page 3 of Exhibit C-21 concludes with an  
16    observation about the total value of the real estate  
17    within the LID boundary.

18                Does the \$48.1 billion of total real estate  
19    valuation, where does that come from?

20          A.    That's the total of -- amount of all of the real  
21    estate within our study.

22          Q.    Okay. And what connection does the total  
23    valuation of the real estate in an LID have to whether  
24    the benefit provided is special or general?

25          A.    None.

1 Q. Okay. And why is that?

2 A. The -- the size of the boundary, and then  
3 oftentimes when we're -- we're -- we're doing LIDs, we  
4 have -- we have large -- rather large boundaries,  
5 oftentimes small boundaries. It's just not relevant  
6 from our analysis standpoint.

7 Q. And then the next sentence, this is the final  
8 sentence of that same paragraph on page 3 of Exhibit 21  
9 notes that -- use the word "generally" to discuss  
10 benefits at points in your study.

11 What did you mean when you used the word  
12 "generally"?

13 A. Just -- just as a figure of speech. It had  
14 nothing to do with general benefit.

15 Q. I'm going to take you to the next subsection  
16 entitled, "Method of Assessment." In here, Mr. Gibbons  
17 asserts that in order to assess benefit provided by the  
18 LID improvements, that you applied a percentage to a  
19 concluded before value.

20 So my first question to you, Bob, is how did you  
21 assess the special benefit provided?

22 A. Yeah. So the special benefit was done on a  
23 parcel-by-parcel basis estimating the market value  
24 without the LID and as the same date and time with the  
25 LID to derive the special benefit amount.

1 Q. Okay. And did you apply, quote, a percentage to  
2 a concluded before value?

3 A. No. That's absolutely false. The -- the  
4 percentage that was shown was just the relationship of  
5 the special benefit to the before value to show what  
6 that -- what that percentage change was. And, again,  
7 that was used for informational purposes for  
8 proportionality.

9 Q. Now, if you look at the bottom of the page,  
10 again, same page 3, C-21, there's an underlined text  
11 that reads, As the value -- quote, As the value lift  
12 should be calculated, not applied.

13 And what is your reaction to the underlined  
14 text?

15 A. Well, again, we did not apply a percentage  
16 change to calculate our benefits, so that -- that  
17 statement just is -- is not factual to what we did.

18 Q. And did you calculate the value for each parcel?

19 A. The -- the special benefit is the -- the market  
20 value difference between the properties, and that's  
21 the -- the property, that's what we estimated.

22 Q. On a parcel-by-parcel basis?

23 A. Correct.

24 Q. And -- and from testifying yesterday, you're  
25 familiar with Mr. Gibbons' testimony in the hearing when

1 we first looked at Exhibit C-21.

2 What is your understanding as to why Mr. Gibbons  
3 apparently believes you did not calculate, but rather  
4 applied, the increase in value?

5 A. Yeah. I -- I have no idea. I -- maybe he  
6 didn't read the report. I've -- I've known Mr. Gibbons  
7 for many years. He simply could have given me a call  
8 and -- and -- and asked me questions relative to a lot  
9 of issues in this -- in this document.

10 Q. So let's look at the next subsection C, which is  
11 entitled -- it's on the next page, page 4 of Exhibit  
12 C-21, and it's entitled, "Before and After  
13 Descriptions," and I'll read to you the first sentence  
14 and then ask you a question. Quote, There is very  
15 little clarity in the appraisal as to the precise value  
16 difference arising as a consequence of a comparison of  
17 the Before and After.

18 Again, what is your response?

19 A. Well, again, individual worksheets were done  
20 for -- for each property. To me, that provides a lot of  
21 clarity. There is a spreadsheet that shows our market  
22 values before and after.

23 Again, I think it's clearly spelled out in the  
24 report the process that we undertook, so I -- I just  
25 don't agree with that comment.

1 Q. How does your study address the removal of the  
2 Alaskan Way Viaduct?

3 A. Both in the before and after we recognize that  
4 the -- the viaduct would -- would not be in place  
5 anymore in those elements that -- of view and whatnot  
6 to -- were not affected by the market.

7 Q. And how does your study address the rebuild of  
8 Alaskan Way and other changes that would occur without  
9 the LID?

10 A. That's a hypothetical condition that we're --  
11 we're considering in the before condition, that it --  
12 that it would be in place.

13 Q. And do you value those changes in the before  
14 condition that would be in place without the LID?

15 A. Correct.

16 Q. How did you address parking in the final benefit  
17 study?

18 A. Parking was looked at both in the before and  
19 after condition, and there was some parking loss in the  
20 after condition, and that was done on a -- on a  
21 parcel-by-parcel basis. To some degree, it was -- it  
22 was offset by the increase in -- in pedestrian traffic  
23 that -- that is probable to occur as a result of the  
24 project, but we -- we did consider it in the  
25 reconciliation process of -- of estimating benefits for



1 the properties that we felt would be impacted by it, and  
2 those were primarily the waterfront properties.

3 Q. And -- and how would a reader of your study know  
4 that you addressed parking in your study as you just  
5 described?

6 A. It wasn't real clear in our study. We didn't  
7 do -- we -- we mentioned it, but we didn't do a -- like,  
8 a separate parking study or anything of that nature, so  
9 it -- it could have been spelled out more clear in the  
10 report than what we did, but it certainly was addressed  
11 and recognized in the report and in our analysis.

12 Q. I'm going to ask you to turn the page to page 5,  
13 C -- so Exhibit C-21, page 5, and there's a subheading  
14 ii labelled "Cost." Let me know when you're there, Bob.

15 A. Yes.

16 Q. So what relevance does the cost of the LID  
17 improvements have in your analysis?

18 A. In -- in this instance, there -- it's really  
19 more or less irrelevant. In -- in a lot of LIDs, you'll  
20 be doing -- if it's, say, a road improvement LID where a  
21 mitigation requirement of development would be to build  
22 half street improvements or -- or side -- curbs, gutter,  
23 sidewalks and the LID is accomplishing that as a part of  
24 the project, costs then become more involved in your  
25 analysis because it's really relative to buyers and

1 sellers in the market to -- to what -- what the  
2 additional costs they need to do in buying or selling a  
3 property.

4 In this instance, it's giving the vast magnitude  
5 of the LID. I mean, no one property owner can afford to  
6 pay 346 million to accomplish what's going on, so it  
7 just -- it really wasn't relevant from -- from an  
8 analysis standpoint.

9 Q. And what's the relationship between special  
10 benefit provided by improvements and cost when you're  
11 doing a special benefit and -- and the cost of  
12 improvements when you're doing a special benefit study?

13 A. Well, as I said, it varies on the type of  
14 benefit you're doing. In -- in this instance, the --  
15 the cost is -- is -- is not something that's of real  
16 significant importance to -- to what we're doing.

17 Q. What if the special benefit provided is less  
18 than the cost of the improvement?

19 A. Well, that -- that just would be what -- what  
20 the markets reflected.

21 Q. Okay. Let's talk about in this particular LID.  
22 What's the approximate total cost of the six  
23 improvements funded by the Waterfront LID?

24 A. 346 million.

25 Q. And what's the total special benefit you

1 measured from the Waterfront LID improvements?

2 A. It's about 400 and -- it's close to 450 million.

3 Q. Same page, I'm going to take you down to  
4 "Timing," the very next piece that's on page 5. It's --  
5 actually, it has a subheading of 1, but it follows  
6 costs, but in any event, "Timing" towards the middle of  
7 page 5.

8 And -- and before I ask you a question, Bob,  
9 just read to yourself, please, those few sentences, and  
10 then I'll -- I'll ask you a few questions.

11 A. (Witness peruses document.) Yes, I'm aware of  
12 that --

13 Q. Okay.

14 A. -- paragraph.

15 Q. So my -- my question is, how did you address  
16 when the Waterfront LID improvements would be built in  
17 your analysis?

18 A. Well, as -- as of October 1st, 2019, we -- we  
19 recognized both in the before and after that the -- the  
20 improvements are in place.

21 Q. And is setting a valuation date standard  
22 practice in a special benefits analysis?

23 A. Yes.

24 Q. And how does setting a valuation date for  
25 purposes of a special benefit study compared to, in your

1 experience, other sorts of real estate valuation?

2 A. It's -- it's -- it's relevant in any type of  
3 valuation, and the -- the impact of noise and disruption  
4 and things of that nature in relation to an LID, it's  
5 similar to imminent domain, to where it's just --  
6 it's -- in imminent domain, the -- the dis- -- the  
7 disruption and the noise is not compensable, so it's not  
8 something you can sit there in your -- your analysis,  
9 and it's similar of doing a special benefit study. We  
10 just -- we assume the project's done. Therefore,  
11 those -- those elements aren't considered in -- in our  
12 analysis.

13 Q. So if the improvements aren't built yet, why not  
14 discount -- well, let me ask first: Did your study  
15 discount the values for the fact that the improvements  
16 weren't -- weren't built yet?

17 A. No.

18 Q. And -- and why not?

19 A. Well, we had -- felt we had real sufficient  
20 information of -- of all of the project elements to --  
21 to a reasonable position to where we could make  
22 estimates of our before and after values, and the --  
23 we're looking as to a certain date and time, so the --  
24 the relevance of -- of looking at it down the road just  
25 isn't -- isn't practical from the scope of services that

1 we had.

2 Q. And if after you made your valuation something  
3 happened in the market to increased values, for example,  
4 Amazon built HQ2 in the town where you're doing your --  
5 your valuation, what -- what effect would that have on  
6 your special benefit numbers?

7 A. It -- it -- it wouldn't change unless the market  
8 knew that that was coming as of the October 1 date, then  
9 they may consider some elements in their purchase  
10 decision of that. Conversely, just as we are now,  
11 where, you know, the market wouldn't recognize the --  
12 the -- the COVID issue back in October -- October of 1,  
13 when -- it just wouldn't have been known in the market.

14 Q. So both scenarios would not play into your  
15 valuation?

16 A. Correct.

17 Q. What role does anticipated construction activity  
18 have in your valuation process?

19 A. Well, it -- I'm not sure what -- what you -- you  
20 mean by anticipated construction activity. Relative --  
21 again, if it's relative to the project, then it has  
22 no -- no -- no bearing.

23 Q. How about -- so let me be more specific. Noise  
24 and dust from the construction of the LID improvements,  
25 what -- what effect would those have on your valuation

1 of the LID numbers?

2 A. Yeah, again, as I explained, it's just -- it's  
3 not something that -- that we consider. We assume the  
4 project is completed. Therefore, those -- those  
5 nuisances are -- are not relevant in our market  
6 analysis.

7 Q. I'll ask you to look at the next section  
8 labelled D, still on page 5, Bob, right about in the  
9 middle of the page. It's entitled, "Assessments are not  
10 supported by empirical data."

11 Again, if you could read that first paragraph,  
12 and I'll actually read a sentence into the record and  
13 then I'll ask you some questions, Bob. It's contained  
14 in the first paragraph, it's the second sentence, quote,  
15 The appraisal does not provide discrete and empirical  
16 before and after analyses of purportedly similar public  
17 projects across a wide-range of property takes.

18 My first question for you is, what role did  
19 empirical data on comparative projects play in your  
20 analysis?

21 A. We had a significant number of -- of studies we  
22 looked at throughout -- as I mentioned before,  
23 throughout the -- throughout the country, Boston, New  
24 York, San Francisco, other areas, at least 25 studies we  
25 looked at that provided a very sound good basis for our

1 before and after conclusions. A lot of the projects, if  
2 you -- if you looked at their before condition, yeah,  
3 certainly, there's some significant differences between  
4 the before condition. They're also -- in the after  
5 condition, there were a lot -- also a lot of very  
6 similar -- a lot of similarities to project elements  
7 that are being completed by the Waterfront Seattle  
8 project.

9 Q. And in -- as an appraiser, what's the difference  
10 between empirical data and anecdotal evidence?

11 A. Well, anecdotal, I mean, we -- we -- we confirm  
12 sales full time. We talk to real estate brokers in the  
13 market to get their opinions on buy -- on buying --  
14 buying and selling property, what their thought process  
15 was, what their motivations were, you know, to make sure  
16 it's -- it's a fair market sale versus studies that --  
17 that we -- we -- we do in the market.

18 Q. And -- and do you use both types of evidence in  
19 your work?

20 A. Definitely, yes.

21 Q. And did you use both here?

22 A. Yes.

23 Q. If you could look at the next paragraph, it  
24 starts with the word "moreover." And again, page 5,  
25 Exhibit C-21, and I'll direct your attention to another

1 sentence.

2 Again, it's the second sentence, quote,  
3 Application of a 0.5 to 4 percent value change on a  
4 general mass appraisal basis falls well below the  
5 standard of error already present in such analysis. In  
6 effect, the analysis reveals the benefit is immeasurable  
7 at this level.

8 So my first question is, what is the standard of  
9 error present in a mass appraisal?

10 A. There -- there is none. In -- in almost every  
11 LID we've done -- or I've done in the last 30 years, we  
12 often come in to a point of our analysis where the  
13 special benefit is -- is very, very small, so it's --  
14 it's very common to have in some -- some LIDs show a  
15 very -- very large benefits greater than this, and other  
16 LIDs typically when you do get to the outer level --  
17 outer edge of -- of a boundary, the -- the benefits are  
18 very, very small, and that's why the boundary stops at  
19 that point.

20 Q. And can you give us an example on this project  
21 where you found that the benefits were very small out  
22 toward a boundary?

23 A. Yeah, particularly out toward the Denny Triangle  
24 area moving up towards I-5, getting well, well away from  
25 the -- the project and -- and that was the area we had



1 our -- our smallest level of -- of increase.

2 Q. Okay. Do you know, if you recall, what was the  
3 smallest benefit increase that -- that you found in the  
4 project?

5 A. I think it was a point -- .05.

6 Q. And how did you estimate values, in dollar terms  
7 or in percentages?

8 A. Well, the -- the -- the difference in market  
9 value is a -- is a dollar figure. The special benefit's  
10 a dollar figure, so that's -- that's how they're  
11 calculated.

12 Q. And then so with -- with the underlying before  
13 values that you estimated for -- for some of the  
14 improved properties in particular, what does -- explain  
15 for us the difference between the -- the dollar value  
16 and the -- and the percentage that that converts to,  
17 how... (Pause.)

18 A. Well, again, when we -- we go through our  
19 analysis, we -- we arrive at a before value and an after  
20 value, and the difference of those two is the special  
21 benefit, and the percentage amount that we're showing is  
22 just -- is just the difference between the before and  
23 after value used to create a percentage amount that  
24 reflects that relationship. It's -- it's a result of  
25 the analysis.

1           It's not taking the percentage and applying it  
2 to something to come up with the benefit. It's just the  
3 result of the benefit.

4           Q.    Right. Right. Under- -- understood.

5           My question is, when you are -- are, you know,  
6 doing your study on -- on a dollar basis, as you say,  
7 when you have, say, a property worth hundreds and  
8 millions of dollars and you have a 4 point -- \$4 and a  
9 half million increase -- and I'm -- I'm taking this  
10 example -- actually, I'll direct your attention to the  
11 third paragraph under section D on page 5 of Exhibit  
12 C-21 where Mr. Gibbons cites a \$4,516,000 benefit that  
13 you estimated on 1201 Third Avenue office tower. It  
14 comes out to a .62 difference. And -- and so why is  
15 that?

16          A.    That was -- that was the benefit amount  
17 difference that -- that we arrived at, and -- and it  
18 reflected a .62 percent difference. And to say that  
19 that's remote and speculative, I mean, 4.516 million  
20 is -- is -- is a significant figure, and just due to the  
21 considerable high value of the property, it reflects a  
22 small percentage change, so --

23          Q.    And how -- in the work that you do, special  
24 benefit work, how common is that for high value  
25 properties?

1 A. Very common.

2 Q. I'm going to take you to section B. It begins  
3 on the bottom of page 5, but -- but, really, that --  
4 that's just the header, but it's Assessments including  
5 percentage assignments -- I'm sorry, Assessments include  
6 percentage assignments to improvement value, but the  
7 actual text continues -- or begins on -- on page 6.

8 What I'd like you to do, Bob, is just take a  
9 minute and -- and look through this before I ask you  
10 questions.

11 A. (Witness peruses document.) Yeah.

12 Q. Okay. And in this section entitled, again,  
13 Assessments include percentage assignments to  
14 improvement value, what do you understand the --  
15 Mr. Gibbons' argument?

16 A. Yeah, Mr. Gibbons is saying that the -- the  
17 benefit should be just in the underlying land.

18 Q. Okay. And what is your response?

19 A. My response is that you need to look at the  
20 whole bundle of rights of the property. You need to  
21 look at -- at land, and then you also need to look at  
22 the whole property as an -- as an entity and the  
23 relationship of the increase in land to the relationship  
24 of the increase of the whole property.

25 And due to the high density of -- of the

1 availability to develop in this market, for instance, a  
2 number of the zoning destinations have an unlimited  
3 height limit. There was a proposed project in front of  
4 the Columbia Center a number of years ago that wanted to  
5 go up a hundred stories, and the only reason that they  
6 couldn't is from the FAA, it was just -- it was too  
7 high, so that was the only restriction, on height was --  
8 was an FAA requirement.

9           So you need to look at -- in -- in this kind of  
10 density, you -- you need to look at -- at both land  
11 value and look at the whole bundle of rights in order to  
12 comply with the State statutes and value, not just the  
13 property, so it's not just flowing down to the land or  
14 saying that all the benefits in the land. You need to  
15 look at the whole property.

16       Q. And there's a -- I don't know if I'd call it a  
17 chart or a table, but there -- there's a box in the  
18 center of the page on page 6 of Exhibit C-21 where  
19 Mr. Gibbons points out a difference in your assessments  
20 for the -- the 2+U building at 1201 Second Avenue, a  
21 temporal difference, so a difference between your --  
22 your preliminary special benefit study and your final  
23 special benefit study, the valuation of -- of that  
24 property.

25           What accounts for that difference?

1       A.     During the preliminary study, the -- the 2+U  
2     site was just -- was just under construction. It was  
3     partially built, so at that point, we're looking at the  
4     market value before and after the improvements as of  
5     that -- as of that date and time. A year-plus later,  
6     the project was -- was complete. It was -- it was  
7     fully -- it was fully leased, all the cost and risk  
8     and -- and the labor capital of finishing the project  
9     was completed, so it was a different appraisal amount  
10    and -- and process that we went through from the  
11    preliminary to before, so different benefit estimates  
12    were derived at, and -- and that's why you see the  
13    difference.

14       Q.     And so when you're valuing vacant land in your  
15    study, explain to us what -- what factors go into that.

16       A.     Yeah, it's really a high -- highest and best use  
17    factor. Do -- do the improvements generate income and  
18    value over -- over and above land value, so if they do,  
19    there may be an example of the highest and best use. If  
20    land value is greater than the capitalized value of the  
21    existing improvements, then the high -- the highest and  
22    best use, let's say, may be for redevelopment.

23       Q.     And then if you could look at the -- the next  
24    box there, and this is example of the Cyrene Apartments  
25    and the Woldson parking lot, so there's a comparison

1 here between the Cyrene and Woldson parking lot.

2 What -- what accounts for the differences in --  
3 in those assessments between those properties?

4 A. Yeah, again, this is a really good analogy of  
5 you're looking at a vacant site that has a proposed  
6 apartment project to be placed on it comparing it to  
7 an -- an existing well-established apartment building  
8 that -- that is -- that is leased, it's stabilized  
9 occupancy so you're kind of comparing apples and  
10 oranges. The -- the vacant site, the Woldson site,  
11 which is right on Alaskan Way at Seneca, that -- that  
12 site hasn't had the labor and capital and -- and risk of  
13 construction or the -- the hundred million or whatever.  
14 Capital investment that's going to go into that site  
15 hasn't been done as of the date of our value, so  
16 comparing that to a -- to an existing property that can  
17 take -- take advantage of the amenities, the revenue  
18 amenities that are going to be generated by the LID,  
19 they -- they -- they reflect and should reflect  
20 different -- different market value estimates.

21 Q. And -- and in your professional opinion, would  
22 the market value be -- well, how would the market  
23 value -- the difference between a vacant lot, the  
24 Woldson parking lot, and the Cyrene Apartments?

25 A. Yeah, the underlying -- the underlying land --

1 and that's why we -- we look at the land. The  
2 underlying land percentage change or the underlying land  
3 change would -- would be very similar, but on an overall  
4 basis, the Cyrene properties, because they're an  
5 existing building, would reflect the higher benefit and  
6 do reflect the higher benefit than -- than a site like a  
7 Woldson site that has yet to be constructed.

8 Q. Finally, I'd would like you to look at page 7,  
9 the last page of Exhibit C-21 in the "Conclusion"  
10 section, and I'll -- I'll actually just take you right  
11 down to the -- to the last sentence that says, quote,  
12 However, the application of the special benefit  
13 methodology to a downtown area for a park amenity  
14 represents a challenging and potential impossible  
15 assignment, if it is to be free from speculation and  
16 imagination.

17 And -- and what's your response to that  
18 conclusion?

19 A. Well, I mean, it certainly was a challenging  
20 assignment when -- when you look at all of the different  
21 property types and uses that -- that are existing within  
22 the LID boundary area. It was a very -- very  
23 time-consuming and challenging project, but it was -- it  
24 was completed on a parcel-by-parcel basis. We -- we  
25 complied with State statutes. That definitely is

1 something that's not speculative or remote or anything.

2 It was -- it was done and we accomplished it.

3 Q. So turning away from the report -- or I should  
4 say my next questions for you don't -- don't come from  
5 this document. Mr. Gibbons also testified about the  
6 effects of COVID-19 on the continued relevance of the  
7 final benefits study.

8 Are -- are you familiar with that testimony?

9 A. Yes.

10 Q. In your professional opinion, does the COVID-19  
11 conditions pandemic make the final benefits study  
12 obsolete?

13 A. No.

14 Q. Why?

15 A. Markets often go through -- through  
16 fluctuations. If -- if you go back to property -- to  
17 people that bought property back in 2006 and '7, they --  
18 they wouldn't have remotely thought that this recession  
19 was going to happen in -- in 2010. You know, since  
20 then, obviously, the market recovered and people that  
21 invested property in that -- that time era still show  
22 significant gains over time, so it's -- it's -- it's  
23 something that as of the date of our value that -- that  
24 no market participant willing buyer, willing seller,  
25 would have recognized it or were -- were appraising



1 market value, not -- not distress value or panic sale  
2 value or something in that nature. What we're  
3 reflecting, the market value, willing buyer, willing  
4 seller.

5 Q. So based on that, in your opinion, is it  
6 appropriate for the City to continue to rely on the  
7 final benefit study as -- to confirm the LID  
8 assessments?

9 A. Yes.

10 Q. I'm going to ask you, Bob, to look at the  
11 next -- excuse me, the next exhibit, which is Exhibit --  
12 well, actually, C-22 we went through yesterday. I don't  
13 have any further questions for you on that. So the next  
14 exhibit would be C-23. Let me know when -- when you've  
15 got it.

16 A. Yes. I have it.

17 Q. Okay. For the record, please tell us what --  
18 what Exhibit C-23 is.

19 A. This is an appraisal review of Cirrus finding  
20 numerous issues with the special benefit mass appraisal  
21 method, so it's a appraisal review by Randall Scott  
22 addressed to a Frank Huemmer and Gerard Lutz.

23 Q. Okay. Just giving you -- are you familiar with  
24 this document?

25 A. Yes.

1 Q. Okay. Did you review Mr. Scott's testimony in  
2 this hearing?

3 A. I believe I listened to his testimony. I  
4 certainly read this review.

5 Q. What model structure did ABS Valuation use for  
6 the final benefit study here?

7 A. The structure model was used was -- was -- on a  
8 mass appraisal basis, but we -- we used a  
9 parcel-by-parcel analysis where we prepared individual  
10 worksheets, looked at comparable sales, depending on the  
11 property type, some, we used a cost approach and  
12 whatever applicable method was -- was needed to -- to  
13 value particular property.

14 Q. So that -- that test -- I know you went through  
15 this yesterday, but just to summarize it here today, to  
16 refresh us, for residential parcels, what approach to  
17 value did you use in your analysis?

18 A. Direct sales comparison approach.

19 Q. And for income-producing properties, like a  
20 commercial property, what approach to value did you use?

21 A. Typically an income approach and then we would  
22 also look at comparable sales to test reasonableness.

23 Q. And then for -- is that the same for hotels?

24 A. Yes.

25 Q. And then for the special purpose properties,

1 like the stadiums, what approach to value did you use?

2 A. Due to the special purpose nature of those  
3 properties, we used a cost approach.

4 Q. How would a reader know the different approaches  
5 you used in a study for different types of parcels?

6 A. It was well -- well-described in our -- in our  
7 report.

8 Q. What other steps, in addition to describing it  
9 in the report itself, did you take to inform the reader  
10 of the -- of the approaches you used on a particular  
11 parcel?

12 A. The individual worksheets were -- were prepared  
13 for the commercial properties.

14 Q. And so if I understood your -- your testimony  
15 from yesterday, you did not create individual worksheets  
16 for the residential?

17 A. Correct. Just due to the vast number of 5,000  
18 or so individual condominium units, the analysis was  
19 shown -- our conclusions were shown on a spreadsheet.  
20 We had sufficient information in the files if needed to  
21 prepare our reports on -- on -- on the condominium  
22 properties as well as the -- the commercial properties,  
23 but due -- due to the vast number of -- significant  
24 number of condominium units, we just relied on -- on a  
25 summation in an Excel spreadsheet rather than doing

1 individual appraisal reports.

2 Q. I'm going to ask you some -- as I walk through  
3 the document, Bob, I'll ask you some questions that  
4 involve the acronym USPAP. Can you remind us does that  
5 stand for?

6 A. Yes, it's the Uniform Standards of Professional  
7 Appraisal Practice.

8 Q. And, again, who publishes those uniform  
9 standards?

10 A. The Appraisal Institute.

11 Q. And -- and you're a member of the Appraisal  
12 Institute?

13 A. Yes, I am.

14 Q. So what is your understanding of Mr. Scott's  
15 conclusions in -- in his appraisal review here?

16 A. He's saying that I didn't comply with Standards  
17 5 and 6.

18 Q. Standards 5 and 6 of what?

19 A. Of the -- of USPAP.

20 Q. So what is USPAP Standard 5?

21 A. Both Standard 5 and 6 deal with mass -- mass  
22 appraisal. Standard 5 deals with the -- the  
23 methodology, and Standard -- Standard 6 deals with the  
24 reporting.

25 Q. I'd like you to turn to page 4 of the exhibit.

1 So that's Exhibit C-23, page 4, and those are the -- the  
2 page numbers, again, Bob, are up at the top. Let me  
3 know when you're there.

4 A. Yeah.

5 Q. With respect to USPAP Standard 5, what is  
6 Mr. Scott's criticism of your final benefit study?

7 A. That -- that we didn't set forth a -- a method  
8 of -- of -- of appraisal.

9 Q. Okay. And -- and what is his opinion on model  
10 calibration?

11 A. That we didn't set up a model to -- to value  
12 the -- the properties by.

13 Q. Okay. I'd like to -- to get Exhibit C-24 out,  
14 please.

15 But I have one further question for you in  
16 Exhibit C-23, back on page 4, under the heading  
17 "Specification of a Property Valuation Model," what  
18 specific standards rule does Mr. Scott claim that you're  
19 in violation of?

20 A. He -- he says that we're -- we're in -- in  
21 violation of -- we're not employing the recognized  
22 techniques.

23 Q. Right. But what rule is that?

24 A. The Standard 5.4.

25 Q. So if -- now, if you could go over to C-24, I'm

1 going to walk you through --

2 A. I'd -- I'd like to just point out too that at --  
3 at -- at the -- the bottom of that -- the bottom of  
4 that -- of that comment, it says, The models may be  
5 specific using the cost, sales comparison or income  
6 approaches to value, so we -- we -- we did those types  
7 of values, so I -- I don't see how he's saying we don't  
8 comply when it's saying right in his report that they're  
9 allow -- they're allowable and allowable under Standards  
10 5.4.

11 Q. Understood. And -- and you might wind up saying  
12 that again as -- as I walk you through the -- the next  
13 document, but I would like you to walk us through  
14 Standard 5.4, please. So if you could look at Exhibit  
15 C-24, and I'll take you right to page -- Exhibit C-24,  
16 page 4.

17 First of all, before we get there, Bob, what  
18 is -- what are we looking at in Exhibit C-24?

19 A. Yeah, C-24 is the Standard 5 Mass Appraisal,  
20 Development.

21 Q. And who -- who publishes this?

22 A. The Appraisal Institute.

23 Q. Okay. All right. So, again, if you could turn  
24 to page 4 of C-24.

25 A. Yes.

1 Q. What does Rule -- and I'm not asking you to --  
2 well, let me just walk you through it. Rule 5.4(a)  
3 says, In developing a mass appraisal, an appraiser must,  
4 quote, identify appropriate procedures and market  
5 information required to perform the appraisal.

6 Again, so -- so what did you do to comply with  
7 Rule 5.4 here?

8 A. Every -- everything it says. We -- we -- we did  
9 a parcel-by-parcel basis analysis. We did a significant  
10 amount of research into the market. We did all various  
11 elements in the market, supply and demand, sales,  
12 income, cost where applicable, so we totally satisfied  
13 that requirement.

14 Q. And how would a reader know that you've  
15 satisfied 5.4(a)?

16 A. Read the report. I mean, it's clear --  
17 clearly -- clearly stated in -- numerous times within  
18 the report.

19 Q. Rule 5.4(b), again, says, quote, In developing a  
20 mass appraisal, an appraiser must, B, employ recognized  
21 techniques for specifying property valuation models.

22 What did you do to comply with Rule 5.4(b) in  
23 your final benefit study?

24 A. Again, as I mentioned, we -- we provided the --  
25 the industry -- industry standard approaches that would

1 be applicable to appraising properties, the income,  
2 direct sales comparison approach, and cost approach,  
3 again, where -- where -- where applicable.

4 Q. And how would a reader know in looking at your  
5 study that you applied those approaches?

6 A. Again, individual worksheets or just reading --  
7 reading the report.

8 Q. Rule 5.4(c) requires, quote, in developing a  
9 mass appraisal, an appraiser must, C, employ recognized  
10 techniques for calibrating mass appraisal models.

11 What did you do to comply with Rule 5.4(c) here?

12 A. Well, we -- we did a -- a parcel-by-parcel  
13 analysis, which is -- is probably more detailed than --  
14 than doing some sort of statistical type -- type of  
15 analysis, so, you know, we -- we complied in -- in  
16 that -- in that context.

17 Q. And -- and what do you understand in his  
18 appraisal review Mr. Scott's critique to be with respect  
19 to calibration?

20 A. That -- that we -- we didn't do it.

21 Q. And does he -- do you understand why -- does he  
22 state why he believes you didn't do it?

23 A. Because we didn't have a model set up to do it.

24 Q. And -- and what's your response to that?

25 A. We -- we, obviously, did have a model set up to



1 do it. We're complying not only with -- with USPAP  
2 requirements, but we're also complying with -- with  
3 State statute requirements, so we -- on both -- on both  
4 ends, they were covered.

5 Q. If you look back --

6 HEARING EXAMINER VANCIL: I have a question.

7 BY MR. FILIPINI:

8 Q. -- of page 5 of C-23 --

9 HEARING EXAMINER VANCIL: I have a question.

10 BY MR. FILIPINI:

11 Q. -- back to the appraisal review.

12 HEARING EXAMINER VANCIL: Mr. Filipini --

13 Mr. Filipini, question.

14 MR. FILIPINI: Hold on, Bob.

15 HEARING EXAMINER VANCIL: I don't know if  
16 your microphone is loud enough to hear me when I'm  
17 trying to say something, but you might turn it up.

18 I just wanted to note that in a couple responses  
19 to questions, Mr. Macaulay has indicated to -- that the  
20 response would -- is to read the report. It's a -- it's  
21 a good report and I understand that somewhere in the  
22 report there's an answer to the question. And the  
23 examiner is used to reading through voluminous and  
24 challenging documents, whether it's the appraisal here  
25 or EISs or what have you, but, generally, if you want me

1 to be looking at something specific, it's helpful to  
2 bring that to my attention.

3 So if you want to say, look at the report, I'll  
4 do my best to look at the report, but if you think  
5 there's something specific in there that's responsive to  
6 the question being asked, Mr. Macaulay, you may want to  
7 identify where in the report where you're talking about.

8 MR. FILIPINI: Thank you.

9 HEARING EXAMINER VANCIL: You can do it by  
10 example if you don't want to list everything.

11 MR. FILIPINI: Thank you.

12 BY MR. FILIPINI:

13 Q. Following up on Hearing Examiner Vancil's  
14 comment, can you tell us, Bob, where -- and we can pull  
15 back up the exhibit if you would like, but I guess I'll  
16 see, first, if -- if you're able to do it from the top  
17 of your head.

18 Can you tell us where in the report you spelled  
19 out the different approaches to value you took to the  
20 properties?

21 A. I believe it would be under the appraisal  
22 methodology.

23 Q. And is that information -- what -- what do the  
24 individual property worksheets reveal?

25 A. They reveal an income analysis of each property

1 before and after the LID.

2 Q. Okay. Are there any other spots of the report  
3 where the reader would be informed about the approaches  
4 to value that you took?

5 A. In the context of -- of reading the report, they  
6 would know what -- what -- what techniques we used, and  
7 then there's the Excel spreadsheet that summarizes our  
8 findings.

9 Q. Okay. And what's covered -- the report that we  
10 went throughout yesterday begins with an executive  
11 summary.

12 What's -- what's -- does the executive summary  
13 address your approaches to value?

14 A. Yes.

15 Q. Also, the report at the very beginning has a  
16 cover letter, a nine-page cover letter.

17 How does the cover letter address your  
18 approaches to value?

19 A. Again, it's covered in there as well.

20 Q. And how -- how did your formation study, which I  
21 recognize is not necessarily at issue here, but how does  
22 your -- did your formation study address your approaches  
23 to value?

24 A. Yes. The -- the format of the formation study  
25 was similar to our final special benefit study.

1 Q. Did your approaches to value of the properties,  
2 different types of properties, stay the same between  
3 formation study and your final benefit study?

4 A. Yes, for the most part. The -- the -- the --  
5 the formatting of the analysis was -- was different, but  
6 the -- the -- the general -- the process was the same.

7 Q. I'll ask you to look at the next page of C-23.  
8 And so I'm taking you to page 5 of C-23. Mr. Scott  
9 references in the second paragraph on page 5 of C-23,  
10 USPAP Rule 5.7 entitled reconciliation or -- or  
11 concerning reconciliation. What does Rule point -- 5.7  
12 require?

13 And, Bob, if you don't know off the top of your  
14 head, I -- I will tell you that Rule 5.7 is also  
15 contained on page 5 of Exhibit C-24, so if that's easier  
16 for you to look at page 5 of Exhibit C-24, my question  
17 to you will be, what does Rule 5.7 require?

18 A. That -- that you employ recognized mass  
19 appraisal testing procedures and techniques to ensure  
20 that the standards of accuracy are maintained.

21 Q. Okay. Well, let me actually take you to page 5  
22 on C-24. Please tell me when you're there. Page 5,  
23 Exhibit C-24 --

24 A. Yeah, okay.

25 Q. -- at the bottom of the page.

1 A. Okay.

2 Q. So Rule 5.7(a), I'll read it. It says -- first  
3 of all, the rule is entitled "Reconciliation." 5.7(a),  
4 In developing a mass appraisal, the appraiser must  
5 reconcile the quality and quantity of data available and  
6 analyzed within the approaches use and the applicability  
7 and relevance of the approaches, methods and techniques  
8 used.

9 So what did you do to comply with Rule 5.7(a) in  
10 your final benefit study?

11 A. Well, again, the -- the -- the relevance of the  
12 approaches we used are -- are industry standards. We  
13 used methods that are widely acceptable within the  
14 industry, and to -- as far as quantity -- the -- so as  
15 far as the relevance of approaches, they -- they -- they  
16 were all covered there.

17 Q. And what did you do to confirm the quality and  
18 quantity of data available?

19 A. Just due to significant amount of research we  
20 put into all of the various elements that are outlined  
21 in the report, the market data section at the end of the  
22 report, the discussion of the various types of  
23 properties that are -- that are throughout the report,  
24 the worksheets that we completed, the -- the discussion  
25 we had of our -- our evaluation techniques, methodology,

1 conclusions. All of those things reconciled the quality  
2 and quantity of the data that -- that we used.

3 Q. And Rule 5.7(b), again, I'll read it: In  
4 developing a mass appraisal, an appraiser must, B,  
5 employ recognized mass appraisal testing procedures and  
6 techniques to ensure that standards of accuracy are  
7 maintained.

8 What did you do to comply with Rule 5.7(b) in  
9 your final benefit study?

10 A. Sure. We did a lot of internal review. Again,  
11 we're looking at a parcel-by-parcel basis, so there's  
12 just a tremendous amount of just internal review to make  
13 sure we were maintaining proportionality. That was  
14 the really main focus of -- of reconciliation and -- and  
15 finalizing a report was to do a very thorough internal  
16 review to comply with making sure that we tested and --  
17 and made sure that the -- the techniques ensured the  
18 accuracy.

19 Q. And I can see, Bob, it's 10:00, so I'm going to  
20 turn my speaker back on in case.

21 HEARING EXAMINER VANCIL: Thank you very  
22 much. Yes, we will take a break now and return at  
23 10:15. Thank you.

24 (A break was taken from  
25 10:00 a.m. to 10:15 a.m.)

1 HEARING EXAMINER VANCIL: And we'll return  
2 to the record, and it's Macaulay on direct.

3 Before we continue with the City, I do want to  
4 briefly come back to the earlier question raised by  
5 Mr. Reuter. I realize some of you may be working in  
6 your offices today and want an opportunity to take  
7 advantage of as much time to address how you're going to  
8 label exhibits for next week, and for those of you who  
9 have questions about this or have concerns about what --  
10 how I present, we may proceed, please chime in after I  
11 give an indication of how I think we may proceed with  
12 this.

13 My earlier indication was that certainly  
14 reference back to any existing case number and exhibit  
15 numbers that we have already established. Many of you  
16 have presented case -- exhibits during your case in  
17 chief, and you should have a list of the exhibits that  
18 you presented during that time and they were identified  
19 and brought into the record.

20 For next week, I -- I had indicated that we  
21 would simply pick up with the City's numbering system  
22 out of old habit that exhibits would be coming in during  
23 the hearing. However, in this case, the Examiner has  
24 asked that the parties introduce exhibits and share  
25 those and if possible, organize that in advance. I

1 appreciate all your effort to do that, and to -- to help  
2 with that, I think a better process that we'll need so  
3 that you can identify the case -- the exhibit numbers in  
4 advance would be to pick up where you left off with your  
5 case for your case in chief.

6 So, for example, if your case in chief has an  
7 objector, you wound up at Exhibit No. 32, then you'll  
8 pick up with your exhibits that you intend to introduce  
9 as part of cross-examination at Exhibit 33, so that you  
10 can -- that way, you -- you don't have to wait on each  
11 other or coordinate exhibit lists as a group for our  
12 submissions next week.

13 We can use the City -- continue with the City  
14 numbering system for any exhibits that are not numbered  
15 or organized, and we may do that, but for those of you  
16 who are organizing in advance and are attempting to meet  
17 the good faith deadline I've set for I believe it's  
18 Monday at noon to share and -- your exhibits in advance  
19 with each other and the City and the -- the Hearing  
20 Examiner's Office, I suggest that you continue your  
21 case -- your case in chief numbering system, and if you  
22 need an exhibit list, Mr. Edlund-Cho can provide that  
23 for your case.

24 It is expected at this point you do have copies  
25 of your own exhibits. If you do not, all of those



1 exhibits are available on the Hearing Examiner website.

2 Again, that's -- front page of the website will  
3 be listed everything that's in the record for this  
4 hearing and you'll just scroll down to the bottom and  
5 you'll see the exhibits that were presented on any given  
6 day or time.

7 Are there any questions or concerns about  
8 proceeding in that matter? Does that create any  
9 complications for any party?

10 Obviously, we're -- we're having to create the  
11 process as best as possible, but I do want to make sure  
12 that this is working as best we can under the  
13 circumstances for each of you.

14 MS. GIELEN: This is Karen Gielen. I did  
15 not participate in the -- the oral hearing, but I did  
16 provide exhibits in my appeal.

17 Would those be already included in the exhibits  
18 that have been considered and introduced?

19 HEARING EXAMINER VANCIL: If you did not  
20 have an oral presentation but simply submitted in  
21 writing an objection with attachments to that, you do  
22 not have any exhibit numbers that were identified during  
23 the first part of the hearing, so for you, for your case  
24 number then, you would be starting with Exhibit No. 1  
25 under your case number.

1 MS. GIELEN: Thank you.

2 HEARING EXAMINER VANCIL: Thank you.

3 Ms. Lin, did you have a question?

4 MS. LIN: Just to be clear, the objectors  
5 are not being -- are not expected to coordinate  
6 submission of all of our exhibits together on Monday at  
7 noon, but instead, for example, I would just coordinate  
8 Perkin's submission of its exhibits on Monday in the  
9 hearing. And to the extent we want to introduce  
10 exhibits live at the hearing, we will -- we will do so  
11 via Share Screen; is that right?

12 HEARING EXAMINER VANCIL: So, yeah, let me  
13 go back over that, and I don't want to get too much into  
14 everything we're going to do next week. We will do it  
15 again at the end of the week. I just wanted to get the  
16 numbering system down now in case you're working in your  
17 offices and want to start doing that.

18 I -- correct. I do not expect all of you to  
19 coordinate a -- a -- an exhibit list. The -- I  
20 appreciate the efforts that the objectors are going to  
21 coordinate. That's necessary for real-time use of your  
22 time and questions that you'll be asking, but for  
23 submission of exhibits, I -- I don't -- that would take  
24 a massive amount of time and effort on your part to do  
25 that.

1           And so I think an easier way to do it is for  
2 each of you with your respective cases or group of  
3 cases, as is the case for Coie, is to continue to pick  
4 up where you left off with your -- your list of exhibits  
5 and the number for when you presented your case in  
6 chief, and you're not expected to coordinate that with  
7 others.

8           It is expected that each of you will -- I  
9 believe all of the objectors, at least, have a full list  
10 of e-mails to communicate with each other. That was  
11 exchanged during the pre-hearing conference, so I do  
12 expect that objectors should be prepared on your own  
13 behalf to share those exhibits that you have -- you had  
14 the time to organize and made a good faith effort to  
15 organize into a list by that noon Monday date. Share it  
16 with everybody. So you've got to share it with the  
17 other objectors, too, so they can follow along when  
18 you're asking questions.

19           Certainly, you have to share it with the City.  
20 To the degree that that doesn't happen, I recognize  
21 everybody is doing what they can. Again, we don't  
22 normally involve ourselves in that, the Hearing  
23 Examiner, you guys are supposed to share exhibits, but  
24 this is an unusual circumstance and we'll do what we can  
25 on the first day of the hearing to pick that up and --

1 and see where we're at, if -- if there needs to be some  
2 assistance on our part with the sharing, and I -- and  
3 also because this is a last minute request, I -- I'm  
4 used to doing pre-hearing conferences months in -- you  
5 know, a month or two in advance and everybody knows  
6 what's coming, so since we are just doing this the best  
7 we can, and I -- I recognize that that's what you are  
8 all doing, I don't -- I'm not precluding anyone from  
9 submitting exhibits that were not submitted by noon on  
10 Monday. So those will be allowed during the hearing.

11 What I asked in my order is that you be  
12 prepared -- if you're not -- if you either have not  
13 gotten yourself organized by Monday -- and I really  
14 encourage you to do that because it will help you with  
15 your case and make sure that I understand what you're  
16 doing and -- and coordinate this, but if you miss  
17 something, or if there's an extra exhibit that comes up,  
18 there's two things that I've asked with that: One, I  
19 ask that you be ready to e-mail that out during the  
20 hearing. So we won't just do Share Screen. I ask that  
21 because people need a copy of the exhibit, and so you  
22 need to be ready to have your e-mail list to press send  
23 with any new exhibit you're going to introduce during  
24 the hearing, and that's -- and it will be shared in that  
25 manner. If necessary in those instances, we will also

1 use Share Screen. And just as you've seen in the past  
2 day or so, yesterday, when somebody can't open  
3 something, we'll use share screen, so we will use that.  
4 I can't rely on that for everything because it does tend  
5 to overload our tech system and the recording end of  
6 things as well, so I don't want to heavily rely on that  
7 for everything, but I recognize it's -- it's a tool to  
8 help us organize as we go.

9 Does that answer your question, Ms. Lin?

10 MS. LIN: Yes. Thank you.

11 HEARING EXAMINER VANCIL: All right. Any  
12 other questions about the exhibit numbering?

13 We'll get to how we're going to do everything  
14 more at the end of the day, but I, again, recognize that  
15 you may be working and trying to organize things now. I  
16 wanted to give you that advice on how we would proceed  
17 with numbering now.

18 MS. MORENO: I -- I have a question. This  
19 is Mary Moreno.

20 HEARING EXAMINER VANCIL: Yes.

21 MS. MORENO: You just said be prepared to  
22 e-mail any exhibits to the whole group. Is that only  
23 any new exhibits that weren't submitted by the Monday  
24 deadline -- or not deadline, but requester, or -- or  
25 anything that we submitted in advance of the cross-exam,

1 do we also need to be prepared to e-mailed those out?

2 HEARING EXAMINER VANCIL: So you're going to  
3 be -- there's -- you've listed three different avenues,  
4 and -- and thank you for that. So you've got new  
5 exhibits that you may have -- you're going to have  
6 exhibits that you're going to be referencing from -- as  
7 part of your questioning. They may be exhibits that  
8 you've already identified as part of your case in chief  
9 when you originally came in. Those already have exhibit  
10 numbers.

11 You may have original documents, new documents  
12 that nobody's introduced yet that may be part of your  
13 documents as well you're going to introduce. All of  
14 those three possibilities should be identified in  
15 exchange by Monday at noon so that everybody's got  
16 copies of everything.

17 I recognize that that may not happen with all  
18 exhibits, and I'm not going to preclude somebody from  
19 saying, Oh, whoops, I missed number 10. I didn't get a  
20 chance to share that.

21 During the hearing, if number 10's something you  
22 still want to share, those are the ones you need to be  
23 available to immediately e-mail to everyone during the  
24 hearing.

25 Does that make sense?

1 MS. MORENO: Yes, it does. Thank you.

2 HEARING EXAMINER VANCIL: All right. Any  
3 other questions just on the numbering system?

4 Again, we'll get to more discussion. I know  
5 that we need to make sure that it's tightened up for  
6 everyone before next week, but just on the numbering  
7 system, does that make sense for now?

8 All right. Thank you.

9 We'll turn back to the City, Mr. Filipini.

10 BY MR. FILIPINI:

11 Q. Bob, I was asking you -- sorry. Let me change  
12 my speaker so we don't have an echo.

13 Bob, I was asking you about questions Rule 5.7,  
14 and just to conclude those, what do you understand to be  
15 Mr. Scott's opinion on your compliance with Rule 5.7?

16 A. That -- that I didn't do -- do any testing.

17 Q. Okay. And -- and on what does he base that?

18 A. I don't -- I don't know. Just the -- the fact  
19 that I didn't have a model set up and there was nothing  
20 to test, I guess.

21 Q. Okay. And, again, so it's clear, what's your  
22 response to the argument that you didn't have a model  
23 set up?

24 A. Well, we clearly had a model. I mean, we did --  
25 it's well -- well detailed in the report that we did a

1 parcel-by-parcel basis analysis, which is considered a  
2 model, and it's defined and discussed in numerous,  
3 numerous places in the report.

4 Q. I'd like to introduce Exhibit C-25, please.

5 Looking ahead at the -- at the break, Bob, I'm  
6 actually not going to walk you through this document,  
7 but I do want you to identify it for us for the record.

8 What is Exhibit C-25?

9 A. C-25 is Standard 6, Mass Appraisal, Reporting.

10 Q. Okay. And who publishes Standard 6?

11 A. The Appraisal Institute.

12 Q. What does Rule 6 address?

13 A. Reporting of -- of your mass appraisal.

14 Q. And what do you understand Mr. Scott's critique  
15 to be of your final benefit study with respect to Rule  
16 6?

17 A. Because I didn't have a model, there was nothing  
18 to report.

19 Q. And -- and what did you do to comply with Rule  
20 6?

21 A. I, obviously, compared a -- a detailed report,  
22 did a parcel -- parcel analysis and written -- wrote an  
23 extensive report that summarizes our conclusions and  
24 data used and -- and the process used in -- in  
25 completing our assignment.



1 Q. Based on your understanding of USPAP as an MAI,  
2 do you believe you complied with Rules 5 and 6?

3 A. Definitely, yes.

4 Q. What is the penalty for noncompliance with  
5 USPAP?

6 A. That would be between me and the Appraisal  
7 Institute.

8 Q. And last question, when you do special benefits  
9 analysis, how often has an objector claimed a failure to  
10 comply with USPAP standards?

11 A. Numerous times. It's a typical line of attack,  
12 saying that we didn't -- we didn't comply with USPAP.

13 Q. Okay. And -- and what is the -- what's your  
14 understanding of the leeway that an appraiser has under  
15 Standard 5 of USPAP?

16 A. Yeah, there -- there's a lot of different ways,  
17 obviously, to do a mass appraisal. You can do  
18 statistical modeling and things of that nature. The  
19 type of work that we do is specialized, and oftentimes  
20 when we're attacked on that realm, the -- the -- the  
21 reviewer or the appraiser might not be real familiar  
22 with what has to go in and what's required to go in by  
23 state law for a special benefits study, but there --  
24 there's a number of different ways to do mass appraisal  
25 work, and this is the way we -- we do it. It totally

1 complies with all of the standards, and somebody may  
2 choose to do a statistical type of analysis. That's  
3 fine. There -- there are a number of ways to -- to do  
4 mass appraisal work under -- under USPAP.

5 Q. And I'd like to move on and ask you to look at  
6 or -- or grab there Exhibit C-26. Let me just give  
7 folks -- it's -- it's a longer document, so I'll just  
8 give them a moment at home to pull it up.

9 And before I ask you a substantive question,  
10 Bob, while -- while we're waiting for that, can you tell  
11 us what is Exhibit C-26?

12 A. Yes. C-26 is an appraisal review of the Hilton  
13 Seattle Hotel by Peter Shorett and a Jesse Baker with  
14 Kidder Mathews.

15 Q. And are you familiar with this appraisal review?

16 A. Yes.

17 Q. And so I -- I'd like you to go ahead all the way  
18 to page 14 of Exhibit C-26. And I'll note for the --  
19 for you, Bob, and also for the folks at home, that we're  
20 now into Exhibit 1 of this document. On page 13 at the  
21 top, it says, Exhibit 1-attachment to appraisal review,  
22 so if anybody -- that's relevant for anyone, but in any  
23 event, it's page 14 of Exhibit C-26.

24 There's a heading that says halfway down the  
25 page, "Difference in the Before and After Condition."

1 In the first line of -- of that, I'll read it into the  
2 record, quote, The Study gives the impression that the  
3 LID improvements will transform the project to a greater  
4 level of improvement than will actually be realized.

5 And my question is, what -- what's your  
6 response?

7 A. Well, I disagree. I think we -- we went to --  
8 to great lengths to recognize the before condition and  
9 that there is a viable waterfront in the before  
10 condition and, in my opinion, a significant --  
11 significantly improved and better waterfront in the  
12 after condition, but I don't feel that we made it  
13 something bigger or better than -- than it -- than it  
14 is.

15 Q. Is there a requirement that improvements  
16 increase property values by a certain percentage in  
17 order to justify the use of a Local Improvement  
18 District?

19 A. No.

20 Q. Why not?

21 A. The number of LIDs have various components  
22 attached to them. Some may benefit property very  
23 little. Some may benefit property significantly, so  
24 there's just often a wide range of value conclusions  
25 that are derived from a special benefit study.

1 Q. Right -- right below that, there's a -- a  
2 two-sentence paragraph. Again, I'm on page 14, Bob,  
3 under heading 1, "Difference in Before and After  
4 Condition," second paragraph there, it starts with the  
5 LID improvements. Mr. Shorett notes that connections  
6 already exist.

7 And -- and do you agree?

8 A. Yes.

9 Q. Okay. And what is the -- how did your study  
10 take into account the fact that for some of these areas,  
11 connectivity already existed to the Waterfront?

12 A. It -- it did. I think somewhere in his comment  
13 too he says for years, people have found their way to  
14 the -- to the waterfront. So there were -- there  
15 were -- there are in the four connectivity points,  
16 they're -- they're vastly improved with the LID with the  
17 advent of the overlook walk, which is just going to be a  
18 very unique, attractive amenity that provides numerous  
19 access points to the waterfront, great view elements, a  
20 really unique style of -- stylistic looking structure  
21 that I think will provide a lot of amenity to -- to the  
22 waterfront area and also provide connectivity.

23 There's also additional connectivity to the  
24 Union Street area through an elevator and walkway, so  
25 connectivity will be vastly improved.

1 Q. And you mentioned walking and Union Street  
2 elevator.

3 What other connectivity improvements will --  
4 will -- will come as a result of the LID improvements?

5 A. The -- the -- the Pioneer Square area will have  
6 some improved -- improved connectivity through the way  
7 it'll be designed in connecting to the Promenade area.

8 Q. On the top of page 15 of the exhibit, so next  
9 page, I'll read the first full sentence. Quote, There  
10 is no market evidence in the report that waterfront  
11 access would change from average to excellent because of  
12 the LID improvements.

13 And -- and what's your response?

14 A. I disagree. All -- all of the studies we looked  
15 at, connectivity -- connectivity is -- is an issue.  
16 Obviously, the connectivity will be vastly improved, so  
17 I -- I disagree with that statement.

18 Q. The start of the first full paragraph on page 15  
19 right below, again, I'll -- I'll read the first sentence  
20 into the record. Quote, There are too many other  
21 amenities in the region attracting tourism to suggest  
22 that the LID improvements singularly will cause property  
23 values to increase.

24 What's your response?

25 A. Well, in -- yeah, in the before condition,

1 that -- that -- that's the market. In the after  
2 condition, we're really isolating the -- the conditions  
3 at that time, so based on studies we've looked at  
4 throughout the country, there will be increased, for  
5 instance, tourism, market appeal to -- to the area, so  
6 we're -- we're -- we're looking at -- at -- at those --  
7 those factors in the market in the after condition.

8 Q. So do I understand that your before condition  
9 considers the existing amenities?

10 A. Correct.

11 Q. And -- and then your after condition adds the  
12 LID improvements?

13 A. Correct, with the LID improvements then,  
14 we're -- we're looking at, okay, what -- what are they  
15 providing to the market that wasn't there before, and --  
16 and one of those elements is -- is an increase of  
17 tourism that will -- will result from -- from the  
18 project.

19 Q. The last sentence of that paragraph reads, It's  
20 virtually impossible to identify a percentage of value  
21 increase from the LID improvements, and to conclude that  
22 the LID improvements will substantively change visitor  
23 preferences is remote and speculative.

24 And what's your response to that?

25 A. I disagree. In -- in -- again, in all of the

1 studies we've looked at, the implementation of parklike  
2 improvements, streetscapes, the elements that the  
3 subject waterfront project is completing, unique  
4 elements of the overlook walk, aren't -- aren't  
5 speculative. They're -- they're -- they're well --  
6 those types of improvements are well studied and reflect  
7 in the market and clearly show market acceptance and --  
8 and increased market value as a result of those  
9 improvements.

10 Q. Also on this same page, second full paragraph,  
11 Mr. Shorett states, that, quote, There are also  
12 consequences from the LID improvements not considered in  
13 the report, end quote, such as lost parking, lost street  
14 parking and lost views.

15 What is your response to that?

16 And let me split that up. What is your response  
17 to the street parking?

18 A. Yeah. This is something we -- we considered in  
19 our analysis.

20 Q. And how did your analysis consider lost views?

21 A. For instance, like the -- the -- the Waterfront  
22 Landings Condominium, there's portions of that  
23 condominium that in the before condition will be -- will  
24 be blocked by -- by a road, and we -- we'd have -- the  
25 Waterfront Condominium Association is one of -- one of

1 the property owner groups we met with, but in -- in --  
2 in the after condition, then the -- the overlook walk  
3 will block some of their views looking -- looking back  
4 towards the city, so as -- as much as possible through  
5 our analysis of the sales within that complex and -- and  
6 other areas, if there weren't applicable sales within  
7 the Waterfront Landings, which there were some, or the  
8 market participants buying the condos would have been  
9 aware of -- of -- the before condition would have been  
10 aware of this elevated street that will -- will exist,  
11 but they also would be aware of the overlook walk  
12 construction since the LID was formed, so those elements  
13 would have been reflected in the sales of units within  
14 the waterfront land use, so that was -- that was one way  
15 we -- we tried to reflect how -- how the market would --  
16 would look at that type of situation.

17 Q. And for properties other than Waterfront  
18 Landings, did you take into -- how did you take into  
19 account the potential loss of the view amenity in the  
20 after condition?

21 A. Just -- just as much as possible based on  
22 comparative analysis. If there was a large influx of  
23 trees on -- on a main level, that in -- in the same  
24 context, there's -- there's going to be trees in the  
25 before too, so inasmuch as it was applicable --



1 applicable in the market, we tried to consider it.

2 Q. Very next paragraph, Bob, on page 15, so the  
3 third full paragraph of Exhibit C-26, first sentence  
4 reads, quote, The Study also ignores the impacts for  
5 development not expected to be completed until  
6 2023/2024.

7 What's your -- well, let me -- let me read  
8 another sentence into the record as well because I think  
9 I can ask you one question on -- on both.

10 Further down concludes, I quote, that, The study  
11 ignores the uncertainty of completing a five-year  
12 project on time and on budget.

13 So -- so what's your response to that, the  
14 argument in this paragraph?

15 A. Again, we had -- we had sufficient information  
16 provided by the City to detail all of the -- the project  
17 elements that are going to be completed by the project,  
18 and we're valuing it as of October 1, 2019, assuming  
19 those -- those elements are in place, so the -- the --  
20 the expectations of -- of the delayed project and that  
21 thing are just not -- not relevant to our analysis.

22 Q. In addition to the -- the information you got  
23 from the City and from the market, what else did you  
24 rely upon to reach your value conclusions?

25 A. We -- we looked at numerous studies throughout

1 the country that have various elements similar to those  
2 being constructed by the LID.

3 Q. And at the end of the day, how do -- how do you  
4 pull that all together as an appraiser?

5 A. A lot of it is just based -- based on judgment.  
6 Looking at -- at the before condition, you -- you're  
7 recognizing there's an existing waterfront amenity  
8 that -- that exists, and then the after, looking at --  
9 at numerous different studies of the various elements  
10 that -- that go into creating the -- the after situation  
11 and doing an -- an analysis to bring -- bring those  
12 together and make judgments and -- and apply that  
13 judgment to creating a -- your after value conclusions.

14 Q. And what are you relying on when you make that  
15 judgment?

16 A. The market evidence that we've collected, not  
17 only within the City of Seattle, but in other studies  
18 we've looked at.

19 Q. I'd like to take you to page 27 of the exhibit,  
20 so C-20 -- Exhibit C-26, page 27, under the heading  
21 starts at the top of the page "General versus Special  
22 Benefits," and I'm going to direct your attention down  
23 to the third paragraph, Bob, and the first sentence  
24 reads, quote, The Study fails to properly determine that  
25 the LID improvements create special benefits to the

1 properties within the LID boundary area. And paragraph  
2 goes on to say, Because it does not employ a traditional  
3 "matched pair" analysis.

4 My first question for you, Bob, is, what is a  
5 matched pair analysis?

6 A. A matched pair analysis would be looking at --  
7 at -- you're -- you're trying to solve a problem for,  
8 say, how much more the -- the market will pay for an  
9 additional garage, and so if you have sales of -- of  
10 single-family houses with -- with one garage and various  
11 similar houses with two garages, then that's a -- that's  
12 defined difference that you can isolate in the market by  
13 a matched pair analysis, then -- then that would be an  
14 example.

15 Q. Did you use a matched pair analysis in the  
16 study?

17 A. We -- we attempted to as much as possible in  
18 looking at other study areas, you know, such as Boston  
19 and -- and San Francisco and Vancouver. Just given  
20 the -- the magnitude of the different types of -- of  
21 elements that go into the project, it's just -- it's  
22 really not an effective or reliable method to try to  
23 employ.

24 Q. At the end of the -- this paragraph, again, it's  
25 paragraph 3 of page 27 on Exhibit C-26, the last

1 sentence reads, quote, The proper measure of benefit is  
2 to compare like property transactions with and without  
3 the variable that is the project.

4 My first question is, what's your response?

5 A. If -- if that data was available, I would agree.  
6 You know, again, given the complexity of a project like  
7 this, it's just -- it's just not possible.

8 Q. So when you -- when you couldn't rely on -- on a  
9 matched pair, what -- what did you use to determine  
10 whether the improvements would increase property values?

11 A. Again, looking at numerous studies throughout --  
12 throughout the country, the -- the conclusions that  
13 were -- were reached in those, which clearly recognized  
14 the -- the benefit of -- of open space, park area,  
15 parkway, streetscapes, all of the elements that are --  
16 are unique to -- to -- to the subject.

17 Q. And -- and what role in your analysis did local  
18 data play?

19 A. Specifically in -- in -- in the before  
20 condition, it provided a -- a very good basis. We -- we  
21 had to make adjustments for view elements and -- and  
22 recognizing that Alaska Way was rebuilt, but it -- it --  
23 we had very sound evidence to help us both in the -- in  
24 the before and after that -- that it -- it really helped  
25 significantly in -- in the before condition.

1 Q. And what role in your analysis did local sales  
2 data play?

3 A. Similarly, both in the before and after, it --  
4 it -- it -- it played a role and -- and assisted us in  
5 our analysis.

6 Q. For -- you referenced, Bob, in your testimony a  
7 number of times case studies in -- in other cities. Is  
8 it -- did I understand? What -- why did you choose  
9 those case studies?

10 A. There were -- there were numerous case studies,  
11 and often when you're -- you're reading a case study,  
12 they refer to other case studies, so these were the ones  
13 that -- that we felt were -- were most relevant to --  
14 to -- to put in the report and to show the reader and  
15 what -- what the outcomes of these studies were. There  
16 were numerous other studies that -- that we -- that we  
17 looked at.

18 There -- when -- when we're writing a report  
19 like this, we're -- we're trying to keep it summarized,  
20 and so we would have included all the studies and  
21 explained them and explained our reasoning, we would  
22 have ended up with hundreds and hundreds of pages, so we  
23 wanted to pick projects that we thought -- thought were  
24 most relevant to -- and summarizes those, but also  
25 internally, we recognized there's a lot of other factors

1 we looked at.

2 Q. And -- and for the case studies that -- that you  
3 relied on, how did those case studies reflect the  
4 improvements at issue here or relate to the improvements  
5 at issue here?

6 A. Well, a lot of the studies, they -- there's a  
7 lot of difference of -- and we tried to be real clear  
8 about this in the report, that if you're just trying to  
9 take those studies and -- and look at the -- the  
10 before -- and the before conditions varied very  
11 significantly between those studies to -- to -- to  
12 estimate our before condition, we had a lot of good  
13 market information available within the Seattle market  
14 to really arrive at a -- at a good, reasonable  
15 conclusions, making adjustments for the hypothetical  
16 conditions that existed before.

17 Many of these studies go into a lot of detail  
18 and a lot of really interesting consistent data that  
19 reflects the strong benefits that are associated with  
20 this type of open space public meeting areas. And then  
21 you've got a unique amenity like the overlook walk,  
22 which is -- is different from any other studies we  
23 looked at. It's going to be a really unique attribute  
24 in the market.

25 Many of their states, they cost -- Chicago, they

1 also have very unique -- very unique amenities as well,  
2 different, but unique. So all those elements  
3 were looked at and adjusted for as -- as much as  
4 possible using our judgment. And also in before,  
5 recognizing, again, that we -- we didn't try to  
6 overstate that there -- there wasn't a good viable  
7 waterfront before, and that -- that's a large reason why  
8 we didn't have these big increases in value. If you --  
9 if you looked, like, for instance, at Boston, they show  
10 a before and after.

11 Q. I think -- I think you're good, Bob.

12 A. Sorry. They -- they show a good before and  
13 after depiction, but their before condition was -- was  
14 significantly different than our before condition, so,  
15 you know, looking at a study like Boston, they reflect  
16 a -- a market value difference of about 10 to 15 percent  
17 or so.

18 Looking at that, it was reasonable that -- that  
19 we're going to be something less than 10 percent as an  
20 extreme high end of our analysis. It's more likely to  
21 be something -- something much less than that, because  
22 projects like that, if you just purely took them on the  
23 before and after basis, were -- they -- they were  
24 much -- much better than -- than what the conditions  
25 exist at the subject, so just using our judgment, we

1 list -- we went through and did our analysis, we  
2 narrowed down that range of benefit to get to a point  
3 where we thought, yeah, this -- this really makes sense  
4 to how the market would function in this context through  
5 increases in rent, increases in sale prices and -- and  
6 things of that nature to really -- in any appraisal, you  
7 try to -- you try to create a range, and then within  
8 that range, say, are -- are we better or worse than  
9 this, and narrow it down to a logical reasonable amount  
10 of difference, and -- and -- and that's what we did in  
11 this case.

12 Q. And I think, Bob, that -- that transitions to my  
13 next question, and, in fact, may have answered it,  
14 but -- but let me just ask it anyway and confirm, the  
15 last paragraph on page 27, again, bottom of the page,  
16 the second sentence reads, quote, The changes in the  
17 condition before and after were so substantial -- and  
18 these are the case studies cited in the study referenced  
19 in the HOA reports -- quote, that they dwarf the  
20 difference between the condition of the property value  
21 before and after the LID improvements and are not  
22 credible sources for opinions of value.

23 And what's your response?

24 A. Well, as I stated, I disagree. If you -- if you  
25 purely looked at them on the before condition, yes,



1 we -- but we had a really good solid basis for our  
2 before value.

3           Again, these studies go into other aspects of it  
4 where they look at -- in the after condition, they --  
5 they look at how the market reacted to these -- to these  
6 greenways, these open spaces and -- and streetscapes and  
7 parklike amenities and park amenities, and -- and  
8 clearly all of them showed an increase in market value  
9 as a result of these improvements, and that the  
10 investment in market, the residential market all looked  
11 favorably upon having these types of improvements in  
12 place in their city.

13           Q.    How did you address in your study the impacts  
14 from Seattle's Sculpture Park?

15           A.    That -- that -- that was an interesting dilemma  
16 when we got to looking at the LID boundary areas.  When  
17 we originally did the feasibility study, we looked -- we  
18 looked at a larger study area, and then as we got into  
19 doing the formation study and were -- were trying to --  
20 to determine where to draw the boundary lines, we  
21 were -- we were moving -- moving out from where the --  
22 the core elements of the project were.  We got to about  
23 the Edgewater Hotel, and then we looked -- looked beyond  
24 that, the property next -- next to that, and it's a  
25 retail property on the waterfront.  You -- you walk out

1 the -- the -- the front of that project, and you go  
2 right up the steps of Sculpture Park, and -- and we  
3 looked at Sculpture Park, and it definitely had a  
4 positive influence on -- on the market and -- and -- and  
5 the properties around the market. So it's a desirable  
6 element for them.

7 And Myrtle Edwards Park is right there too, so  
8 Sculpture Park was -- was -- and -- and Myrtle Edwards  
9 Park were kind of elements we looked at. We were trying  
10 to compare park amenities to -- to already an existing  
11 park amenity, so it was -- it was one of the areas  
12 that -- that -- that led us to -- to define the boundary  
13 where -- where we did.

14 Q. And, I -- I guess, just explain for us why --  
15 why -- you know, why did you stop the boundary line  
16 there?

17 A. Felt as if that -- the logical distance from --  
18 from the Sculpture Park where any -- any -- any market  
19 influence from -- from that park to where our park  
20 elements would stop when we were going -- just  
21 methodically going through it parcel by parcel basis.  
22 We kind of got to that point and just go -- it was just  
23 one of those judgment calls where you're -- you're --  
24 are you dealing with measurable special benefits here  
25 associated with the waterfront project or are we dealing

1 with more -- more general benefit?

2 So that -- that's just where we drew the line.

3 Q. Okay. And -- and in -- in your opinion, again,  
4 if I'm understanding it, there was benefit measured from  
5 Seattle Sculpture Park and I believe you said Myrtle  
6 Edwards Park?

7 A. Yes. We felt there was -- there was  
8 definitely -- definitely benefit positive -- positive  
9 market elements at -- at -- at play that the -- the  
10 market recognized.

11 Q. And so what did you do when the benefit you  
12 measured -- when -- when you couldn't tell the  
13 difference between the benefit coming from Sculpture  
14 Park and Myrtle Edwards Park versus the LID  
15 improvements?

16 A. Then that -- that's where we drew our boundary  
17 line.

18 Q. I'm going to take you to page 32 of the exhibit,  
19 please. And, again, that's -- that's the pages up top.

20 A. If we could -- could we go back and talk about  
21 the boundaries again just -- just real briefly?

22 Q. Sure. My next question is on the boundary area,  
23 but --

24 A. Okay.

25 Q. But let me ask my questions, Bob, and, you know,

1 you're -- we can certainly get at what you want to  
2 address, but perhaps it will be covered.

3 If I look at page 32, again, I'm directing you  
4 to subheading 3, LID Boundary Area, first sentence,  
5 quote, There is no justifiable basis or support for the  
6 LID boundary areas as they have been determined.

7 And what's your response?

8 A. I disagree. We did an extensive amount of  
9 research and analysis that -- that went into our  
10 determination of the boundary. I think it's a fair and  
11 reasonable boundary. It's -- it's also justified and  
12 supported by the -- the management agreement that was  
13 reached between the property owners and -- and the City.

14 The -- a significant number of property owners  
15 prior to reaching that agreement did -- did receive  
16 their -- their preliminary assessment. They -- they  
17 knew what the boundary was. They're -- they -- they  
18 agreed that -- that that boundary was reasonable, so  
19 there's strong market evidence just right there that  
20 the -- the boundaries were supported in the market.

21 Q. What improvements did you evaluate in  
22 determining the LID boundary?

23 A. The six main improvement elements of -- of the  
24 overlook walk, the promenade, Pier 58, Waterfront Park,  
25 the Pike/Pine Corridor improvements, and Pike Place

1 Market improvements.

2 Q. What about Pioneer Square?

3 A. Excuse me, I didn't -- the Pioneer Square  
4 improvements, yeah. I think I said Pike/Pine.

5 Q. The next sentence, same paragraph, second  
6 sentence under subheading 3 on page 32, quote, The  
7 primary improvements of the project will be along the  
8 waterfront near Pike Place Market, not away from the  
9 water.

10 I'm actually going to continue reading because  
11 it's fastest, "LID improvements, as identified by the  
12 City of Seattle, extend up the Pike/Pine corridor and  
13 from Alaskan Way to Pioneer Square. But these  
14 improvements appear to be more of an improvement program  
15 to neglect its streets, not a part of the larger LID  
16 project."

17 What -- what's your response?

18 A. Well, I -- I disagree. The -- the -- it -- it's  
19 clearly stated in the report that these elements, these  
20 six elements are -- are looked -- looked at as an entity  
21 both before and after, so it's definitely a part of the  
22 LID and part of the connectivity of improvements to the  
23 overall waterfront area.

24 Q. When you say it, what -- what's -- when you say  
25 it's part of the LID, what -- what -- what's it?

1       A.     Just all of the -- all of the various elements,  
2     the -- the -- the Pioneer Square area, the Pike --  
3     Pike/Pine improvement areas, the promenade, the overlook  
4     walk, and Pier 58, they're all looked at as one entity  
5     both before and after, so they all contribute and are  
6     part of the -- the LID project. We didn't -- we didn't  
7     pull -- we didn't pull apart each element and look at it  
8     separately. We were looking at the LID as -- as one --  
9     as one entity both before and after the improvements.

10       Q.     Okay. And why did you make that judgment call  
11     to value the LID as -- as six improvements as -- as one  
12     improvement?

13       A.     It was -- it was the most logical way to do it  
14     than to try to pull each -- each element -- element out  
15     as a -- as an individual component. It just didn't make  
16     any sense. The connectivity issues of the -- of all the  
17     various elements, it flowed together and -- and created  
18     one LID, and it was the City's intent to create one --  
19     one LID that -- that had these amenities associated with  
20     it, so it was part of my scope of services to -- to look  
21     at it as one project.

22       Q.     And then also on page 32, I'll take you down to  
23     the last paragraph and ask you, how do you respond to --  
24     to the following claim, first sentence, I'll read into  
25     the record, quote, Even if one were to accept there are

1 special benefits, they would only accrue to properties  
2 closest to the promenade and overlook walk?

3 A. This is what's really frustrating in reading  
4 Shorett's review. He -- he provides absolutely no  
5 market evidence or anything to support -- to support  
6 anything he says. And, you know, I think he's on record  
7 saying, Well, there -- there's no -- there's no --  
8 there's no benefit to -- to this \$346 million waterfront  
9 improvement. So is he saying here that now -- now there  
10 is benefit or -- or is he accepting that there is?

11 So I didn't -- I totally -- I totally disagree,  
12 again, that the LID's looked at as one -- as one entity,  
13 so all of the elements, the promenade, the overlook  
14 walk, the Pike/Pine Corridor, Pioneer Square  
15 improvements, they -- they all create value, and  
16 they're -- it's not just one of the elements alone  
17 that -- that creates value.

18 Q. In the next -- again, the first sentence of the  
19 next paragraph reads, quote, It's unreasonable to  
20 conclude -- sorry.

21 It is unreasonable to conclude that properties  
22 in the north end of the boundary area will receive any  
23 benefit from the LID improvements.

24 What is your position on the properties in the  
25 north end of the boundary area?

1       A.    Well, I -- I disagree.  Again, there's no market  
2 evidence to support, it's just making -- making a  
3 statement based on no -- no evidence, and, yeah, we --  
4 we -- we talked, you know, large property owners up  
5 there such as Amazon and Slice (phonetic) both felt that  
6 there -- there would be some -- some benefit,  
7 although -- although small, from the -- the waterfront  
8 improvements.

9            You know, that area is some distance from --  
10 from the improvements, but the Pike/Pine improvements  
11 run up to -- to Ninth Street or in that -- in that area,  
12 so, you know, we felt -- we felt that there was some  
13 inclusion in there to support -- and benefit there in  
14 the market, and that was supported by -- by discussions  
15 with -- with large owners like that.

16       Q.    The next sentence reads, quote, On the south  
17 end, neither T-Mobile Park, (Mariners) nor CenturyLink  
18 Field (Seahawks & Sounders) will every realize an  
19 increase in value from any part of the project, let  
20 alone the LID improvements.

21            What's -- what's your view on the increase in  
22 value to projects on the -- I'm sorry, properties on the  
23 south end?

24       A.    Well, I -- I -- again, I totally disagree with  
25 his -- his -- his comment.  You know, any -- anybody



1 that -- that goes to a -- Safeco or -- or excuse me,  
2 T-Mobile Park, you know, for a ball game, if you're  
3 playing Toronto or New York or Boston, you know,  
4 they're -- they're big -- big tourist draws, and I think  
5 having a waterfront amenity like this and looking at  
6 waterfront amenities in other cities and the tourism  
7 they've drawn, the -- the market perception, the  
8 improved market perception of the city, of the  
9 neighborhoods, you know, all create -- all create a  
10 positive influence, and that -- that, in turn, creates  
11 a -- a market -- an improvement in market value. And,  
12 again, that's evidenced by all these studies, so these  
13 stadiums, I think, will -- will benefit to some degree.

14 CenturyLink has a lot of concerts in -- in the  
15 summertime. They have the exhibition hall there, they  
16 definitely benefit, not from the tourism, but the  
17 stadium district will benefit by its increased  
18 reputation in the market, and, again, these are all  
19 elements that are consistent throughout the studies.

20 Q. Well, the south end of the boundary zone  
21 recognize increased connectivity?

22 A. Yes, there -- there's a -- there's a railroad  
23 walk that may extend from just south of King Street  
24 that'll -- that'll take you right into Century Link area  
25 field, so it will have increased connectivity.

1 Q. And that's part of the LID improvement?

2 A. It's -- it's -- it would be done in the before,  
3 but -- but it's -- it's looked at in the after. It's --  
4 it's benefitted by the promenade improvements, and so  
5 we -- we considered it an -- an improvement, although it  
6 wouldn't be done in the before, it's certainly enhanced  
7 by the LID improvements.

8 Q. If I could take you to page -- jump ahead two  
9 pages of page 34 of Exhibit C-26. There's a header  
10 called "Inequitable Analysis" at the top. And I'm going  
11 to ask you, Mr. Shorett provides, excuse me, example one  
12 and example two on -- on page 34, and I'm going to ask  
13 you questions about those examples, Mr. Macaulay, so if  
14 you want to take a minute and -- and look at them, make  
15 sure you're familiar with them, and then I'll -- I'll  
16 ask my questions.

17 A. Yes, I'm familiar. I've looked at this a number  
18 of times.

19 Q. Okay. Let -- let me take you first to example  
20 one, and Mr. Shorett points out a difference in value  
21 and -- in value increase between the Cyrene Apartments  
22 and surface parking. Cyrene at -- at 50 University and  
23 surface parking at 1101 Western Avenue.

24 How do you explain the differences between those  
25 properties in terms of their valuation?

1       A.    Yeah.  Well, in this -- in this instance, I  
2    think he's just taking one -- in -- in the surface  
3    parking, I think he's just taking one tax parcel of a  
4    larger -- a larger economic entity, but, again, the --  
5    you know, looking at -- at the land values, the land  
6    values of these properties would -- would be very --  
7    would be very similar, the land to land, and the land  
8    value increase before and after would be very similar.

9            One, the surface parking area is -- is going to  
10   be improved with a -- an apartment complex, and it's --  
11   it's part of a larger -- larger economic entity, so  
12   that -- that \$257,000 or -- or 656, I believe that -- I  
13   believe that's low compared to what the property is as  
14   an entity, so, again you're looking at a vacant site  
15   that hasn't invested the labor and capital in it to  
16   create additional benefit that the Cyrene Apartments  
17   would have as they are -- are a functioning or already  
18   constructed apartment complex.  It's a -- it's a very  
19   similar comparison that I discussed in Mr. Gibbons'  
20   report as well.

21       Q.    And please explain for us, how did you determine  
22   special benefits for sites that were up for development  
23   or under development?

24       A.    Again, just based on highest and best use  
25   analysis, looking at -- at land value and whether

1 that -- that -- that land value was less than the  
2 capitalized improvement value of the property, or if the  
3 capitalized improvement property was -- was -- if it was  
4 less than the overall land value, then that would lead  
5 to the logical conclusion that -- that the site would  
6 have redevelopment potential.

7 Q. All right. And to close out our -- our  
8 discussion on this page, looking at example two where  
9 Mr. Shorett notes that the -- the land square footage is  
10 similar between the Amazon office at 1903 Terry where  
11 the land square footage is 42,360 and then the four  
12 parcels below where the land square footage is 41,654,  
13 again, my question is, how do you explain the  
14 differences between a valuation despite the similar land  
15 square footage?

16 A. Again, a very similar analogy to what I -- what  
17 I just indicated. You -- you've got a development site  
18 that has an invested labor and capital in it, and so  
19 logically, it's not going to have as significant as  
20 benefit as a development site.

21 Q. On page 35 of the exhibit, next page, of -- boy,  
22 I said that on the last one, closing it out, but there  
23 is a third example there. Again, Mr. Shorett provides  
24 three parcels that are -- are close in land square  
25 footage, 13,160, 14,160 and 13,200, and how do you

1 explain the -- the differences in valuations for those  
2 properties?

3 A. Similar analogy to what I just described for the  
4 last two examples.

5 Q. Now, I'll take you to the second full paragraph  
6 on 25. It starts with the word "Moreover." In fact,  
7 I'll just read that sentence: Moreover, there are no  
8 latecomer fee provisions in the analysis.

9 What are -- what's the relevance of -- of  
10 latecomer fees to special benefit analysis in the LID  
11 context?

12 A. There -- there is none.

13 Q. And where -- where does -- to your knowledge,  
14 where does that latecomer fee concept come from?

15 A. I don't know. I don't -- I -- I do not  
16 understand his logic or reasoning for even making that  
17 statement.

18 Q. Further down the page under the heading "Mass  
19 Appraisal Margin of Error," so 5, "Mass Appraisal Margin  
20 of Error," first sentence, I'll read it, the -- quote,  
21 The value increase from the LID related improvements  
22 opined in the Study of 4 percent or less is within a  
23 margin of error for mass appraisals.

24 What is your response?

25 A. There is no known margin of error that I've ever

1 heard of. And -- and, again, in all the LIDs I've done  
2 over the years, we've come across very different -- very  
3 different -- differentiations of -- differences of -- of  
4 market value, differences in market value estimates  
5 before and after.

6 Q. Okay. And so to phrase it -- my question --  
7 maybe perhaps to just repeat it, what is the industry  
8 standard margin of error in mass appraisal?

9 A. There -- there is none.

10 Q. At the bottom of the same page, there's a title,  
11 6, 'Values Are Overstated.' And start of the second  
12 paragraph, quote, There are other examples where the  
13 Study fails to consider certain deed restrictions or  
14 title encumbrances.

15 How did your study consider deed restrictions  
16 and title encumbrances?

17 A. Yeah, we went to great lengths to try to make  
18 sure that we covered any deed restrictions or  
19 encumbrances like that. For example, there are 20 or 30  
20 subsidized housing projects in the LID boundary that  
21 have zero benefit that due to -- that due to key  
22 restrictions, there -- there's one property, the -- I  
23 think it's the United Way building where their -- their  
24 air rights have been sold that we weren't aware of, so  
25 that -- that's a property that we just missed.

1           There are some -- some restrictions there that  
2 we didn't -- we didn't catch in the market that should  
3 be adjusted -- adjusted for, but as much as possible,  
4 we -- we try to catch every property that had the  
5 restrictions or use restrictions that affected the  
6 highest and best use of the property so that it  
7 eliminated their ability to really benefit from -- from  
8 the LID improvements.

9           Q.    On page 26 of Exhibit -- I'm sorry page 36, so  
10 the next page, of Exhibit C-26, there's a section  
11 entitled, number 7, Economic Studies. Are you familiar  
12 with this section of the appraisal review.

13          A.    Yes.

14          Q.    Okay. In this section, Mr. Shorett, can you --  
15 if the study supports a finding of general rather than  
16 special benefit, is that your understanding?

17          A.    More or less, yes.

18          Q.    Okay. What is your response to -- to the  
19 arguments in the economic studies section?

20          A.    Well, again, he's talking about the -- the HR&A  
21 advisor study that -- that -- you know, it's -- it's an  
22 economic study. That -- that's why -- that's why we --  
23 we were hired, to -- to estimate the -- the real estate  
24 market impact. Studies like the HR&A study provide good  
25 economic information that -- that -- that helps provide

1 a -- a basis and gives us some information to look at as  
2 well as, obviously, other studies we looked at, but  
3 we -- we also looked at a variety of studies like the --  
4 the Dr. Crompton study that -- that provided assistance  
5 in our work.

6 Q. I'll take you to -- I'm actually going to take  
7 you backwards, Bob, so if you recall, we -- that was  
8 Exhibit 1 to Mr. Shorett's appraisal review. I'll take  
9 you back into the start of the document.

10 First on page 9 of Exhibit C-26, page 9. And do  
11 you see the section entitled on page 9 in the left-hand  
12 margin "Required Revenue Increase"?

13 A. Yes.

14 Q. Have you read this section?

15 A. I've gone over it numerous times, yes.

16 Q. What do you understand Mr. Shorett to be doing  
17 in this section?

18 A. The -- the net effect of what he's -- what he's  
19 saying is that there -- there isn't sufficient enough  
20 revenue increase.

21 Q. And what's your reaction to Mr. Shorett's point  
22 here?

23 A. Well, one, I don't -- I've tried to figure out  
24 what -- what he's doing here, and I -- I honestly can't  
25 discern his logic or reasoning, and there's also a



1 mathematical error here. If you -- if you -- if you  
2 divide the 1,015,000, which is our benefit amount for  
3 the Hilton Hotel, if you multiply that by .07, I think  
4 you came out with, like, 71,050, rather than 72,450, and  
5 that -- that math there regulates all through the -- the  
6 numbering system of what he did. I also couldn't figure  
7 out where this 41,987,000 figure came from, but -- so --

8 Q. Where do you see that, for the reader?

9 A. Yeah, it's just right at the -- at the -- right  
10 under the required revenue increase, just after the  
11 first -- the first paragraph there, where it says value  
12 increase, 1,015,000, 1 mill --

13 Q. Okay. And what is the -- so are you referencing  
14 where it says 41,987,040 [sic], parentheses, "study  
15 implied," comma, "before"?

16 A. Correct. Yeah, I -- I don't know where that --  
17 that figure -- where that figure comes from. I -- I  
18 just purely can't figure it out. So he's essentially  
19 taking our -- our -- our benefit estimate and then in --  
20 inputting some assumptions that he's made and trying to  
21 show that there isn't sufficient revenue created to  
22 support the -- the benefit amount.

23 Q. And what -- what assumptions do you understand  
24 Mr. Shorett to be relying upon in order to reach his  
25 conclusions on the required revenue increase?

1 A. Right. He's assuming a daily rate. If that --  
2 if that figure changes, his whole calculation changes.  
3 It's just a very confusing analysis that I -- I just  
4 have a really difficult time trying to understand and  
5 trying to follow.

6 Q. And does Mr. Shorett assume here that -- what's  
7 his assumption with respect to occupancy rate?

8 A. Yeah, he's looking at a -- yeah, I'm not -- I'm  
9 not seeing here where that -- where that is.

10 Q. That's fine. Let me -- let me take you to the  
11 next page, Bob.

12 The required demand increase text on the  
13 left-hand side of the -- the sheet there, have you read  
14 this section of the appraisal review?

15 A. Yeah, again, I've looked at it and tried to  
16 discern what -- what he's -- what he's doing here.

17 Q. Okay. And what's your understanding of the  
18 argument?

19 A. Yeah, again, that there -- there is a sufficient  
20 demand to support the amount of benefit that we're  
21 estimating.

22 Q. Okay. And -- and what's your opinion of this  
23 analysis?

24 A. Well, it's just he -- he's -- he's -- he's  
25 twisting and taking our numbers and creating something

1 that reflects that there need to be, what, 1,800 new  
2 units coming online in -- in the marketplace. He's  
3 just -- he appears to be just -- just looking at the  
4 before condition and -- and not recognizing any  
5 amenities or how the market would buy and sell property  
6 in the after condition or what a willing buyer, willing  
7 seller would look at, which is really the -- one of the  
8 main determinations of -- of market value of a special  
9 benefit, so he's really just appears to be kind of  
10 twisting what -- what -- what I've done and inserting  
11 assumptions with what he has come up with, and I -- it's  
12 really poorly explained. I just have a real difficult  
13 time understanding what he's doing.

14 Q. Okay. Now, I'm going to -- that's all the  
15 questions I had for you on -- on C-26. So I'll ask you  
16 to get out C-27, please.

17 Now, what is C-27?

18 A. This is a Supplement to Appraisal Review for the  
19 Waterfront Seattle Special Benefit Study.

20 Q. And -- and who's the author?

21 A. Peter Shorett.

22 Q. Are you familiar with this document?

23 A. I have looked at it, yes.

24 Q. If you could go to the bottom of page 3 of the  
25 exhibit and let me know when you're there.

1 A. Yes.

2 Q. Under the section on page 3 of exhibit 37, USPAP  
3 Standards Rule 6.1 states that, under that section, he  
4 quotes from page 44 of your study that -- that refers to  
5 the case studies you considered, and he has -- he has  
6 two points here.

7 Do you see points numbered 1 and 2?

8 A. Yes.

9 Q. Okay. And I won't read them into the record  
10 because -- because they're here. My -- my first  
11 question for you here is, are those statements in your  
12 study?

13 A. Yes.

14 Q. And why did you include those statements in  
15 the -- in your study's discussion of case studies?

16 A. Well, we wanted to be, you know, clear and  
17 honest with the reader that -- that we're recognizing  
18 that there are discrepancies within these studies,  
19 especially when you look at them just purely on a -- on  
20 a before and after basis that -- that, you know, the  
21 Hudson Park study in New York. I mean, if you -- if you  
22 looked at that purely on a before basis, then, yes,  
23 there's significant differences between our before  
24 conditions and the before conditions there, so again,  
25 I -- as I explained and we tried to explain in the

1 report to, you know, really be -- be fair and honest  
2 and -- and -- and we're purely get -- correctly reflect  
3 the market, that -- that we have -- we have an operating  
4 waterfront in its before condition, and we -- we made --  
5 we made estimates of that, so we're letting the reader  
6 know if they're -- if they're looking at -- at these on  
7 a -- on a purely before and then assuming we're  
8 comparing that before condition to -- to our -- our  
9 subject waterfront area, that there -- that there are a  
10 lot of dissimilarities there.

11 Q. At the bottom of -- right below the -- the two  
12 points quoted from your report, there's a sentence,  
13 quote, These statements imply a low level of precision  
14 to the estimates in the study.

15 What's your response?

16 A. Well, I -- I disagree. I mean, you know, again,  
17 he's never called or talked to me to really understand  
18 or ask me questions about, you know, what I -- what I've  
19 done. A lot of these studies provide -- when -- when  
20 you look at, especially, the after condition, they --  
21 they provide a lot of similarity to what's going on  
22 with -- with the subject property -- or the subject  
23 project, I'm sorry.

24 Q. And were you intending to convey here that -- a  
25 low level of precision for the estimates in your study?

1 A. No. We're just trying to let the reader know  
2 that if you purely look at the -- at these projects on  
3 a -- on a before and after basis, that there's a lot of  
4 differences between them and the Waterfront Seattle  
5 project.

6 Q. I'll ask you to look at the next page,  
7 Mr. Macaulay, page 4 of Exhibit C-27, and there's a  
8 heading, "Case Studies."

9 Do you see that?

10 A. Yes.

11 Q. Okay. And I'll direct you to the last sentence.  
12 Mr. Shorett states the case studies that you use, quote,  
13 Simply fail to provide the necessary support for the  
14 increase in value for a nominal change in condition from  
15 the LID improvements.

16 And how do you respond?

17 A. I -- I disagree in that. Our research into the  
18 -- to the waterfront, the -- the Portland waterfront  
19 area showed positive market influence due to the  
20 project. They also have implemented a very strong  
21 management program there that has -- has been very well  
22 accepted in the market, and it's done a lot to enhance  
23 and increase market value in that -- in that area.

24 Q. What market data or research does Mr. Shorett  
25 rely upon for his opinion here?

1 A. He -- he refers to a discussion with one of his  
2 executive vice presidents that's been there for a number  
3 of years.

4 Q. And -- and do you have access to that  
5 discussion?

6 A. Only what I've read here.

7 Q. How would you respond to the argument that the  
8 case studies relied on in the study, your study, aren't  
9 inappropriate because the improvements in those case  
10 studies were dramatic and the improvements in this  
11 project are -- are not?

12 A. Yeah, again, as I've said, if you looked at them  
13 just purely on that basis, they -- they reflect  
14 significant market value differences of -- of 10, 15, 20  
15 percent or better. Our report and our analysis is --  
16 is -- it's purely recognizing that that's not  
17 reasonable, that's not well-supported for what's being  
18 done in Seattle market, so our -- our before analysis  
19 relies heavily on information that we obtained in the --  
20 the local market through buyers and sellers and rent and  
21 income and sales analysis so that we -- we have a real  
22 defined before value and a lot of these studies have a  
23 very good after value discussions of the positive  
24 elements these projects have provided to these different  
25 market areas.

1           For -- for example, in Boston, the Rose Kennedy  
2 Greenway was completed around 2007/2008. Even in 2010,  
3 which is during the recession, they were still showing  
4 real positive market value increases as a -- as a result  
5 of this project. So that was after the -- the project  
6 was completed. So a lot of these studies have good  
7 information relative to that, and that's really what we  
8 relied upon and what we tried to make clear, and perhaps  
9 we didn't make it clear enough in the report that --  
10 that -- that -- that -- that there are significant  
11 differences looking at them that way, but when you look  
12 at their analysis of the after condition, they -- they  
13 really define -- consistently define through --  
14 throughout the -- the different cities that you look at,  
15 that there's just a strong market acceptance and  
16 desirability affecting the market for projects similar  
17 to what's being constructed for the Seattle waterfront  
18 project.

19       Q.    Okay. I'm going to ask you to move to page 12  
20 of Exhibit C-27. At the top, Mr. Shorett has a  
21 statement on condominiums, and I'll just read the  
22 conclusion section, so I'm at conclusion top of page 12  
23 of Exhibit C-27. Quote, There is no empirical evidence  
24 to support property value increases for high-end,  
25 west-facing residential condominium units from these



1 case studies in the before and after condition assumed  
2 in the Study. To draw such a conclusion is misleading.

3 And what's your response?

4 A. Again, I -- I disagree. We -- we looked at --  
5 at a number of studies that had a significant condo  
6 population that -- that -- within them. Vancouver, B.C.  
7 is a good example where we -- we looked at -- at -- at  
8 the relevance of -- of proximity to parks up there -- to  
9 parks up there that the vast majority of that data  
10 was -- was related to -- to condominiums, many -- but up  
11 Vancouver, B.C. around Stanley Park, Coal Harbour area,  
12 there -- there are many real high-end condominiums up  
13 there that reflect a lot of desirability from the  
14 proximity to -- to those parks.

15 The Boston area has similar types of amenities,  
16 so there's -- there -- there's good strong evidence to  
17 support that -- that the condominiums, even the high-end  
18 condominiums, will -- will benefit from this project.

19 Q. Also on page 12 right below that, there's a  
20 section underlined -- the titles underlined, 2019 HR&A  
21 Economic Study. And in the final paragraph of that  
22 section, Mr. Shorett says that the HR&A study involved  
23 data that is, quote, Not specific to the LID  
24 improvements, that the actual impacts of these  
25 improvements were not within the scope of the HR&A

1 study.

2 So how did you use the HR -- what is the HR&A  
3 study?

4 A. The HR&A study is an economic study, and it does  
5 consider the -- the elements of -- of -- of the  
6 waterfront development and --

7 Q. Okay. And how -- how did you use it?

8 A. We used it just mainly to recognize that it's  
9 consistent with other projects that we've looked at  
10 across the country that -- the main -- one of the main  
11 benefits from creating an entity like this, along with  
12 market perception increased value, is it does increase  
13 tourism, so that -- that was one of the elements that we  
14 really focused in the HR&A study.

15 They have a lot of other economic study and that  
16 type of information, but that was one of the main  
17 focuses we had, so the -- the million and a half  
18 visitors is reflected in this study. They did a 2013  
19 study as well -- excuse me -- that -- that reflects  
20 about a -- that study reflected about a million net  
21 visitors, so, you know, recognizing -- we'll recognize  
22 that's an estimate, but it figures between a million and  
23 a million and a half are true, it certainly increases  
24 the supply, particularly in the hotel market, and it can  
25 increase the potential supply needed to meet demand

1 in -- in -- in the hotel market, so it's one of the  
2 factors we considered in our -- in our analysis, and --

3 Q. Okay.

4 A. -- and the -- and the HR&A is an economic study.  
5 They weren't -- we were hired -- that's why we were  
6 hired, was to estimate the -- the -- the -- the market  
7 value of the real estate difference, so they're just  
8 doing a purely an economic study, so --

9 Q. Not a special benefit study?

10 A. They're not doing a special benefit study, no,  
11 and I -- so I believe -- so that there's -- they're  
12 looking at the economic impact of the waterfront  
13 improvements on the market, not -- not the real estate  
14 market value impact of the improvements in the market.

15 Q. And I'll ask you to look right below that  
16 there's a section headlined Crompton.

17 Did you rely on Dr. Crompton's park studies in  
18 your report?

19 A. Yes. We -- we used them for good -- good  
20 background information. They were -- they were  
21 informative.

22 Q. Is that the only resource you relied on in  
23 determining the increase in property values from the LID  
24 improvements?

25 A. No.

1 Q. And -- and you've probably told us this, but  
2 what other sources did you look at?

3 A. We looked at over 25 different studies  
4 throughout different market areas relative to  
5 streetscapes, bike lanes, open space, the park, just a  
6 wide variety of different types of elements that are  
7 relevant -- that are prevalent within the Seattle  
8 waterfront area.

9 Q. And I'll take you to page 13 of Exhibit C-27.  
10 The -- it looks like it's the second full paragraph.  
11 The first sentence reads, quote, From this study, ABS  
12 estimates that condominium values will increase by 5  
13 percent within three blocks of the new amenities.

14 And do you agree with that statement?

15 A. No. We -- there was no condominium estimate of  
16 5 percent within the entire study that we did.

17 Q. What -- in -- in the study you did, what was the  
18 highest increase in value that you -- you saw expressed  
19 in percentage terms for condominium?

20 A. Yeah, expressed -- expressed in percentage terms  
21 was -- 3 percent was the highest increase we had for  
22 condominiums.

23 Q. And I have another question for you about the  
24 sentence that I read into the record.

25 Were your estimates of condo values based solely

1 on the Crompton study?

2 A. No.

3 Q. How did -- how did you use it for estimating  
4 condominium values?

5 A. Well, it's -- it was -- it was a good -- it was  
6 a good source. Obviously, he's -- he's well-versed  
7 and -- and highly -- highly published, so it provided,  
8 you know, real -- real good background information to  
9 show that the market definitely reflects positive --  
10 especially in the residential market, reflects positive  
11 market value determinations due to park -- park  
12 amenities.

13 Q. Okay.

14 A. And, again, we -- and we didn't look at the  
15 whole LID area as one giant park, but, I mean, it --  
16 it -- it provided one of -- one of the elements in the  
17 LID, it provided a good source of background to -- to  
18 assist us in our analysis.

19 Q. Moving on from Mr. Shorett, I'm going to ask,  
20 are -- are you -- we -- we've heard testimony from John  
21 Gordon, also with Kidder Matthews, about ABS's valuation  
22 of certain hotel properties in this proceeding.

23 Are -- are you familiar with that testimony?

24 A. Yes.

25 Q. And are you familiar with the restricted

1 appraisals that Mr. Gordon submitted for certain hotel  
2 properties in this proceeding?

3 A. Yes.

4 Q. What is a restricted appraisal?

5 A. A restricted appraisal report is -- is just a --  
6 more of an abbreviated report. There are different kind  
7 of report classifications, whether you do it -- a  
8 summary type of report or a limited restriction report.  
9 Now, USPAP basically says it's either an appraisal  
10 report and the scope of the assignment really dictates  
11 what -- what you do, but a limited appraisal assignment  
12 is really more of an abbreviated -- the abbreviated  
13 report of your conclusions and then your background  
14 information and supporting documentation needs to be  
15 retained in your file.

16 Q. And -- and who is the intended audience of --  
17 per USPAP of a restricted appraisal?

18 A. In this case, it -- it would be the -- the LID,  
19 or it should be. The -- the -- the -- the intended  
20 user, according to USPAP -- it should only be used  
21 for -- for -- for one client, but I -- I assume you  
22 would be using it for the LID as a client, but perhaps  
23 it's not. I don't -- I don't have the report in front  
24 of me.

25 Q. Okay. For the hotel properties, if you could

1 remind us, what approach or approaches did -- did ABS  
2 use to determine the current market value of the hotel  
3 properties in the -- in the LID boundary?

4 A. We used an income approach primarily -- an  
5 income approach worksheet that has been discussed and we  
6 also looked at comparable sales as test of  
7 reasonableness and -- and good validation of -- of our  
8 income approach conclusions.

9 Q. And what information is used in the income  
10 approach when you're valuing a hotel?

11 A. You're looking at the potential revenue that the  
12 hotel can generate through its room rates, through its  
13 banquet -- other -- other types of services like that,  
14 park -- parking, if there's retail attached to the -- to  
15 the hotel to -- to arrive at a -- at a gross -- gross  
16 revenue amount that the -- the property can obtain in  
17 the market. Next, operational expense, management  
18 expense, any applicable expenses are deducted to -- to  
19 arrive at a net operating income.

20 Q. How does expected occupancy rates for the hotel  
21 figure into the income approach?

22 A. Well, it would be an important element of -- of  
23 your analysis.

24 Q. And how does the capitalization rate figure into  
25 an income approach?

1 A. Another important element of your analysis. The  
2 capitalization rate is -- is the -- the relationship  
3 between the -- in a comparable hotel sale or -- or any  
4 other -- any other office or any other sale, any other  
5 commercial sale. It's a relationship between the net  
6 operating income and -- and the sale price, so it --  
7 it's very relevant in -- in hotels and commercial  
8 property.

9 Q. And did ABS, when you did your analysis, have  
10 the net operating information from hotel properties?

11 A. We did not.

12 Q. Did you ask the hotels for that information?

13 A. Just due to the real competitive nature of the  
14 hotel market, you know, we knew that it was highly  
15 probable that information would be confidential, that  
16 there'd be a very low probability of even obtaining any  
17 of that, that was to a large degree why we hired  
18 Mr. Lukens. He had consider experience in the hotel  
19 market and -- and felt it better to bring on a  
20 consultant like that than -- than try to obtain that  
21 information independently.

22 Q. Did the hotels have an opportunity to provide  
23 the information to you?

24 And when I say "that information," I mean actual  
25 operating information?



1           A.    Yes, I mean, if -- if -- if -- they had their  
2 preliminary assessment study for a significant amount of  
3 time. They at least had a year or better knowing we  
4 were doing our final analysis, that if they didn't agree  
5 with our -- our preliminary estimate, I would have been  
6 more than happy to sit down with them to talk to them to  
7 look at any -- any relevant information they had  
8 pertaining to their hotel, to their operating income,  
9 any -- any -- any issues that they had, not only hotels,  
10 but any -- any property owner, so they -- they never --  
11 they never reached out to us.

12           Q.    So -- so no -- no hotel provided additional  
13 information --

14           A.    No.

15           Q.    -- after receiving the preliminary benefit  
16 estimate?

17           A.    No.

18           Q.    So without that operating information from the  
19 hotels, themselves, what did ABS use to determine things  
20 like average daily room rate, occupancy rate, expenses?  
21 What -- what did -- what did you use?

22           A.    We looked at the best available information and  
23 look -- looked at what -- what a typical market  
24 participant looking for a room in the market would do to  
25 look at the existing websites, like Booking.com,

1 Hotels.com, Expedia, things of that nature to try to  
2 derive a -- a -- what would be a probable market-based  
3 average daily rate.

4 Q. You mentioned Expedia.com, Hotels.com,  
5 Booking.com.

6 What were your other sources, if any, of market  
7 data?

8 A. Oh, there was Pricewaterhouse, Kidder -- Kidder  
9 Matthews, CBRE, published reports on -- on the hotel  
10 market. We also had Mr. Lukens, that did his -- his  
11 own -- own research in that. I think he -- he used  
12 other -- other sources.

13 Q. Do you have access to comparable sales data for  
14 Seattle hotels?

15 A. Yes.

16 Q. And did you consider that?

17 A. Yes.

18 Q. What was the source of your -- or sources of  
19 your comparable --

20 A. Yeah, again -- again, CoStar, which is a highly  
21 recognized research entity for compiling sales  
22 information or rental information, we looked at CoStar,  
23 information from CBRE, and Mr. Lukens provided  
24 comparable sales as well.

25 Q. I believe you testified earlier, but I'll just

1 ask, did you prepare worksheets for the hotel  
2 properties?

3 A. Yes, we did.

4 Q. I actually have one here, and I -- I'm going to  
5 share this with folks because it's -- it's another  
6 worksheet, and it's got a lot of data in it, and -- and  
7 I don't know what the capabilities are at home to -- to  
8 read this, so just give me a second here, Bob, and I  
9 will share my screen and then -- and then ask you some  
10 questions.

11 And what this is for every -- well, for you,  
12 Bob, and -- and for everyone, is Exhibit C-28. It's a  
13 one-page spreadsheet. Just give me a second here, Bob.  
14 I want to zoom in for folks.

15 Okay. Can you identify this document for us,  
16 please?

17 A. Yes. This is the Seattle Marriott Waterfront  
18 Hotel.

19 Q. And who created this document?

20 A. Primarily Mr. Bird (phonetic) and Mr. Lukens. I  
21 had input and -- and worked with them on it, but they --  
22 they were the -- the two main creators of -- of the  
23 format.

24 Q. Okay. Again, I'm going to have you walk us  
25 through this worksheet because we -- we've not done one

1 of these for -- for a hotel property.

2 Before I start digging in, though, can you --  
3 can you give us a general -- I see three columns, and  
4 please describe what is -- not in detail, but what  
5 information is contained in the three columns?

6 A. Yeah, again, this format is -- is similar to the  
7 commercial property format that we looked at, so on the  
8 far left is the before income analysis, and then there  
9 are two after-value scenarios, the -- the one in the  
10 middle and then one on the far right.

11 Q. Okay. And the income analysis is being applied  
12 in -- in both of those scenarios?

13 A. That's correct.

14 Q. Okay. So I'm going to ask you first about the  
15 far left column, which you testified was the before  
16 column. I'm going to blow it up for folks down here.

17 To orient us, Bob, is -- is this section here  
18 above the income analysis before, is that a general  
19 description of the -- of the property?

20 A. Yeah, correct.

21 Q. Okay. My first question for you is, when I look  
22 at the income analysis before, again, far left-hand  
23 side, and I'm looking right here for full -- or, nope,  
24 I'm looking right here, you have an occupancy rate of 80  
25 percent.

1           Where did you get the 80 percent occupancy rate?

2           A.    That's based on -- on market studies that have  
3    been done, reliance on Mr. Lukens for his -- his review  
4    of the market and -- and what he felt that a reasonable  
5    market rate occupancy rate would -- would -- would be,  
6    as well as his studies that we looked at as well.

7           Q.    And I see a few rows down here.  You've got a  
8    room revenue, 315?

9           A.    Correct.

10          Q.    And where did you get 315 -- \$315 from?

11          A.    Again, that was based on looking at -- at -- at  
12    available sources that we had, Expedia, Booking.com,  
13    Hotels.com, sources that any -- any market participant  
14    would look at if they're looking to -- to rent a room in  
15    the Seattle market.

16          Q.    What is this occupied rooms, 104,536?  I see it  
17    repeated a few times, but what -- what is that?  What --  
18    what is that?

19          A.    Yeah, that's the -- the number of -- of rooms  
20    that would -- would -- would be occupied less -- less  
21    the -- less the vacancy rate.

22          Q.    Okay.  Occupied in the course of a calendar year  
23    or --

24          A.    Yeah, correct, yeah, and then that was, then,  
25    multiplied by the average daily rate.

1 Q. Okay. So when I -- I scroll down a bit, Bob,  
2 do -- am I understanding correctly that you then have a  
3 discussion in -- of expenses -- or not a discussion, but  
4 you provide some data with respect to expenses?

5 A. Correct.

6 Q. And what are the various categories -- walk us  
7 through, first, actually, Bob, what are your various  
8 categories of revenue for the Seattle Marriott  
9 waterfront Hotel in this before column?

10 A. Yes, we have room revenue, food and beverage  
11 revenue, and parking and -- and other income.

12 Q. Okay. You total those to get a total revenue?

13 A. Correct.

14 Q. Okay. Now, walk us through the expenses,  
15 please.

16 A. So there are departmental expenses for rooms,  
17 then food and beverage and parking and -- and other  
18 expenses.

19 Q. Where did you get the information on expenses?

20 A. Again, that's -- that's market-based on -- on  
21 published reports that are out there. We had a lot of  
22 reliance on Mr. Lukens for his -- his judgment based on  
23 his 30-plus years in -- in the -- the hotel market, so a  
24 variety of different sources.

25 Q. So my next question for you is -- yeah, my next

1 question for you, on the far left side, so I'm in the  
2 same column, Bob, come all the way down into the  
3 indicated value. It's toward the bottom of -- of this  
4 chart. And you have a capitalized at 7.25 percent.

5 Do you see that?

6 A. Yes.

7 Q. How did you arrive at a 7.25 percent cap rate in  
8 the before scenario?

9 A. That is looking at what other comparable hotel  
10 properties that have sold in the market, what their --  
11 their capitalization rate -- rate is in -- in the  
12 market, and so it's just a judgment of -- of where we  
13 felt the Marriott would fall within the -- the range of  
14 capitalization rates that were reflected by various  
15 comparable sales in -- in the -- in the market area.

16 Q. Okay. And then you get a -- an indicated value  
17 of -- the very next line, of 167,975,101, \$167,975,101.

18 Can you explain for us, how did you arrive at  
19 that indicated value?

20 A. Yeah, so the -- the -- the capitalization rate  
21 is divided -- the -- the -- right above the  
22 capitalization rate you'll see what's called net  
23 operating income of 12,178,195. The capitalization rate  
24 is divided into that figure to derive the \$160,975,000  
25 market value best estimate.

1 Q. And is that a standard approach in the income  
2 analysis?

3 A. Yes.

4 Q. All right. I'm now going to ask you to look,  
5 and I want you just to scroll over for folks, but at --  
6 okay. There at this middle column.

7 Let me take you up to the top, entitled Scenario  
8 A, Rate and Vacancy Changes.

9 What's the purpose of this part of the  
10 worksheet, Bob?

11 A. Similar to our analysis of other commercial  
12 properties, you know, we saw in the market that there  
13 are really several main driving forces that -- that the  
14 market was reflecting that have an influence on market  
15 value, and those were change in vacancy and change in  
16 revenue or -- or rent, and so in this case, we're  
17 looking at -- at the occupancy rate change and potential  
18 revenue change.

19 Q. Revenue from -- from the varying sources, hotel  
20 rooms, food and beverage; is that correct?

21 A. Correct, yes.

22 Q. All right. And I -- I see here, you got low,  
23 and high. Two columns, low and high.

24 Do you see those?

25 A. Yes.



1 Q. What -- what are you reflecting in those  
2 columns?

3 A. So as far as the occupancy rate goes, we're  
4 looking at the -- the low range for there to be no  
5 change in -- in occupancy, and then a slight -- a slight  
6 increase in -- in occupancy.

7 Q. So -- so show that for us in this example, so  
8 what -- what do you mean?

9 A. Well --

10 Q. You said slight increase. Where is the --  
11 what -- you're looking at something. What are you  
12 looking at?

13 A. Oh, I'm sorry. So at the top of the column,  
14 when we say low, it says 80, 80 percent, and then it  
15 says high, 80.5 percent.

16 Q. Okay. So your 80 percent was your before  
17 occupancy rate from the left-hand side of the worksheet,  
18 correct?

19 A. Correct.

20 Q. Okay. So you're reflecting you have an  
21 occupancy rate change of .5 percent?

22 A. Correct.

23 Q. Okay. And then how about with respect to  
24 revenues, what -- what are you showing?

25 A. Yeah, so revenues were showing a 1.75 percent

1 increase to -- to 2.2 percent increase in -- in room --  
2 in room revenue.

3 Q. And why do you have high and low scenarios?  
4 What's -- what's the purpose?

5 A. Just -- just to try to really reflect the market  
6 and -- and bracket how -- how a market participant, the  
7 buyer or seller, investor in the market would -- a tool  
8 that they would look at to evaluate their -- their --  
9 their purchases -- purchasing decisions in trying to  
10 acquire an investment like this, so we're just purely  
11 trying to reflect how -- how the market's functioning.

12 Q. And in your opinion, is this bracketed approach  
13 you described industry standard in evaluating a property  
14 like this?

15 A. It's more -- I mean, it's more specialized to  
16 what -- this type of before and after, the two scenarios  
17 are -- are more specialized into how we -- we set up  
18 to -- to derive our conclusions of market value, but  
19 the -- the methodology, the -- the -- the income  
20 analysis is -- is -- is industry standard.

21 Q. And I should have spoke clearer. For -- for  
22 special benefit studies, industry standard for special  
23 benefit studies?

24 A. It's -- it's -- our -- I guess our -- our  
25 industry standard for -- for doing other -- other people

1 that have done benefit studies may -- may look at it --  
2 at it differently. This is -- this is the type of  
3 approach that we feel is -- is most reflective of a  
4 market.

5 Q. And have you used this approached in other  
6 special benefit studies?

7 A. Yes.

8 Q. So what -- in this column, what information  
9 supports the increases in room rates?

10 A. Looking at -- at other studies and other market  
11 areas that have influences by similar types of -- of  
12 amenities that are provided by the -- the -- the  
13 Waterfront Seattle Project, and just using our judgment,  
14 consulting with -- with Mr. Lukens, so these -- these  
15 types of increases in revenue would be a reasonable  
16 reflection of -- of how the market would react based on  
17 the location of the Marriott Hotel along the Alaskan Way  
18 waterfront area in -- in the after condition.

19 Q. And similar question: What information supports  
20 your projected increases in occupancy -- room occupancy  
21 rates in this Scenario A?

22 A. Again, market-based, looking at other -- other  
23 projects in Boston, New York, other areas, you know,  
24 consulting Mr. Lukens, what -- what we felt a probable  
25 change -- change would be in the marketplace.

1 Q. And when you say market based, Bob, are you  
2 including the Seattle market? Did you -- did you or  
3 Mr. Lukens analyze the Seattle market as well on these  
4 issues?

5 A. Yes, yes, we -- we felt there would be some  
6 additional demand consistent with all of the other areas  
7 we looked at, the -- the same type of market forces  
8 would -- would be indicative of the Seattle market as  
9 they were in -- in other -- other comparable areas.

10 Q. And then in scenario -- I see we just have a  
11 couple of minutes before lunch, Bob, but we might be  
12 able to get through this, this Scenario A, maybe not,  
13 but what about changes in other revenue like food and  
14 beverage, how is that addressed in Scenario A?

15 A. We're keeping the -- the change consistent  
16 through -- through both room revenue, food -- food and  
17 beverage revenue, and -- and parking revenue.

18 Q. So why does -- what does that mean, I guess?  
19 Explain for us what do you mean you're keeping it  
20 consistent?

21 A. Well, we're -- we're being consistent in -- in a  
22 sense that if -- if the market goes up 1.75 percent for  
23 room revenue, it's -- we're just recognizing the market,  
24 we look at it kind of consistently throughout the other  
25 various revenue sources of the property.

1 Q. Okay. So -- so for instance, in the low  
2 scenario -- low scenario for A, you would have increased  
3 food and beverage revenue by 1.75 percent?

4 A. Correct, yes.

5 Q. Okay. Got it.

6 A. Yeah.

7 Q. And then maybe this will be a good last question  
8 for you: Why -- why did you do that? Why did you have  
9 it consistent?

10 A. Just felt it would be consistent with how the  
11 market would look at it.

12 HEARING EXAMINER VANCIL: Very good. Thank  
13 you, Mr. Filipini.

14 MR. FILIPINI: Mr. Hearing Examiner, this  
15 is -- I've got noon on my screen. I don't know if you  
16 have it as well. This is a --

17 HEARING EXAMINER VANCIL: Yeah.

18 MR. FILIPINI: Keep going or stop if you'd  
19 like?

20 HEARING EXAMINER VANCIL: I was just  
21 indicating that we need to conclude. I'm not sure that  
22 your mike picks me up very well.

23 MR. FILIPINI: Got it.

24 HEARING EXAMINER VANCIL: But thank you.  
25 We've reached the noon hour. We'll return at 1:15.

1 Thank you.

2 (A break was taken from  
3 12:00 p.m. to 1:15 p.m. )

4 HEARING EXAMINER VANCIL: We're returning to  
5 the record with Mr. Macaulay on direct.

6 Before we start, Mr. Filipini, I just want to  
7 note that it seems that your speaker doesn't always pick  
8 me up right away when I'm speaking, and so all I ask is  
9 that you simply do what you did last time. That worked  
10 well at the lunch break. Say, I think we're about time  
11 and cutting it off. That will work fine.

12 If for some reason I need to step in while the  
13 two of you are doing your direct, I'll mute you or  
14 something like that, and it will work just fine, but  
15 when you're getting to the break at 3 o'clock, 2:58,  
16 2:59, just keep an eye on it, and I think that worked  
17 well for lunch. Thank you.

18 MR. FILIPINI: Thank you.

19 HEARING EXAMINER VANCIL: And I will note  
20 just for the record, there's a bit of an echo from your  
21 end. It's not distorted, but it's slightly there. And  
22 I understand why you're managing your microphones the  
23 way you are, so we'll just work with what we got. It  
24 works fine, but I can hear it, and -- and I don't want  
25 you to change your microphones to accommodate or

1 anything like that.

2 MR. FILIPINI: Thank you.

3 DIRECT EXAMINATION (CONTINUED)

4 BY MR. FILIPINI:

5 Q. I will take you back to Exhibit C-28. That's  
6 the worksheet for Seattle Marriott. I'm sorry. I just  
7 have a share a screen here.

8 Okay. I was asking you questions in this  
9 Scenario A, "Rate" -- entitled, "Rate Vacancy Changes."

10 As you described before the lunch break how you  
11 generate these high and low revenue estimates, in this  
12 column, what do you next with these low and high revenue  
13 estimates?

14 A. Those are capitalized in -- into two separate  
15 valuations.

16 Q. Okay. And -- and how do you do -- just -- just  
17 so the folks can -- can follow, how do you do that?

18 A. Yeah, similar to the before discussion, the  
19 capitalization rate is divided into the -- the new  
20 net -- new net operating income.

21 Q. Okay. And what is it, the net operating income,  
22 composed of?

23 A. That is the potential gross revenue or income  
24 less expenses and vacant -- and vacancy loss creates the  
25 net -- the net operating income.

1 Q. And I can see as between Scenario A and the  
2 before and moving the cursor left hand, you kept the cap  
3 rate the same in both of those scenarios?

4 A. Correct.

5 Q. Okay. And then let's segue to the final column  
6 on this spreadsheet in the far right entitled, "Scenario  
7 B - OAR Changes."

8 And what -- what's happening in this section of  
9 the -- the worksheet?

10 A. Yeah, this section of the worksheet, all the  
11 revenue and -- and net operating income is the same as  
12 the before condition. We're just changing the  
13 capitalization rate.

14 Q. And so -- okay. So these sections up here,  
15 revenue and income and expenses, are all the same as in  
16 the original column of before?

17 A. Correct.

18 Q. Okay. So I'll take us down then to -- is this  
19 where you indicate the capitalization rates between the  
20 low and high scenario, Bob, in the "Indicated Value"  
21 section?

22 A. Yes.

23 Q. Okay. What purpose does adjusting the cap rate  
24 serve in this Scenario B?

25 A. The cap rate is really a function of -- of risk.



1 And the -- the lower the cap rate the greater the  
2 potential revenue upside and less risk inherent in the  
3 investment of the property would be reflected in the  
4 market.

5 Q. Okay. And so it looks like your capitalization  
6 rate of before was 7.25 percent?

7 A. Yes.

8 Q. And so what are the two -- in the -- in the low  
9 scenario for Scenario B, what did you have the cap rate  
10 at?

11 A. We're working in a cap rate of 7.05 in the low  
12 to 7 percent in the high.

13 Q. And what would you say to the argument that that  
14 difference of .05 percent difference in cap rates is not  
15 measurable?

16 A. That -- that it is. It's -- differences like  
17 that are reflected often in the market for various types  
18 of risk components.

19 Q. Okay. In other words, that it is measurable?

20 A. Yes.

21 Q. And where did you get these numbers from? So  
22 7.05 cap rate in the low, 7 in the high, where do those  
23 come from?

24 A. They're derived from the market, from market  
25 sales.

1 Q. So stepping back, Bob, what -- you generated  
2 four scenarios, A and B, A and B. A and B in Scenario  
3 A, A and B in Scenario B or -- or low and high in both  
4 of them.

5 What was the purpose of those four scenarios?

6 A. To reflect how the market would -- would look at  
7 a property like this from an investment standpoint, a  
8 purchase standpoint after the LID is completed so that  
9 they -- they would recognize the -- the -- the location  
10 change, the amenities that this has and its location,  
11 the after having a \$346 million improvement project very  
12 close proximity to some of the main components of  
13 that -- of that Local Improvement District project.

14 Q. I'm going to take you down. I'll scroll over,  
15 Bob. I don't know if you're following the paper on the  
16 screen, but lower left-hand corner entitled Special  
17 Benefit Summary, and my question here is, what was your  
18 conclusion in terms of total estimated value with the  
19 LID?

20 A. With the LID, our total estimated value is  
21 \$173,352,000.

22 Q. And then what were the -- the ranges of your  
23 scenarios for -- and I don't intend -- what were the  
24 high and low for the -- the scenarios you generated?

25 A. Yeah, approximately \$172,740,000 to

1 \$175,414,000.

2 Q. So how did you arrive, you know, in between --  
3 in that range of the four values you gave us, how did  
4 you arrive at 173 -- 173,352,000?

5 A. Using judgment, looking at what other probable  
6 sales of this type of investment would -- would increase  
7 given the location change in the market, the proximity  
8 to the new -- the new locations, the real close  
9 proximity to the -- the waterfront and just the  
10 desirability of the investment would be enhanced, and so  
11 like anything we do, it's an appraisal, like any  
12 appraiser does, we -- we make -- we make -- we make  
13 judgment calls and we make judgment calls based on our  
14 experience and looking -- and looking at the market  
15 and -- and the market information that we have to draw  
16 our conclusions from, so also to maintain  
17 proportionality. We would look to see what other -- if  
18 we -- at that point in time, if we'd -- if we'd done  
19 other hotels in that location, we would -- we would look  
20 to see where -- what approximately we saw -- like, for  
21 the Four Seasons and other types of -- of hotels that  
22 have significant -- pretty significant dollar changes,  
23 are we -- are we being roughly proportionate in that --  
24 in that judgment so that we aren't estimating some value  
25 change that is significantly higher or different from a

1 similarly-situated hotel that's -- that's in the market  
2 area.

3 Q. For the hotel properties, did you include the  
4 value of personal property in the value of the --

5 A. Yes, yes. It's called FF&E typically in the --  
6 in the hotel market, which is furniture, fixtures, and  
7 equipment.

8 Q. And did you assume that the hotels were  
9 stabilized in determining the current market value?

10 A. Yes.

11 Q. I should say, in determining their before value.

12 A. Both, yeah. Both the before and then after we  
13 assumed that was the stabilized occupancy in the after.

14 Q. How did Mr. Gordon estimate after or with LID  
15 values in his restrictive appraisal?

16 A. Mr. Gordon did not do any type of -- of after  
17 valuation. It was -- it was -- it was totally ignored  
18 in -- in his appraisal process, which, if you're going  
19 to do an -- an appraisal for a special benefit, you need  
20 to do both a -- a before and an after. And even if you  
21 don't think there's any special benefit, which, in this  
22 case, I can't see any, you know, logical common sense  
23 reason why this property wouldn't go up -- up in value  
24 in the after, a property like this is clearly going to  
25 market themselves and accentuate their location next to

1 these new waterfront amenities and -- and the attributes  
2 they provide in the -- in the marketplace, so, I mean,  
3 even for some reason if Mr. Gordon didn't think this --  
4 this property benefitted at all, you still need to  
5 address that -- you need to address why. You need to  
6 look at market evidence of -- of why it -- it wouldn't  
7 increase in value, but nevertheless, it needs -- it  
8 needs to be included for any valid special benefit  
9 report to be credible.

10 Q. All right. I'll open this, and I'm going to ask  
11 you, Bob, if you can look at Exhibit C-29 and C-30. Let  
12 me get those out.

13 Have you had a chance to -- well, first let me  
14 ask, do you have them -- them in front of you?

15 A. Yes.

16 Q. Have you had a chance to review these documents?

17 A. Yes.

18 Q. Please identify them for us.

19 A. Yeah. They're -- they're two appraisal reviews  
20 by O'Connor Consulting Group, LLC. One is of the Harbor  
21 Steps Apartments, and the other is of the Helios  
22 Apartments.

23 Q. Okay. And what are the -- as you understand it,  
24 what is the difference between these two documents?

25 A. Essentially they're the same. It's just that

1 he's -- he states that in the before condition, that --  
2 that we overvalued the properties. Other than that, the  
3 critiques are essentially the same.

4 Q. Okay. So I'm going to -- I won't walk you  
5 through C-30. I'll walk you through C-29 based on that.

6 Let me ask first, what is a desk review? For an  
7 appraiser, what is a desk review?

8 A. There -- there are two types of appraisal  
9 reviews, a desk review where you don't inspect the --  
10 the subject market area. You don't inspect the  
11 comparables, and you don't inspect the subject property.  
12 You just simply review the content of the report from --  
13 from your desk. A field review is that you inspect the  
14 neighborhood, the market area, review the comparables  
15 and -- and inspect the subject property and -- and  
16 inspect the comparables to them.

17 Q. And which -- which review is Exhibit C-29 and  
18 C-30, which type of review?

19 A. This is a desk review.

20 Q. Beyond these reports, are you familiar with Mr.  
21 O'Connor's testimony in this hearing?

22 A. I believe I -- I reviewed his testimony. I know  
23 I've read his review.

24 Q. Okay. I'm going to ask you to look at page 3 of  
25 Exhibit 29. Page 3 contains a list of -- of bullet

1 points under the line, quote, A summary of our included  
2 findings is as follows. And I'm going to walk through  
3 Mr. O'Connor's conclusions with you and ask you  
4 questions as -- as we go.

5 In the first bullet, Mr. O'Connor states that,  
6 quote, The market value conclusion without LID is  
7 substantially overstated. It appears that the ABS  
8 appraisal overstates the market value without LID by  
9 approximately \$88 million.

10 And my question to you is, do you agree -- what  
11 is your opinion of the -- of market valuation in the  
12 before that you gave to Harbor Steps?

13 A. I think our -- our valuation is solid. We've  
14 got a lot of good market -- market information. One of  
15 the -- the main differences may lie -- and I do not know  
16 how he came up with the \$88 million difference. You  
17 know, he claims he's looking at, you know, actual  
18 current -- current income, and, you know, perhaps he's  
19 not recognizing the assumptions that we're making that  
20 the viaduct is removed and -- and Alaskan Way has been  
21 rebuilt, that that could be one of the reasons for a  
22 core difference. Again, I just don't know, given the  
23 content of this review, how he arrived at that figure.

24 Q. And when you say those are the assumptions  
25 you're making with respect to, for instance, removal of

1 the viaduct, you're meaning your before calculations?

2 A. Correct, yes.

3 Q. In the second bullet point on page 3 of Exhibit  
4 C-29, Mr. O'Connor claims that ABS, quote, Did not  
5 empirically solve for the special benefit but rather  
6 assigned a new market value based upon older and very  
7 general park impact studies and then subtracted his  
8 overstated market value without LID to reach a special  
9 benefit conclusion.

10 And what's your response?

11 A. False. We -- we looked at -- at a number of  
12 properties that had very similar elements of comparison  
13 to that which affects the LID area and the Harbor Steps  
14 property, so I disagree that -- with his statement.

15 Q. Did you apply a percentage increase to the  
16 before values?

17 A. No. Our -- our before values -- the before and  
18 after values are -- are the -- the dollar figure of  
19 special benefit that was created.

20 Q. Okay. The third bullet, Mr. O'Connor states,  
21 quote, It appears that -- that the ABS appraiser did not  
22 have a before LID park graphic to compare to the after  
23 LID park graphic when he did his preliminary valuation.

24 Is that accurate?

25 A. No. I mean, the -- the graphics renderings go



1 back even -- there were some done for the feasibility  
2 study we did, so we -- we certainly had some for the --  
3 the preliminary formation estimate we did, and then  
4 definitely as -- as we've gone over throughout this  
5 testimony, the addenda has a very extensive outline and  
6 graphics of the -- of the before and after situation.

7 Q. Did the renderings that you reviewed remain  
8 constant between your three studies?

9 A. No. They changed over time and were refined  
10 over time.

11 Q. Next, Mr. O'Connor states, quote, The -- and  
12 this is the fourth bullet point, by the way, The  
13 incremental park value due to the LID is so small as to  
14 be impossible to reasonable assess the enhance market  
15 value of said improvements.

16 And what's your response?

17 A. Well, I -- I disagree. There's a measurable  
18 difference in market value within our analysis, within  
19 our analysis sheet, and that is special benefit.

20 Q. And what is your response to -- to the -- to the  
21 argument that it's -- you know, that increase is so  
22 small as to be impossible to reasonably assess?

23 A. Well, any -- any benefit study you're going to  
24 have different incremental value increases, and so as  
25 long as you can show that there's a measurable

1 difference in -- in market value, which, in this case,  
2 there -- there certainly is given -- given its location,  
3 you know, very close to the waterfront, that there's --  
4 there's special benefit there.

5 Q. And are you aware of any minimum amount of  
6 increase that is required in order for a valid  
7 assessment under a special benefit summary?

8 A. No.

9 Q. Do you agree with Mr. O'Connor's statement in --  
10 in this bullet point that -- that the LID improvements  
11 are only a small incremental improvement?

12 A. No, I mean, I think a \$346 million investment in  
13 the waterfront is not a -- a small incremental amount  
14 and -- and certainly reflects special benefit.

15 Q. Moving to the next bullet, the fifth bullet, Mr.  
16 O'Connor states, quote, The appraiser made no mention,  
17 parentheses, we could find, of losing approximately 450  
18 parking stalls due to the enhanced park.

19 I know you described for us how you considered  
20 parking.

21 Did you take into account the impact of losing  
22 450 parking stalls?

23 A. I have no idea where -- where that figure is  
24 coming from or how he derived the -- that magnitude of  
25 parking loss.

1 Q. What was your understanding of approximately how  
2 many parking stalls would be lost between the before and  
3 after LID scenarios?

4 A. There would probably -- approximately a hundred  
5 or more that would be lost potentially along the  
6 waterfront that we -- we considered in the -- as -- as  
7 being parking stalls that -- that were lost in the  
8 after.

9 Q. What evidence did you seek in conducting your  
10 study that Harbor Steps or Helios would have -- be  
11 affected by parking loss?

12 A. None.

13 Q. Bullet Point 6, Mr. O'Connor states, quote,  
14 Overlook walk is a clear benefit. He goes on to state  
15 that, quote, It would be difficult for Harbor Steps to  
16 gain any enhanced market value for an improvement that  
17 is four to five blocks north.

18 What -- what is your opinion on the impact of  
19 the LID improvements on Harbor Steps?

20 A. I think its -- its proximity to the Overlook  
21 walk would be a very good upgrade to its locational  
22 characteristics, its -- its appeal in the marketplace,  
23 its connectivity to the waterfront would be a very  
24 desirable element along with the -- the other elements  
25 of the LID.

1 Q. And -- and how do you respond to the -- you  
2 know, the argument that the -- the Overlook walk is four  
3 to five north -- blocks north? How does that affect  
4 your analysis, that -- assuming that Overlook walk is  
5 four to five blocks north of -- of Harbor Steps?

6 A. We would recognize proportionately, as we've  
7 done with other properties, it's a distance from there,  
8 but, you know, based on other studies we've done, it's  
9 clearly -- clearly have an influence on any buyer to  
10 sellers' decision -- any investment decision in buying  
11 the property as a positive amenity.

12 Q. In the seventh bullet point in the last sentence  
13 after -- after describing some of the enhancements as --  
14 as Mr. O'Connor understands it from the LID concludes  
15 there, quote, Not significant enough to increase rents  
16 and thus market value.

17 What's your response?

18 A. I just disagree. I think there's strong  
19 evidence to suggest there's -- there was increase in  
20 market value due to the -- due to the LID improvements.

21 Q. And -- and what's your understanding what Mr.  
22 O'Connor is -- is basing this statement on, his -- his  
23 statement there's not significant enough of these items  
24 to increase rents and thus market value?

25 A. I have no idea. I mean, he's providing no

1 market evidence to support any -- any comment like that.  
2 It's just a -- it's just a statement with no market  
3 support.

4 Q. Go to the eighth bullet point, the very next  
5 one. Mr. O'Connor states, quote, The enhanced park  
6 seems more like an enhanced boulevard: Nice to have but  
7 not likely to compare to substantial parks that may  
8 impact value as stated in his appraisal.

9 What's your position?

10 A. Again, just looking at the significance of  
11 the -- the waterfront Seattle improvements, I disagree.  
12 I think there's -- there's definitely strong enhancement  
13 in the market and is -- is -- is exemplified within the  
14 comparable projects we looked at and then select special  
15 benefits to the property.

16 Q. In the -- I'm on the third to last bullet  
17 from -- on page 3 still of Exhibit C- 29. Mr. O'Connor  
18 states, It is the opinion of this review appraiser, Mr.  
19 O'Connor, that the mass appraisal technique does not  
20 accurately capture current market value of Harbor Steps,  
21 and by extension, the prospective market value of Harbor  
22 Steps after the LID improvements would be constructed.

23 Do you agree?

24 A. No. I mean, we -- we -- we prepared a worksheet  
25 on the property, dit extensive research into the

1 apartment market, locational characteristics for  
2 properties like this, so I -- I disagree with that  
3 comment.

4 Q. But let me step back and ask you, how about --  
5 let's focus on a mass appraisal.

6 Based -- do you -- do you -- what is your  
7 opinion as to whether or not the mass appraisal  
8 technique accurately captured any value increase for --

9 A. I think -- it -- it definitely did. We're  
10 looking at each parcel parcel by parcel individually, so  
11 I think that -- that technique is valid -- it is valid  
12 in reflecting the benefit for -- to this property, not  
13 only this property but other properties in the LID.

14 Q. So -- well, I'll ask you about as we go through  
15 all of them, but the second to last point that Mr.  
16 O'Connor makes on page 3 critiques the use of the mass  
17 appraisal technique, quote, Because the incremental  
18 change in value is so small as to be within the margin  
19 of error for any appraiser.

20 I know you've testified about this already, but  
21 please explain to us what is your understanding of the  
22 margin of error for the mass appraisal technique?

23 A. There is -- there is no margin of error.  
24 We're -- we're looking at it and -- and estimating it  
25 based -- based on our judgment and -- and properties

1 like this, where you have the -- the very high-valued  
2 property, even quite large dollar benefit amounts can  
3 reflect percentage-wise for -- for fairly low changes,  
4 so I totally disagree with that -- that comment.

5 Q. In the last bullet point on this page, he  
6 states, quote, The appraiser does not present an income  
7 approach to value for the subject property and thus does  
8 not appear to define the increase in market rents that  
9 would lead to enhance market value due to the LID  
10 improvements.

11 Is that accurate?

12 A. No. We prepared a worksheet on this property.

13 Q. Right. And what was the approach to value that  
14 you used?

15 A. The income approach.

16 Q. Top of the next page, if you could turn, Mr.  
17 Macaulay, to page 4 of Exhibit C- 29, first point, I'll  
18 just read the first sentence into the record: What we  
19 would also point out that market rents will increase  
20 even without the LID improvements and thus the increased  
21 rents that ABS appraisal implies would need to be above  
22 those that would be captured without the LID  
23 improvements.

24 What is your response -- well, let me ask, how  
25 would an increase in market rents factor into a special

1 benefit analysis?

2 A. Well, if -- what we're looking at is -- is  
3 specifically how these LID improvements will impact the  
4 property, and we're seeing that these types of  
5 properties increase rent for investment-grade property  
6 like Harbor Steps. If there were other -- other  
7 elements outside of that, they're increasing rents.  
8 That -- that would be the same both in the before and  
9 after conditions, but we're just specifically looking at  
10 the impact of the increased revenue based on the LID  
11 improvements.

12 Q. Okay. In that second to last bullet point on  
13 page 4, Mr. O'Connor states that -- first sentence,  
14 quote, the LID park improvements are more marginal in  
15 nature but are attractive and will be a clear  
16 improvement for the waterfront; however, it appears to  
17 us that the LID benefit is a general benefit rather than  
18 a special benefit.

19 Do you agree?

20 A. Well, again, the scope of our study is just to  
21 look at special benefit and what is measurable.  
22 Projects like this would have a general benefit to  
23 the -- to the public at large, but we're not measuring  
24 that; we're just measuring the special benefit to the  
25 particular property.



1 Q. And so can a parcel -- I'm sorry, can an  
2 improvement generate both special and general benefit?

3 A. Well, the -- the -- the element -- the -- the  
4 element that's creating the value, like the LID element  
5 is creating value, you know, may create general benefit  
6 to the public at large, and that could be within the LID  
7 area and -- and outside of it, but as far as particular  
8 property goes, we're not trying to estimate the general  
9 benefit to the particular property. We've never done so  
10 and was purely looking at the special benefit, the  
11 measurable difference in value to the property.

12 Q. And as I understand your testimony, that -- that  
13 if you find a measurable distance -- a measurable  
14 difference in value for a parcel from the improvement,  
15 that's a special benefit?

16 A. Correct.

17 Q. I don't have any further questions for you on  
18 that exhibit or -- or C-30, so I'd ask you if you could  
19 take out C-31, please.

20 And giving folks at home a chance to pull this  
21 up on their computers, can you -- before I ask you  
22 specific questions about it, please just tell us what  
23 this is.

24 A. This is a document from John Crompton to Mr.  
25 Lutz, RE: Waterfront Seattle LID special benefits

1 report.

2 Q. Okay. Have you had a chance to read this  
3 document?

4 A. Yes, I have.

5 Q. And are you familiar with the testimony provided  
6 by Dr. Crompton in this hearing?

7 A. Yes.

8 Q. And before I ask you specific questions about  
9 Dr. Crompton's testimony here, can you explain for us  
10 generally, how did ABS valuation use his research in  
11 your final special benefit study?

12 A. It was -- it was a good source of information  
13 primarily used for -- for background information. We  
14 didn't -- we didn't solely rely on it. It -- mainly it  
15 deals with residential markets and -- and the impacts  
16 on -- on parks to -- to res- -- residential property  
17 values.

18 Q. And did ABS apply the -- the distance and  
19 percentage estimates reported in Dr. Crompton's research  
20 to determine the LID boundary?

21 A. No. No. We looked at it as back- -- as  
22 background, but we didn't use it to -- to define an --  
23 an LID boundary. And it would be illogical to do so.  
24 It deals only with residential property. We're looking  
25 at a broad spectrum of different uses including wide

1 variety of commercial uses that aren't -- aren't  
2 applicable to his study.

3 Q. And similar question but slightly different, did  
4 ABS apply the distance percentage estimates you reported  
5 in Dr. Crompton's research to assign a percentage of  
6 special benefit to properties to --

7 A. No. No. Again, we used as background to -- we  
8 didn't use it to assign value increases.

9 Q. And did you assign value increases to properties  
10 within the LID?

11 A. No -- well, we -- we -- yeah. Any -- any value  
12 increase in -- in -- in our study was based on the  
13 before and after differences of market value and they  
14 were assigned.

15 Q. In your professional opinion, would it have been  
16 reasonable for ABS to directly apply the value of  
17 distance conclusions contained in Dr. Crompton's  
18 2001/2004 report to the Waterfront LID?

19 A. No.

20 Q. And why not?

21 A. He's looking primarily just at -- at park  
22 influences. There's many other influences, streetscapes  
23 and other -- other factors that are relevant in the  
24 waterfront project, so, again, it was a good source of  
25 information, but it wasn't the sole source of

1 information that we used in determining our -- our  
2 estimates.

3 Q. And what -- what property type was the focus of  
4 Dr. Crompton's 2001/2004 report?

5 A. Residential.

6 Q. Okay. I'll ask you some questions now on  
7 Exhibit C-31.

8 On page 1 in the middle of the first paragraph  
9 under the heading, "Updated Material," so the first  
10 paragraph under that heading, Dr. Crompton states,  
11 quote, The appraiser also referenced that his study was  
12 updated in 2014. He does not cite a reference for the  
13 2014 update and I am unaware of such an update.

14 So what 2014 update was your final study  
15 referring to?

16 A. It was an update that he prepared with Peter  
17 Heimlich (phonetic).

18 Q. Okay. So it was an update by -- by Dr.  
19 Crompton?

20 A. Yes.

21 Q. And -- and did you review that in your research  
22 for this project?

23 A. Yes. It was part of the background information  
24 we used for our study.

25 Q. And do you recall, what was the format of that

1 update? Was it -- what was the format --

2 A. In --

3 Q. -- in which it was published?

4 A. As I recall, it was a -- a -- it was kind of in  
5 a -- in a letter -- letter form showing the -- the --  
6 the -- you know, the different -- differences of  
7 residential property relative to park -- park use,  
8 park -- park type of use.

9 Q. Further down this page in the second paragraph  
10 from the bottom, the second paragraph from the bottom,  
11 Dr. Crompton notes on the first -- first sentence,  
12 quote, In 2020, together with the coauthor, I updated  
13 the 2001 JLR article.

14 Then on the next page of Exhibit C-31, page 2,  
15 Dr. Crompton has a summary of -- of his updated review,  
16 and he has a quotation on page 2.

17 Do -- do you see the quotation Dr. Crompton has  
18 on page 2 of Exhibit C-31?

19 A. The second paragraph there?

20 Q. Yes.

21 A. Yeah.

22 Q. It starts out, When the highest premium reported  
23 in each study were tabulated?

24 A. Yeah.

25 Q. Okay. Would -- first, let me ask you, did you

1 have access to this study when you did your final  
2 benefit study?

3 A. No, we did. Not we were not aware of.

4 Q. And would access to this updated study have  
5 changed your conclusions in the final benefit study?

6 A. I don't think so. I mean, it -- it would --  
7 would have been helpful to have potentially, but the  
8 conclusions he -- he came up with are actually more --  
9 more in line with -- with what we found in the  
10 marketplace relative to the Seattle market.

11 Q. And why do you say that? What do you mean by  
12 that?

13 A. Well, within a condo market, the highest benefit  
14 we had was -- and 3 percent, and he's -- he's reflecting  
15 something less than -- than 4 percent, which, I mean,  
16 according to other people we've talked about, that's not  
17 measurable in the market, but apparently it is so.

18 Q. When you say, according to other people, what  
19 other people?

20 A. Well, Mr. Gibbons and Mr. Shorett are saying  
21 that -- that that's -- that's within a margin of error  
22 and it's not calculated to be able to calculate that in  
23 market.

24 Q. Okay. On page 3 of Exhibit C- 31 under the  
25 heading, "Are The 'Park Improvements' Best Characterized

1 as a Park, Greenway, or Parkway," and my question for  
2 you is, did you consider the entire LID to be a park?

3 A. No. We didn't look at the LID areas as a giant  
4 park. We recognized the different elements associated  
5 with the project.

6 Q. Okay. And what are those different elements?  
7 What -- what -- what are those different elements?

8 A. You have open space. You have walk- --  
9 walkways, running paths, bike -- bike lanes,  
10 streetscapes.

11 Q. Into section --

12 A. I mean, you've -- excuse me, you've also got the  
13 unique element of the Overlook walk, which provides a  
14 unique -- unique amenity to the waterfront.

15 Q. There's a quote in this sentence in that same  
16 paragraph where Mr. -- I'm sorry, Dr. Crompton says,  
17 this suggests the appropriate designation as a parkway  
18 rather than a park.

19 Do you agree that the appropriate designation  
20 for the LID is a parkway?

21 A. That's just semantics. We -- we -- I looked at  
22 them more like park, park-like amenities in a lot of the  
23 area. Like, some like the -- the Overlook walk is -- is  
24 difficult to quantify. Is it -- you know, it's got --  
25 it has open space. It's got connectivity past down to

1 promenade area. The Promenade has open space and -- and  
2 walkways and landscaping and there's also streetscapes  
3 up and down the -- the Pike/Pine corridor and Pioneer  
4 Square, so there -- there's a lot of different elements  
5 within the LID that distinguish it differently from --  
6 from just being a park.

7 Q. And so if ABS didn't view the LID improvements  
8 as parks, why does your final benefits study reference  
9 Dr. Crompton's 2001/2004 study?

10 A. Well, it has -- it has park-like amenities, and  
11 the -- this type of study is good -- good -- good  
12 background to show that it's logical and if a -- if a --  
13 if a park is benefitting to the degree that Dr. Crompton  
14 is indicating it's logical that residential properties  
15 in close proximity to -- to improvements like are being  
16 done for the LID would have -- have positive influence  
17 on the market and studies like this clearly show that,  
18 he's obviously highly -- highly well-publicized, and we  
19 felt it was good -- good background information in that  
20 respect.

21 Q. I'll take you to page 7 of the Exhibit C-31,  
22 please. The first full paragraph states, quote, The  
23 appraiser throughout his report disregarded the  
24 502,000-foot measures -- 2000 foot measures and used  
25 only the block measures for the LID assessments.



1           Did you rely on Dr. Crompton's studies to  
2 determine distance at which properties would see a value  
3 increase from the LID improvements?

4           A.    No.

5           Q.    So how did ABS determine how far the benefits of  
6 the LID improvements extended?

7           A.    Again, looking at -- at a parcel-by-parcel  
8 analysis, looking at -- at physical and geographical  
9 differences, looking at -- at studies like this for  
10 background information together with studies we looked  
11 at in -- in other cities.

12          Q.    So how did Dr. Crompton's research that you cite  
13 factor into these valuations?

14          A.    Well, it showed that -- that residential  
15 properties are -- are influenced by amenities similar to  
16 that in some respects as -- as the waterfront LID is  
17 doing, so it provided good -- good background  
18 information primarily to -- to the residential property  
19 market that there is positive influences for similar  
20 types of elements that are being constructed by the LID  
21 improvements.

22          Q.    On page 8 of Exhibit C-31, Dr. Crompton has a --  
23 a critique of ABS's use of the park quality scale, and  
24 he's got a two -- two charts here. So one is entitled,  
25 "Park Quality Scale For Determining Proximate Premiums."

1 Do you know where that comes from?

2 A. That -- that comes directly from his report.

3 Q. Okay. And the one below that, a little -- four  
4 cells, three rows, entitled, "Quality of Park,"  
5 "Distance," "Green Premium," where -- where does that --  
6 what's that?

7 A. This -- this chart is -- is from additional  
8 discussion that he has within his -- his study and --  
9 and just to -- just for a more ease of reading, we  
10 created the chart, but it's just -- it's based on  
11 exactly what he said in -- in his study. We just put it  
12 in a -- into chart form.

13 Q. And -- and why does your benefit study discuss  
14 Dr. Crompton's park quality scale?

15 A. It provides good information to, you know, see  
16 what types of different park amenities he classifies  
17 as -- as -- as being more appealing to -- to the market.

18 Q. Next on page 11, Dr. Crompton has a section  
19 entitled, "The Negative Impacts of Disamenities on  
20 Premiums," page 11 of Exhibit C-31, the third paragraph  
21 down, I'll read that into the record. The appraiser  
22 identified two -- this is a quote. The appraiser  
23 identified two potential negative impacts. He indicated  
24 loss of parking spaces was incorporated into his  
25 assessments, and then I believe he's quoting your final

1 benefit study here: Some parking losses along Alaskan  
2 Way and the waterfront area will occur due to the  
3 project, and this is considered in the analysis. Back  
4 to Dr. Crompton, But there is no overt description of  
5 how it was considered in the analysis.

6 My first question is, did -- did you consider  
7 potential disamenities caused by the improvements?

8 A. Yes.

9 Q. Okay. And -- and specifically to parking, how  
10 did -- how did you consider that in your analysis?

11 A. Again, on a parcel-by-parcel basis.

12 Q. Okay. And is -- is that described in your  
13 report?

14 A. It is discussed in the report. It -- it would  
15 be more relevant within individual worksheets of those  
16 properties that we felt were more impacted.

17 Q. Okay. And did ABS consider other potential  
18 disamenities caused by the improvements?

19 A. Such as...?

20 Q. Well, let me ask you, I guess, a more -- a more  
21 basic question: Did -- did your research demonstrate  
22 negative impacts caused by the LID improvements?

23 A. The -- the main one would be parking. I think  
24 he refers to -- to congestion in his -- in his letter,  
25 and I don't -- I don't know if you're referring to --

1 Q. I am.

2 A. Yeah.

3 Q. I'll take you up to the second sentence, Bob,  
4 under -- in the first paragraph. These may -- yeah,  
5 quote, These may include, dash, congestion, increased  
6 traffic flow, lack of parking or unwanted on-street  
7 parking, litter, vandalism, intrusive lighting, and  
8 groups engaging in morally offensive activities.

9 A. Yeah, again, I mean, any -- any -- any relevant  
10 considerations for that. This -- the LID isn't -- isn't  
11 a -- a street or transportation improvement LID, so as  
12 far as any traffic congestion goes, that -- that would  
13 be rela- -- relatively similar both in the before and  
14 after. It's not -- not part of the -- the LID. And  
15 with the LID in place, then there's a strong management  
16 plan to really help keep the area clean and -- and  
17 well-patrolled and maintained, and then that was -- that  
18 was considered in our analysis.

19 Q. Finally, on pages 11 and -- and 12, Dr. Crompton  
20 discusses -- there's a section entitled, "The  
21 Diminishing Marginal Valuation of Premiums," and I have  
22 a quote for you -- it's on page 12 -- I want to ask you  
23 about. It's on page 12. Towards the middle of the  
24 page, a little bit lower than the middle, it says,  
25 quote, "A consequence of water premiums of this

1 magnitude is likely to be a diminished marginal  
2 valuation of the additional units of benefit premium  
3 that may be anticipated from the new greenway.

4 First I'll ask, what -- what do you understand  
5 the -- Dr. Crompton's argument to be here?

6 A. I'm not really sure if he's talking about the --  
7 the view amenity that's -- that's enhanced from the  
8 removal of the viaduct that creates that magnitude. I'm  
9 not real clear on -- on what he's getting at there.

10 Q. And -- and I believe that you testified earlier  
11 that your before condition of the properties takes into  
12 account that view -- valuation of that view amenity?

13 A. That's correct.

14 Q. Did your research -- or how did you research --  
15 or let me say, what did you research into other projects  
16 reveal with respect to properties that -- that already  
17 had a premium view but had an improvement on top of  
18 that?

19 A. Yeah, that there was -- there was definitely  
20 still a positive impact on the market. They made it an  
21 even more desirable amenity.

22 Q. And can you give me some examples? Can you  
23 recall any?

24 A. Yeah, well, you know, for instance, Boston, you  
25 know, once the -- the viaduct was removed and a greenway

1 was at stake and in place, you know, provided an  
2 enhanced connectivity to -- to, you know, the  
3 waterfront, similar -- similar to San Francisco and  
4 Portland and other areas like that.

5 Q. And in those studies, there was an observable  
6 value benefit beyond just the improved view amenity?

7 A. Yes.

8 Q. All right. I'll -- I'll ask you to look at the  
9 last exhibit I have for you, Exhibit C-32, please. And  
10 can you identify for us what -- what that is?

11 A. This is a document by Northwest Property Tax  
12 Consultants addressed to a Frank Huemmer and a -- and  
13 Gerald Lutz, RE: Waterfront LID, Proposed Final  
14 Assessment, and parcels -- he has two tax parcels  
15 associated with it.

16 Q. And who's the -- do you know who the specific  
17 author is?

18 A. Benjamin Scott.

19 Q. Have you read this document?

20 A. Yes.

21 Q. Okay. And what property is this -- is the  
22 concern of this -- what specific property is the concern  
23 of this letter?

24 A. He's looking at the Stratus apartment complex.

25 Q. Please tell us about the Stratus Apartments.

1 A. The Stratus Apartment is -- is located at 9th  
2 and Lenora and it is a fairly new, 2016, 41-story luxury  
3 apartment. It has 396 units. There's 8,000ish or so  
4 square feet of retail and -- and a considerable amount  
5 of parking.

6 Q. If you recall, what did ABS calculate as a  
7 special benefit to the Stratus Apartments?

8 A. We were I think 442,000.

9 Q. What is that based on?

10 A. Based on the locational amenities and  
11 desirability of the apartment complex before and after  
12 the LID improvements.

13 Q. And what approach to value did you use to arrive  
14 at your special benefit estimates?

15 A. Primarily the income approach.

16 Q. On page 2 of Exhibit C-32, there's a section  
17 entitled, "Benefits Are Misallocated."

18 Have you read that before?

19 A. Yes.

20 Q. And Mr. Scott talks about th -- the Volta and  
21 compares the -- the special benefit estimated for the  
22 Stratus Apartments to Volta to Elliott Point Apartments  
23 and to Second and Pine Apartments.

24 And so how do you explain -- first, are -- are  
25 you aware that the dollar amount of special benefit for

1 the Stratus is higher than the Volta, Elliott Point, or  
2 Second and Pine Apartments special benefit amounts?

3 A. Yes.

4 Q. So how do you explain a higher special benefit  
5 valuation for the Stratus than those properties when the  
6 Stratus is located further from the LID improvements?

7 A. Well, he's -- he's comparing a 396-unit luxury  
8 apartment complex to an extremely smaller apartment  
9 complexes that are located in much closer proximity to  
10 the waterfront. The Volta -- the Volta and Elliott  
11 Point apartment complexes are -- are six to eight  
12 stories. They're only 40 to 60 approximately units in  
13 size. The Second and Pine Apartments is -- is older,  
14 1910 improvement. That -- that obviously is in a very  
15 prime -- prime location, so on a -- when you're -- when  
16 you're looking at the dollar amount of benefit for those  
17 properties, they typically range from about .6 to .7  
18 percent for the Elliott Point and the Volta, and -- and  
19 I believe the Second and Pine was approximately 2  
20 percent increase in value, so al- -- although the dollar  
21 amounts are less than -- than the -- the Stratus  
22 Apartments, it's due to their age, their size,  
23 differences in -- in relation to an extremely larger  
24 property, so they're -- they're really not comparable.

25 A good -- a good proportionality comparison to



1 the Stratus Apartments would be the McKenzie Apartments,  
2 which is located at -- at 8th and Blanchard, and it's a  
3 similar 400 -- about a 400-unit complex built right  
4 about the same time. It's got a benefit of about  
5 400,000 and a -- and a percentage relationship about .12  
6 percent increase consistent with -- with the Stratus, so  
7 something like that is a lot better comparison to try to  
8 take -- compare a 396-unit apartment, although, it's  
9 located further away, just due to the significant size  
10 magnitude of this property. Even though it's got a lot  
11 smaller percentage of benefit amount, it just creates a  
12 higher dollar amount, so the properties close -- closer  
13 to the waterfront amenities have -- have a higher  
14 percentage increase, which is logical. They're --  
15 they're closer to the improvements and then  
16 proportionate to the market, would pay a higher  
17 percentage increase relative to other properties located  
18 further away, so the main elements is just the -- trying  
19 to confuse the dollar -- the dollar amount increases  
20 due -- due to significant differences in size and age  
21 and -- and apartment complexes.

22 Q. I'm going to step back up to -- that's all the  
23 questions I have for you on Exhibit C-32. And I just  
24 have potentially one or -- or two additional questions  
25 for you to summarize your direct testimony.

1           For the expert -- experts or expert witnesses  
2 consultants the objectors retained in these cases,  
3 did -- how many conducted independent appraisals of  
4 parcels within the LID?

5           A.    The only -- the only actual appraisal that was  
6 done was by -- was by Mr. Gordon.

7           Q.    Okay.  And how many of the experts or  
8 consultants or appraisers retained by objectors  
9 conducted a special benefit study?

10          A.    None.

11          Q.    If you'll just give me a -- less than a minute  
12 just to confirm I have no additional questions or no  
13 additional thing I wanted to look at.

14                One last thing, when you're calculating special  
15 benefits, is proximity to the improvements the only  
16 consideration?

17          A.    No.

18          Q.    What else do you factor into your analysis?

19          A.    You're also looking at the type -- the type of  
20 the improvement, the use of the improvement, the  
21 desirability of the improvement, the market relative to  
22 its locations, elements that are -- are within the LID  
23 boundary.

24          Q.    And what impact due to existing improvement --  
25 and I'm using the word "improvements."  We have the LID

1 improvements, but I've heard you testify calling  
2 existing buildings on parcels improvements, so I'll use  
3 that terminology.

4 What -- what impact do existing buildings on a  
5 parcel have on a value added from the LID improvements?

6 A. Just depending on the building type and  
7 location, many are significant in size, which will  
8 impact the amount of -- of benefit to that particular  
9 property.

10 Q. Okay. And in what impact do -- if a parcel has  
11 some existing improvements to it that -- that its owner  
12 undertook to beautify the property or something like  
13 that, what impact do those existing improvements have on  
14 the value at -- of additional improvements like the LID  
15 improvements?

16 A. Well, we should just -- we would look at -- at  
17 the property as it -- as it exists, and if they were  
18 complimentary to what the LID improvements are -- are  
19 providing to the market, such as the property added  
20 additional retail space that captures additional  
21 tourists that may come and visit the area from --  
22 relative from the before to the after, then those type  
23 of amenities would create a greater desirability for  
24 that -- that type of invest- -- property investment.

25 Q. And does your before scenario -- do your before

1 scenarios capture the existing improvements that  
2 property owners may have done, for example,  
3 beautification that may have existed at the time you did  
4 your before value conclusion?

5 A. Yes. They -- they would be the same both in the  
6 before and after.

7 Q. I don't have any additional questions for you,  
8 Bob. Thank you.

9 A. Okay. Thank you.

10 HEARING EXAMINER VANCIL: Thank you.

11 Anything further from the City for presentation of  
12 its case in chief?

13 MR. FILIPINI: I'm sorry, Mr. Hearing  
14 Examiner. I -- I had just turned -- just turned my  
15 speaker back on, if you can please repeat.

16 HEARING EXAMINER VANCIL: Yes. Anything  
17 further from the City as part of its case in chief?

18 MR. FILIPINI: You know, if there were any  
19 testimony, we would submit via declaration at the close  
20 of our case.

21 HEARING EXAMINER VANCIL: Okay. One  
22 question I do have is the -- and I'll reserve my  
23 questions for any of the witnesses until next week, but  
24 there was -- at one point, Mr. Macaulay indicated that,  
25 for example, the United Way air rights had not been

1 caught and there should be an adjustment made for that.  
2 I don't know if there are any other properties or any  
3 other items that have come up over -- over the course of  
4 the months-long hearing we've had and presented any  
5 objections. Is there any anticipation of the City to  
6 let me know that there's an adjustment needed a request  
7 for that?

8 MR. FILIPINI: There is, yes. We're --  
9 we're working with Mr. Macaulay on how best to submit  
10 that. There is the United Way -- and I'll ask Mr.  
11 Macaulay or -- how many other parcels, Bob, are -- are  
12 you aware of that you intend to submit an adjustment?

13 THE WITNESS: That's -- that's the main one  
14 that -- that comes to mind. I would have to -- to go  
15 back and review the notes, but that's the main one that  
16 came to mind.

17 THE HEARING EXAMINER: Okay. It would  
18 probably be helpful if you intend to do that to at least  
19 be able to identify those orally before we start cross  
20 so that anyone planning on cross isn't wasting their  
21 time.

22 MR. FILIPINI: Absolutely.

23 HEARING EXAMINER VANCIL: If that's  
24 possible.

25 I'm -- I'm not going to hold you to having to do

1 that. You don't have to do that, but your declarations,  
2 it sounds like some additional declaration statement may  
3 be coming in for Mr. Macaulay but might be responding to  
4 some specific objection, but if that could be done in  
5 advance of -- maybe at the outset on Tuesday, if there's  
6 anything else, United Way or anything else, that would  
7 be helpful in case those objectors take out those  
8 questions and save some time on cross.

9 MR. FILIPINI: Sure.

10 HEARING EXAMINER VANCIL: All right. All  
11 right then, let's turn to our discussion about our  
12 schedule for next week. I believe much of the process  
13 will be captured in my hearing schedule and  
14 cross-examination discussion we had today about  
15 exhibits. I do want to make sure that that process is  
16 clear. And I -- I've got only a little bit to address  
17 on that to clean up on how we might approach exhibits,  
18 particularly, I know that this could be a little  
19 challenging for some of our pro se participants. After  
20 I have a couple of comments, then I'm going to ask  
21 objectors if there's any clarifi- -- or the City if  
22 there's any need for clarification or any information  
23 you need before we go into cross-examination starting on  
24 Tuesday.

25 What I would suggest is we talked about the need

1 to identify exhibits that you intend to reference both  
2 by -- either by an existing exhibit number from --  
3 that's established in the record under your case number  
4 or the City's. Also -- but then to pick up from where  
5 your case left off with the exhibit numbers.

6 And you are excused, Mr. Macaulay, if you -- we  
7 are done for the day, so if you wanted to step out,  
8 that's fine.

9 Also, again, the -- from the pre-hearing order  
10 on the schedule for cross-examination, the objectors'  
11 deadline to make a good faith effort to submit all  
12 exhibits you intend to introduce, to exchange those with  
13 the City and provide them to the Hearing Examiner,  
14 exchange them with each other is noon, June 22nd.  
15 That's Monday. And those should be submitted to my  
16 legal assistant. The ones that are coming to us should  
17 be submitted to my legal assistant.

18 The City, you want to identify where you want to  
19 receive those now so that they know what e-mail to send  
20 them to for you?

21 And I'm assuming, for objectors, you all have  
22 each other's e-mails by now from our prehearing  
23 conference.

24 MR. FILIPINI: To myself and Ms. Thompson  
25 would be fine, and certainly happy to share -- of

1 course, I won't know if someone doesn't have our  
2 e-mails, I guess, but I agree they should have them from  
3 the prehearing conference.

4 HEARING EXAMINER VANCIL: All right. They  
5 should have them from the prehearing conference. They  
6 should also be on the Zoom invite.

7 If anybody doesn't have them, please circulate  
8 amongst your -- your fellow objectors to locate those  
9 e-mails for Mr. Filipini and Ms. Thompson. If at the  
10 end of the day you don't have those, you know, morning  
11 on Monday you still don't have them, you can certainly  
12 ask my legal assistant, Mr. Edlund-Cho, for those  
13 e-mails so you can appropriately exchange them.

14 One item I do want to highlight is that for  
15 documents that you're assured everyone has a copy of,  
16 the ABS studies as a perfect example, you don't need to  
17 exchange copies of those. This is not done in order to  
18 punish you, to have just an exchange of a great deal of  
19 paper. It's done in order to enhance everyone's ability  
20 to follow along when you're presenting your case. So if  
21 everyone has a copy of something already, you don't need  
22 to provide that. If you have any question in your mind  
23 of whether people have a copy, someone may not, and it's  
24 your obligation then to provide that so that in the  
25 course of your cross-examination, you're -- you're ready



1 to go with everyone having those copies.

2 I'm leaving it to the objectors to let me know  
3 on Tuesday -- I think I had intimated earlier that I was  
4 going to try in the course of direct at the end of each  
5 witness to make a list of which objectors intended to  
6 cross on which witnesses. I -- I'm abandoning that. I  
7 think that's too much for you to know immediately, and  
8 so I just expect at the outset on Tuesday that objectors  
9 should plan to do cross, prepare to identify who will be  
10 doing cross, and in what order you will be doing that  
11 cross come Tuesday.

12 If for some reason there's not an objector --  
13 there's -- if for some reasons there's been an objector  
14 who has been allowed to do cross that's not participated  
15 in coordinating with other objectors or has not been on  
16 this -- this direct with the City and is not part -- in  
17 the loop, essentially, and they're just showing up on  
18 Tuesday to ask their questions, I will likely just put  
19 them at the end of the line of questioners so that those  
20 of you who are organized don't have to get out -- out of  
21 order.

22 If you encounter problems coordinating --  
23 coordinating amongst each other. We can address that on  
24 Tuesday and see how that works. I recognize that this  
25 is not a set course. I recognize we're trying to

1 function in the context of a pandemic, and there's  
2 always something new coming up, and so we will certainly  
3 try to address that if we can, but what I'm trying to do  
4 is provide you some structure so we can approach it as  
5 sufficiently as we can on Tuesday.

6 Those were my only comments with proceeding.  
7 We do have the prehearing order for schedule and cross  
8 examination to reference to.

9 Are there any questions, concerns? I'm happy to  
10 entertain suggestions as well. This is my first  
11 pandemic by -- by remote hearing, so you -- I welcome  
12 your -- the collaboration and efforts that everyone has  
13 put in so far. I think a lot of you have done a good  
14 job. I focused on some who haven't, but some of you are  
15 really giving it a good shot. I appreciate that. So  
16 are there any questions or comments, concerns?

17 MR. MOSES: This is Mr. Moses. I have a  
18 question regarding the additional declarations that the  
19 City is going to file.

20 When will those be available?

21 HEARING EXAMINER VANCIL: Those are due the  
22 26th, June 26th those are due.

23 MR. MOSES: So they're due after cross but  
24 before our closing arguments are due?

25 HEARING EXAMINER VANCIL: Yes, and you --

1 yes, that's correct, and then you have a deadline, but  
2 all of those dates are identified in the pre-hearing  
3 order, and I -- just a moment. That was the pre-hearing  
4 order dated --

5 MR. MOSES: Yeah.

6 HEARING EXAMINER VANCIL: -- June 12 that  
7 set those dates out, and, yes, there dec- -- the  
8 declarations are due on the 26th, and then objectors  
9 have a corresponding deadline for an opportunity to  
10 respond in writing.

11 MR. MOSES: Until July 6th; correct?

12 HEARING EXAMINER VANCIL: I've got July 7th  
13 I think it was.

14 MR. MOSES: Okay. That's probably right. I  
15 was just doing it from memory.

16 HEARING EXAMINER VANCIL: Okay.

17 MR. MOSES: So help me from a procedural  
18 standpoint here. This may be a legal question. If I  
19 had made an objection that has not been rebutted in the  
20 City's direct case and I include it in my closing  
21 arguments. It's not in any of their declarations,  
22 they're going to see my closing arguments and have  
23 another week to rebut something they didn't do in  
24 direct? I'm just baffled by that process.

25 HEARING EXAMINER VANCIL: I'm not -- you may

1 be mixing terminology. I don't quite understand. I'm  
2 not sure if you're clarifying for me, and I may be the  
3 one that's confused. But when you say you've raised an  
4 objection, are you talking about your legal issues, or  
5 are you talking about a procedural objection, like --

6 MR. MOSES: No, not a procedural objection.  
7 If I have raised in my appeal an objection --

8 HEARING EXAMINER VANCIL: Yes.

9 MR. MOSES: -- to a specific item and that  
10 has not been addressed in the City's direct testimony at  
11 all, so, you know, I put in my closing arguments and  
12 they get a week to respond, and so they -- now they've  
13 rebutted in closing arguments. My understanding is they  
14 would be done in direct. If it they don't rebut what  
15 I've proposed or stated, that they're done, and is that  
16 not the case?

17 HEARING EXAMINER VANCIL: So if the City has  
18 not addressed specific argument that you've raised  
19 either by witness in direct testimony or by declaration  
20 and then you indicate in your closing, Hey, they didn't  
21 address this at all in their argument, you're suggesting  
22 that they might be able to, for the first time, try to  
23 address it in their reply?

24 MR. MOSES: Yes.

25 HEARING EXAMINER VANCIL: Generally, that

1 would not be allowed. They must have done something  
2 that would indicate that they've addressed it somewhere  
3 that you would have an opportunity to respond to it.

4 MR. MOSES: Thank you.

5 HEARING EXAMINER VANCIL: The process is an  
6 inverted pyramid. You had your chance to make your  
7 case. The City had to respond to it. They have to  
8 respond to what you're doing --

9 MR. MOSES: Thank you.

10 HEARING EXAMINER VANCIL: -- so raising new  
11 arguments at the end of the hearing is not generally  
12 allowed. They would have to, in their reply, reference  
13 back to something they did to address your -- your  
14 arguments. And the intent of the process was -- we've  
15 laid it out, is the City has an opportunity both in  
16 testimony and in writing to respond to everything  
17 objectors have raised.

18 MR. MOSES: Thank you.

19 HEARING EXAMINER VANCIL: Did you have any  
20 further questions, Mr. Moses?

21 MR. MOSES: No.

22 HEARING EXAMINER VANCIL: Okay. Ms. Lin,  
23 did you have a question?

24 MS. LIN: Yes, I did with respect to  
25 exhibits.

1           So, for example, you said, you know, if  
2 everyone -- if you're sure everyone has a copy, there's  
3 no need to circulate additional copies, so, for example,  
4 if -- if we're going to be using final study or any of  
5 the other City's -- any of the other exhibits used by  
6 the city in its direct, we do not have to circulate  
7 those on Monday at noon and we should only be  
8 circulating exhibits that are either new or that are  
9 existing under our case numbers but that we are unsure  
10 that whether -- but that other objectors may not have  
11 access to?

12                   HEARING EXAMINER VANCIL: Yes. I think  
13 that's a very succinct way of putting it. I think  
14 you've hit it.

15           As you were speaking, and it occurs to me  
16 essentially, all of you now have copies of the City's  
17 exhibits that were submitted over the past two days, so  
18 as examples of items you don't need to exchange again on  
19 Monday, you can list them in your -- in your exhibit  
20 list so that we know what you're going to be turning to.  
21 It's helpful for us to know what you will be  
22 referencing, so I would put those in your exhibit list,  
23 but you all know that you have copies by now of the  
24 City's exhibits presented during their case in chief.  
25 So exchanging those again, there's simply no point in

1 that.

2 MS. LIN: And I'm sorry. Let me -- I'm  
3 going to clarify one more point.

4 You are -- you are expecting, however, a list of  
5 all the exhibits people will be relying on to also be  
6 submitted on -- on Monday at noon?

7 HEARING EXAMINER VANCIL: Yes. And -- and  
8 this is, again, a good faith effort that I'm asking you  
9 to take, so if you intend to rely on documents, this is  
10 so we know where you're going with your case so people  
11 can open things at the appropriate time and follow along  
12 so we don't have to pause and wait for everyone to catch  
13 up, is that there would be an exhibit list submitted  
14 on -- at that time. Again, this is not intended as an  
15 opportunity for preclusion of subsequent exhibits or  
16 identification of exhibits that were not on that list.  
17 It's a good faith effort at having clear communication  
18 with each other, recognizing that this is a last-minute  
19 request and it's just an attempt to get us organized to  
20 do the best we can.

21 MS. LIN: Thank you.

22 And just to confirm, because there has been some  
23 confusion among -- confusion among the objectors, each  
24 objector should be submitting their own list of exhibits  
25 and then their own -- circulating copies of those

1 exhibits that others have not had access to you to you  
2 and to the other objectors via e-mail by Monday at noon;  
3 correct?

4 HEARING EXAMINER VANCIL: That is correct.

5 The -- the only reason I'm -- now, I'm not going to --  
6 objectors have been asked to make an -- an effort to  
7 coordinate amongst yourselves, so if something you do  
8 changes that that makes it more efficient, that's fine.  
9 So, for example, if you are all going to have -- and  
10 this is a guess. Again, you guys can handle yourselves  
11 how you want. But let's say there's three attorneys who  
12 are going to go one, two, and three in that order and  
13 some people are going to say, Look, I've only got a few  
14 questions. You guys asked the bulk of them. If one or  
15 two or three parties say, we're listing all of the  
16 exhibits for us because we're handling the bulk of the  
17 question, that's fine, but I just don't know what level  
18 of coordination you all can achieve in the short amount  
19 of time you've been given, so I'm not demanding that you  
20 overorganize yourself, but if you're able to achieve  
21 that, that's great.

22 MS. LIN: Thank you.

23 HEARING EXAMINER VANCIL: Any other  
24 questions before we adjourn for the day and look to  
25 reconvening on Tuesday?



1           MR. FILIPINI: I had one on behalf of the  
2 City.

3           Our -- our witnesses, other than Mr. Macaulay,  
4 Mr. Foster, and Mr. Lukens have -- have asked whether  
5 they can assume at this point that they will go on  
6 Thursday, but I wanted to check with you before -- I  
7 certainly assume that there will be a day of testimony  
8 from Mr. Macaulay, but anyway, I said I would ask.

9           HEARING EXAMINER VANCIL: I -- I think  
10 that's a reasonable assumption. If somehow by miracle  
11 we good through Mr. Macaulay in a single day, I'm not  
12 going to hold anybody to having not having the next  
13 witness in line, so let's go ahead and assume that. And  
14 if we all go home early on Tuesday, that will be fine.

15           MR. FILIPINI: Thank you.

16           HEARING EXAMINER VANCIL: Any other  
17 questions for the remainder of our -- our -- as we get  
18 closer to the end of the hearing? Anything else we need  
19 to address.

20           Of course, there will be an opportunity to  
21 address further process and answer questions in the  
22 upcoming days.

23           All right, then. Hearing none, we've concluded  
24 the City's case in chief. We remain with the -- only  
25 the segments of cross-examination from the

1 cross-examining objectors and then some briefing.

2 Again, I appreciate everyone's cooperation in  
3 moving us through two days of hearing with a number of  
4 people on board. It's duly noted that everyone has made  
5 a -- a very good effort to get us to this point, and I  
6 look forward to our many days of argument and questions  
7 that we'll hear from the City's witnesses.

8 Thank you. We're adjourned for the day and  
9 we'll return on June 23rd, 9 a.m., Tuesday.

10 (Hearing adjourned at 2:32 p.m.)

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STATE OF WASHINGTON  
COUNTY OF KING

I, Laura L. Ohman, a Certified Shorthand Reporter  
in and for the State of Washington, do hereby certify  
that the foregoing transcript of hearing proceedings on  
June 19, 2020, is true and accurate to the best of my  
knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand  
and seal this 21st day of June, 2020.

*Laura L. Ohman*

LAURA L. OHMAN, RPR, CCR 3186



My commission expires:  
MARCH 2021